

Laura Emmett

02/25/99 09:01:04 AM

Record Type: Record

To: Joshua Gotbaum/OMB/EOP
cc: Mary L. Smith/OPD/EOP, Thomas L. Freedman/OPD/EOP, Ingrid M. Schroeder/OMB/EOP, Daniel J. Chenok/OMB/EOP
bcc:
Subject: Re: Equal Pay Memo IF IT HASN'T GONE YET...

it did go in last night & the CoS office told e Podesta would read it early this morning so I assume he has already reviewed it. I sent this out so everyone would know what we sent in. let me know if this is a problem.

JOSHUA

**JOSHUA
GOTBAUM**

02/24/99 10:03:47 PM



Record Type: Non-Record

To: Laura Emmett/WHO/EOP
cc: mary l. smith/opd/eop, thomas l. freedman/opd/eop, Ingrid M. Schroeder/OMB/EOP, Daniel J. Chenok/OMB/EOP
Subject: Re: Equal Pay Memo IF IT HASN'T GONE YET...

...then I'd appreciate your modifying the paragraph describing the data issue:

One issue aside from Senator Harkin's bill may arise at your meeting concerns the disclosure of pay data by employers. OFCCP wishes to request pay information **on each employee** by letter from some 5000 contractors selected **each year** for compliance reviews. (OFCCP currently collects this data onsite **for those companies or parts of companies it audits** at a later stage of the compliance process.) OMB has balked at this request, ~~primarily~~ on the ground that it will impose an undue burden on employers **and raises privacy issues. Last week, the Department of Labor's solicitors office asked for and received up to 90 days to review the proposal.** At a meeting this week with pay equity groups, Josh Gotbaum promised to **work with DOL to re-examine this matter.** In addition, he noted that the Administration had a variety of potential mechanisms for obtaining wage data from employers, including the EEOC and the Bureau of Labor Statistics, and we wanted to fashion the best overall plan for obtaining useful data. The DPC, NEC, OMB, OPL (women's office), EEOC, and DOL held a meeting on Friday to begin this process of determining what are the most effective and politically viable means for improving data collection from employers.

Eqm
pny - EW

Employer Information Report (EEO-1), Standard Form 100

- Equal Employment Opportunity Commission
- Office of Federal Contract Compliance Programs (Labor)

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO—1

Standard Form 100
(Rev. 4-92)
O.M.B. No. 3046-0007
EXPIRES 12/31/93
100-213

Section A—TYPE OF REPORT

Refer to instructions for number and types of reports to be filed.

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX).

(1) ☐ Single-establishment Employer Report

Multi-establishment Employer:

(2) ☐ Consolidated Report (Required)

(3) ☐ Headquarters Unit Report (Required)

(4) ☐ Individual Establishment Report (submit one for each establishment with 50 or more employees)

(5) ☐ Special Report

2. Total number of reports being filed by this Company (Answer on Consolidated Report only) _____

Section B—COMPANY IDENTIFICATION (To be answered by all employers)

1. Parent Company

a. Name of parent company (owns or controls establishment in item 2) omit if same as label

Address (Number and street)

City or town

State

ZIP code

2. Establishment for which this report is filed. (Omit if same as label)

a. Name of establishment

Address (Number and street)

City or Town

County

State

ZIP code

b. Employer Identification No. (IRS 9-DIGIT TAX NUMBER)

c. Was an EEO-1 report filed for this establishment last year? ☐ Yes ☐ No

Section C—EMPLOYERS WHO ARE REQUIRED TO FILE (To be answered by all employers)

- ☐ Yes ☐ No 1. Does the entire company have at least 100 employees in the payroll period for which you are reporting?
- ☐ Yes ☐ No 2. Is your company affiliated through common ownership and/or centralized management with other entities in an enterprise with a total employment of 100 or more?
- ☐ Yes ☐ No 3. Does the company or any of its establishments (a) have 50 or more employees AND (b) is not exempt as provided by 41 CFR 60-1.5, AND either (1) is a prime government contractor or first-tier subcontractor, and has a contract, subcontract, or purchase order amounting to \$50,000 or more, or (2) serves as a depository of Government funds in any amount or is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Savings Notes?

If the response to question C-3 is yes, please enter your Dun and Bradstreet identification number (if you have one):

NOTE: If the answer is yes to questions 1, 2, or 3, complete the entire form, otherwise skip to Section G.

Section D—EMPLOYMENT DATA

Employment at this establishment—Report all permanent full-time and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

JOB CATEGORIES		NUMBER OF EMPLOYEES										
		OVERALL TOTALS (SUM OF COL. B THRU K)	MALE					FEMALE				
			WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
A	B	C	D	E	F	G	H	I	J	K		
Officials and Managers	1											
Professionals	2											
Technicians	3											
Sales Workers	4											
Office and Clerical	5											
Craft Workers (Skilled)	6											
Operatives (Semi-Skilled)	7											
Laborers (Unskilled)	8											
Service Workers	9											
TOTAL	10											
Total employment reported in previous EEO-1 report	11											

NOTE: Omit questions 1 and 2 on the Consolidated Report.

1. Date(s) of payroll period used: 2. Does this establishment employ apprentices?
1 ☐ Yes 2 ☐ No

Section E—ESTABLISHMENT INFORMATION (Omit on the Consolidated Report)

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings; retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity.)

OFFICE
USE
ONLY

g.

Section F—REMARKS

Use this item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units and other pertinent information.

Section G—CERTIFICATION (See Instructions G)

- Check one 1 ☐ All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
2 ☐ This report is accurate and was prepared in accordance with the instructions.

Name of Certifying Official	Title	Signature	Date
Name of person to contact regarding this report (Type or print)	Address (Number and Street)		
Title	City and State	ZIP Code	Telephone Number (Including Area Code)
			Extension

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII.
WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001.

Wage Gap

TO: Mary Smith
FROM: Ida L. Castro
RE: Equal Pay Initiatives
DATE: March 3, 1998

During the past months many ideas on how to better promote employer compliance with Equal Pay laws in order to begin correcting the current gender wage gap. Amongst these ideas, the concept of a voluntary compliance program encouraging employers to initiate their own reviews and take corrective action when necessary. These efforts would be done in coordination with the enforcement agencies similar to the current OSHA compliance program.

I can think of several threshold issues which would require expert response prior to consideration/implementation of such an effort. The following is not meant as an exhaustive list but one that would illustrate the type of issues which must be raised:

1. Window of opportunity to Take Voluntary Action (limited amnesty): One of the main deterrents raised by employers to public voluntary action is that it may increase their litigation liability and costs. An important ingredient to a voluntary compliance program would then be to waive enforcement of equal pay remedies to some extent for a finite period of time. It is necessary to identify whether EEOC has the ability to create such a window of opportunity without additional legislative action. Unlike OFCCP, EEOC is a complaint driven agency. The obligation of EEOC to investigate individual complaints may not be subject to a waiver (temporary or not) by the agency.
2. Implementation of Compliance Program: OSHA has been able to establish a compliance program in part because of its right to review company practices without a specific individual complaint. EEOC does not. Jurisdiction over the right to review workplace practices without individual complaints would have to be extended to EEOC (which would require probably significant additional funds to hire and train staff to perform this task). In the alternative there could be joint jurisdiction with another agency (probably Wage and Hour Administration at DOL) with the right to review. This would also require additional dollars to train and add staff to perform this new task. Wage and Hour is currently quite taxed with multiple law enforcement responsibilities and would probably not receive this suggestion with excitement. OFCCP has jurisdiction only over Federal Contractors (a sizable number of companies). Both would require the resolution of complex legal questions as well.

Hope this is helpful.

05/05/98 TEL 10-52 FAX 202-219-0175

Women's Bureau
DRAFT DRAFT DRAFT DRAFT
March 3, 1998
Ten Steps to Equal Pay
Employer Self-Audit

1. **Map the Workplace**
 - Are women, men and minorities proportionately represented throughout all positions within the company according to their proportion in the labor force?
 - Are there jobs where men, women, or minority workers are over-represented in proportion to their presence in the workplace?
 - How are applicants hired? Does the hiring process seek diversity among those in the qualified applicant pool for positions?
 - Are changes needed to diversify the applicant pool?
2. **Evaluate the Compensation System**
 - How are salaries determined?
 - Is a consistent job evaluation system in effect? Are jobs scored or assigned grades? Are positions where women and minorities work scored or graded according to the same standards as jobs where men or non-minorities work? Is there a method for ensuring consistent pay for people with similar levels of experience and education and holding jobs with similar levels of skill, effort, responsibility, and working conditions, even though job titles may be different?
 - How are market rates determined? What approach is taken to ensuring consistency in applying market rates for jobs? (i.e. -- Are men and non-minority workers compensated at or above market rates while women and non-minority workers compensation is at or below market rates?)
3. **Determine Whether a New Evaluation System is Needed**
 - Can the company point to one consistent and neutral evaluation system to ensure compensation matches performance for all positions within the company and consistently applies market rates and other external competitiveness factors compatibly?
 - Would the company benefit from a fresh approach that updates position descriptions, assesses skill, effort, responsibility and working conditions of various jobs and assigns grades or scores and ensures consistent application of market rates and external competitiveness?
4. **Conduct a New Job Evaluation System if Needed**
 - Write position descriptions, get employee input and develop consensus for position descriptions
 - Set up factors for assigning values to skills, effort, responsibility and working conditions of jobs; ensure agreement among worker representatives and management for factors

- Assign scores or grades to jobs; allow worker input
- Compare system with market rates and other external competitiveness factors; consider whether the market has undercompensated certain occupations or professions before making adjustments
- Assign consistent compensation to jobs within similar grades or scores and ensure consistency within the companies use of market rates and other external competitiveness factors

5. If No New System is Needed, Examine Existing System and Compare Job Grades/Scores

- How does pay compare for positions with similar grades or scores? On average, are women and minorities paid similarly to men and non-minorities within the same grade or job score? What are the reasons for any disparities in pay between jobs with similar grades or scores? Are corrections needed to ensure consistency in assigning grades or scores?
- How long do men, women and minorities stay within job grades or scores before moving up? Do men or non-minority workers move up faster? What are the reasons that some workers move up faster? Is there anything needed to ensure that all workers have equal opportunity for advancement?

6. Look at Data for Personnel Entering the Company

- At what grades or positions do men, women and minorities typically enter the company? Within grades and positions, are entry level salaries consistent, or do men, women and minorities enter at different pay levels, even when they enter at the same grades or positions?
- How does negotiation affect entry level salaries? Are men able to negotiate proportionately higher starter salaries than women or minorities?
- How do new hires compare in salary to those already working in the company in the same grades or positions? Do men, women and minorities entering the company get paid higher or lower than the men, women and minorities who already work at the company and hold the same positions or grades? Are there differences by gender or race?
- Are changes needed to ensure that new hires are treated consistently and incorporated into existing compensation systems on a compatible basis?

7. Assess how Raises are Awarded

- Is there a consistent method of evaluating performance for all workers? Do men, women and minorities receive consistent raises in accordance for similar performance standards? (i.e. are all workers with outstanding evaluations awarded the same percentage increases, or are there variations in percentages awarded by gender and race?)

8. Assess Opportunity to Win Commissions and Bonuses

- Are opportunities to earn commissions open to men, women and minorities on a consistent basis, or are there differences in assigning projects or clients with high commission potential to men, women and minorities within the company?

- Are bonuses awarded consistently to men, women and minorities in accordance with similar levels of performance and at similar monetary values?
9. Evaluate Training and Promotion Opportunity
- How are workers selected for participation in training opportunities or special projects that lead to advancement? Are there differences by race or gender? If so, what can be done to widen the pool to reflect equal opportunity?
10. Implement Changes Where Needed, Maintain Equity and Share Your Success
- Make changes to ensure consistency in evaluation of jobs, assignment of grades or scores, advancement within the system, performance evaluation, compensation levels, raises, bonuses, commissions, and training. Evaluate periodically to ensure maintenance.
 - Maintain openness about compensation with your workforce. Regularly post job openings and salary ranges within the workplace. Do not penalize employees for discussing compensation issues on their own time.
 - Reap the rewards of a productive, loyal workforce and use your success as a competitive tool to attract the best and brightest workers.

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Hope this is helpful.

1

Pros and cons of options for collecting salary data by sex and occupation (or job title):

Data Source	Pros	Cons
Add salary information to the EEO-1 data <i>Dispute</i>	1. Large data base by firm 2. Would be the universe for firms with 100+ employees or 50+ employees if federal contractors	1. Burden on employers (adding 8 salary intervals would expand the 110 cell matrix to 880 cells and would increase compliance hours by almost 700% (adding \$32M in annual public cost) -- which runs counter to the Paperwork Reduction Act 2. Not clear that the data would be helpful (salary ranges are quite imprecise, for example) and no education/experience information with which to adjust the sex differences
Conduct a separate salary matrix which would supplement the current EEO-1 form	1. It could have more salary intervals (20 instead of 8)	1. It would not have data by job category 2. Increase employer burden by about 200% (adding \$9.3M in annual public cost)
Conduct a national survey of companies	1. Much less costly (both politically and economically) than data collected by the EEOC	1. Unless collected annually, not helpful for <u>targeting</u> employers 2. Participation would be voluntary (<u>which raises</u> issues of which companies choose to participate)
IRS Data (Self-reporting by individuals)	1. Get around issue of firms being reluctant to provide data 2. Could get a large sample 3. Would not increase burden on employers (nor employees)	1. The occupation data on the Federal tax form is self-reported and not likely particularly accurate (plus, do not know the individual's actual job) 2. Can't distinguish the salary that goes with each job for multiple job holders 3. Participation would be voluntary (could get uneven participation across the income distribution (note: very low income workers may not even file))

We also looked into data for firms that bid on federal contracts, however they do not submit salary information about workers.

03/03/98 10:10:11 AM

Women's Bureau
DRAFT DRAFT DRAFT DRAFT
March 3, 1998
Ten Steps to Equal Pay
Employer Self-Audit

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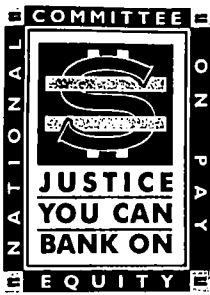
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 - Reap the rewards of a productive, loyal workforce and use your success as a competitive tool to attract the best and brightest workers.



NATIONAL COMMITTEE ON PAY EQUITY

1126 Sixteenth St, NW, • Washington, DC 20036 • (202) 331-7343 FAX (202) 331-7406

MEMORANDUM

February 18, 1998

TO: Audrey Tayse Haynes
Assistant to the President for Women's Initiatives and Outreach

FR: Susan Bianchi-Sand, Executive Director
National Committee on Pay Equity (NCPE)

RE: Studies Documenting the Wage Gap Today

Enclosed are selected surveys demonstrating the current wage gap crisis for American working women. The surveys represent a sampling of the research and analysis of the wage gap and illustrate how the gap affects women across economic and educational demographics. We have also included information from the Institute for Women's Policy Research (IWPR).

1. U.S. Department of Education

"A Descriptive Summary of 1992-93 Bachelor's Degree Recipients 1 Year Later" August, 1996
(See page 59 in the attached document)

This study of recent college graduates shows us that education is still not paying off for women.

The study tracked 1992-93 graduates one year later and demonstrated that women earned 16% less than their male counterparts when they entered the workforce.

The average annual salary of bachelor degree recipients in 1992-1993 was \$26,440 for men and \$22,286 for women, a difference of \$4,154.

We have also provided an executive summary of a report by the Department of Education, Office of Educational Research and Improvement titled *Women at Thirtysomething: Paradoxes of Attainment*. This document reports a study of the educational careers and labor market experiences of women in the high school class of 1972 through the time they were 32 years old. Despite high academic achievement, women only achieved pay equity in 12 out of 33 occupations. The report states that "[b]oth women's knowledge and their willingness to share that knowledge in the workplace are critical to the Nation's future, and should be rewarded so that all of us may benefit."

2. Women in Cable & Telecommunications Foundation

"The Fifteen Percent Gap" 1997 Survey

This comprehensive self-reported survey demonstrates that women in the telecommunications industry only earn about 85% of what their male counterparts earn (\$50,376 compared to a salary of \$59,354 for men), but in one category the difference was as high as 45%. In addition, the pay gap continues to be evident among men and women with similar job levels, education levels, and job tenure. For example, men with advanced degrees and one to three years of experience earn 30% more than women with similar education and job tenure.

In management positions, the survey found that women with advanced degrees earn 20% less than male managers with the same degree of education.

3. Purchasing Magazine's Report on Salary Surveys

"Purchasing Pay Rises But Unusually Large Gender Gap Remains"

This report examined the wage gap in the field of purchasing. It demonstrates that "even when years of experience are taken into account the pay gap stubbornly persists." In one instance, the gap cited is a \$121,000 difference.

The report confirms an earlier report written by John M. McDellar, C.P.M., who has served as Director of Education for the National Association of Purchasing Management and as an Assistant Professor at the University of Wisconsin School of Business Management, Madison. The analysis, looking into the pay discrepancy between men and women in the purchasing field was conducted at the University of Wisconsin. Gender, marital status, education, experience, ethnicity, and organizational title were used as variables in an attempt to determine what effect they have on salary.

Excerpts include:

"The analysis indicated that none of the factors could completely explain the differences in compensation between men and women in the purchasing profession. When all the variables were held constant, a statistically significant difference still existed between men's and women's salaries. The data for 1991 showed that the average salary for a male was more than \$12,000 higher than the average salary for a female."

"Further analysis of the data indicated that only 48% of the \$12,000 pay gap between male and female purchasers could be attributed to factors such as education and experience. The balance of the difference must therefore be attributable to unknown factors or to factors by which gender alone causes women to earn less."

"As women's education, experience, and levels of responsibility increase, will women's pay levels increasingly be on par with men? The numbers suggest otherwise. Looking at this year's EBN salary survey data, we see that experience and title do not seem to equalize the pay gap. Men working in purchasing for one to two years had a mean salary of \$33,600 while women made \$25,900. Men with 20 or more years experience had a mean salary of \$55,100 while women made \$39,700."

"The same holds true when one looks at salaries by title. Men in management positions made 34% more than women in 1996, and men in staff positions made 25% more than women. These numbers suggest that discrimination against women in hiring, work assignments, and promotions still cannot be disregarded as potential factors that help to perpetuate the inequality in male-female compensation."

4. American Bar Association, Committee on the Status of Women in the Profession,
"Unfinished Business, Overcoming the Sisyphus Factor" December, 1995

This report of lawyers in selected regions underscores that women start out behind their male counterparts (see page 9). In 1993, the average annual income of female lawyers with 1-3 years of experience was \$30,806 compared to the \$37,500 received by men with comparable experience. In the 10-20 year bracket, men outpace women \$90,574 to \$68,466. The data in this report also shows women behind at the general counsel level and at "all levels of the legal department."

5. Cejka and Company
"Physician Compensation and Production Survey: 1996 Report"

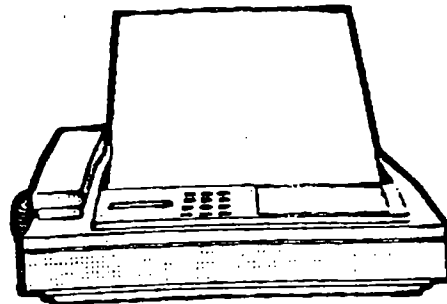
Table 5 demonstrates wage gaps ranging from 10% (psychiatry) to 23% (plastic surgery).

In addition, according to two studies cited by the Council on Graduate Medical Education (COGME), female physicians earn less than male physicians in all five specialties reviewed. These include general family practice, internal medicine, pediatrics, obstetrics-gynecology, and psychiatry. The pay gap was greatest in psychiatry, where women earned \$58,745 less than their male counterparts. The pay gap was smallest in obstetrics-gynecology where women earned \$7,460 less than their male counterparts.

When assessing salaries in terms of the number of years in practice, women earned less than men across the board. For instance, women with 1-4 years of practice earn an average of \$92,800 per year while men with 1-4 years of practice earn \$153,600 per year -- a yearly difference of \$60,800!

6. Institutional Investor
"The 62 percent solution?" May 1997

This is a report on a recent survey by Rivel Research Group commissioned by NIRI. The overall average wage gap discrepancy is 62 cents for women in investor relations (financial management). The report states that "the experience factor does not account for all the gender differences in cash compensation."

WOMEN'S BUREAU FAX TRANSMISSION
COVER SHEETDate: 1-15-98Number of Pages: 22
(including cover)TO: Tom FreedmanFAX NO. (including area code): (202) 456-7431

TELEPHONE NO. (including area code): _____

MESSAGE: _____

_____FROM: Ida Castro PHONE#: 219-6611U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WOMEN'S BUREAU
WASHINGTON, D.C. 20210TELEPHONE: (202) 219-6593
FAX: (202) 219-5529*Pay Equity
Wage Gap*

U.S. Department of Labor

Office of the Secretary
Women's Bureau
Washington, D.C. 20210



JANUARY 15, 1998

MEMORANDUM FOR: TOM L. FREEDMAN
Special Assistant to the President
Domestic Policy Council

FROM:

IDA L. CASTRO
Director-designate

SUBJECT: Ideas for Equal Pay Initiatives for the State of the Union and Beyond

As requested, listed below are several ideas for potential remarks by the President on equal pay issues during the State of the Union speech. The equal pay issue is a top concern of working women and the President has already taken several steps forward to address this topic, including the Fair Pay Clearinghouse and Working Women Count Honor Roll at the Women's Bureau, passage of the Family and Medical Leave Act, and the proclamations on National Pay Inequity Awareness Day in 1996 and 1997 (see attachment D). We recommend that the President express his continued commitment during the State of the Union address by speaking out about the problem women face in earning equal pay and the barriers in shattering the glass ceiling. We would like the President to exhort private enterprises to engage in self analysis and voluntary reviews of their pay structure, and urge them to make corrections where necessary. Lastly, we have included our recommendations on legislation and additional enforcement options for your consideration.

Message for the State of the Union

We strongly recommend that the President's message include the following points:

- Women earn only 75 cents for each dollar a man earns, on average. African American women earn 63 cents and Hispanic women earn only 54 cents, on average, to each dollar that white men earn. And a lifetime of unequal pay results in a lower pension and a retirement of poverty for too many women.

- Some argue that the wage gap is not a problem -- it's a matter of women making different choices in life -- whether to be a parent or to stay single and childless. Women should not be penalized for choosing to be mothers. 22 million children live in families that depend on the earnings of a working mother. The wage gap affects all of us -- we all want our wives, daughters, sisters and mothers to be treated with dignity and paid fairly for their work. If we are going to increase working families' standard of living, we must do everything we can to ensure fair wages for all.
- And businesses have a great interest and stake as well. The wage gap and the glass ceiling reflect the undervaluation of an important sector in our workforce. Global competitiveness places greater demands on our businesses. It means that we must band together to ensure recruitment and retention of the best talent available. In our competitive economy, we do not have a person to waste. It is a business imperative to address this issue.

Potential Initiative to Announce in the SOTU

We strongly recommend that the following initiative be announced in the SOTU.

- The President should urge businesses to review their pay structures to ensure fair pay, hiring and promotion practices. To assist businesses, the President could announce that he has asked Secretary Alexis Herman to develop and make available a 10 step self-audit package that would give companies, small and big, a clear guideline to discover whether or not they offer equal pay, hiring and promotional opportunities. A similar checklist will be developed for employees to assess their workplace. Use of these tools will bring us closer to achieving fair pay.

NOTE:

(In raising this issue with private sector employers, the President may be asked what action the federal government has taken to ensure equal pay and remove glass ceiling barriers for federal workers. Please note that a 1995 GAO study found that women in traditional, female dominated jobs within the federal government were almost twice as likely to be under classified and thus, underpaid, compared to other federal workers in jobs where there was medium or low representation of women. In addition, a 1992 Merit Systems Protection Board study identified significant barriers for women to advance within federal employment, particularly for mothers and for women of color. Asking

the Office of Personnel Management to conduct this assessment placing federal government as a model employer may pre-empt this argument. See attachments E, F and G.)

- Without endorsing specific legislation, the President could announce his support for legislative principles. He could recognize that pay inequities continue to be a serious problem for millions of American women. He would support legislation to address this problem which contains the following four principles:
 1. provides for the recognition and promotion of fair pay practices by employers;
 2. provides for research, education and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace;
 3. provides enhanced enforcement to deter violations of the Equal Pay Act and other laws;
 4. prohibits retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers.

The following outlines additional potential initiatives for your consideration.

A. To enhance the "10 step" self-audit tool for employers initiative, additional resources to the Women's Bureau (approximately \$2 million) could be directed to create a specialized technical assistance team to reach out to approximately 1,000 companies. The Women's Bureau technical assistance would include analysis of hiring, promotion, compensation and evaluation data to ensure fairness and consistency for women at all levels within the company. Recommendations for correcting problem areas could be proposed. Best practices would be shared and promoted as a means for attracting and retaining a competitive, talented staff and boosting productivity of human resources.

B. Increase funding for enforcement of Equal Pay Act and the Civil Rights Act at EEOC and Executive Order 11246 at OFCCP. Approximately \$5 million for OFCCP would support additional training, travel and staff to increase corporate management reviews. (See attachment

C.)

Attachments

- A. Other Opportunities to Amplify Message Beyond SOTU
- B. Background: Facts on the Wage Gap
- C. Summary of OFCCP corporate management review program
- D. History of White House and Department of Labor Initiatives on Equal Pay
- E. Recommendations from the Glass Ceiling Commission
- F. Summary of the 1995 GAO Study of Pay in the Federal Government
- G. Summary of the 1992 National Merit Systems Protection Analysis of the Glass Ceiling

Attachment A

OTHER OPPORTUNITIES TO AMPLIFY MESSAGE BEYOND SOTU

1. EQUAL PAY DAY, APRIL 3, 1998 INITIATE AN INTERNET "CHAT ROOM"

On April 3, 1998, the President could issue a proclamation for Equal Pay Day and announce a special interactive dialogue on equal pay issues for working women on the Internet through a "live chat room." April 3, 1998 represents the day on which women's earnings, when added to their previous year's earnings, finally equal what men earned in just one calendar year. For the past two years, President Clinton has recognized this day by issuing a national proclamation. The President and Secretary of Labor Alexis Herman could jointly open the live Internet discussion on equal pay and could pose a question, such as "Are you being paid fairly, and how do you know?" This one-day dialogue could pose a snapshot of the magnitude of the issue and could serve as the basis for the President and the Secretaries of Labor and Commerce to continue to use the strength of the bully pulpit to encourage employers to do more to ensure fair pay.

Alternately, the President could hold a White House Conference on Equal Pay to amplify the legislative initiatives on equal pay and to convey a message of concern on the issue to working women.

2. FAIR PAY TOUR

To recognize the significance of the problem of fair pay for women, the President, or the Vice President could join Secretary of Labor Alexis Herman and Women's Bureau Director-designate Ida Castro during the Women's Bureau's Fair Pay Tour, currently scheduled to begin in late March, to discuss equal pay concerns with women's leaders, business executives, labor union women, and working women themselves. After the tour, the President could announce stepped up enforcement in the area of equal pay or use the bully pulpit to support further legislative options in this area.

Attachment B

BACKGROUND: FACTS ON THE WAGE GAP

- In the third quarter of 1997, women earned only 74.9 percent of men's weekly earnings, on average, according to Department of Labor, Bureau of Labor Statistics (BLS) data. For women of color, the problem was even worse. Black women earned 63.5 percent, and Hispanic women earned 53.8 percent of white men's earnings.
- Some of the wage gap is because women work fewer hours, or less weeks per year, and some of it is due to differing levels of experience and training. But a good portion of the wage gap cannot be explained by any legitimate factor. BLS data show that women earn less than men in 97 percent of all occupations for which detailed information by gender and occupation is available.
- Solutions are not simple. Sixty percent of all women still work in traditional "women's jobs," such as teacher, nurse, or secretary. Many studies have shown a direct correlation between the percentage of women in a job and lower pay. If men and women were more evenly distributed throughout the broad occupational spectrum, pay for these traditional women's jobs would likely improve. A BLS Monthly Labor Review article showed that in 1995, about 54 percent of all men and women would have had to change jobs in order to achieve a workforce where men and women were evenly distributed among all occupations. Among college educated workers, about 37 percent of women would have had to change jobs in order to achieve a perfectly balanced workplace.
- Women are no longer routinely dropping out of the labor force for child bearing and child rearing. 1996 BLS data shows that 54.3 percent of all employed mothers of newborns are back on the job before the baby's first birthday, and 63.3 percent return to work by the second birthday.
- The wage gap widens as women mature and has significant implications for women's savings, social security and retirement earnings. For instance, the average woman currently earns about \$139 per week less than a man, or 25 percent less. Over a 30 year career, that average difference will amount to over \$216,000 less. In the private sector, only 31 percent of all women have or expect to have a pension when they retire, and those who do earn only 38 percent of the benefit of men's pensions.

January 14, 1998

Attachment C

SUBJECT: OFCCP Ideas for "Equal Pay" Initiatives
for the President's State of the Union

The Department of Labor's Employment Standards Administration (ESA) has a key role to play if the President's theme, of economic opportunity and providing a fair wage for workers and their families, is to be realized.

The Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246 and other laws and regulations which ensure equal employment opportunities for all workers.¹ Every nonexempt government contract includes an equal opportunity clause. This clause makes equal employment opportunity and affirmative action integral elements of a contractor's agreement with the Federal government. Accordingly, contractors must maintain a non-discriminatory workplace and engage in affirmative action, including outreach and recruitment to attract qualified women and to pay, promote, train and offer other benefits in a non-discriminatory manner. These contract obligations include a self-audit that often ferrets out discrimination and eliminates unnecessary barriers before the discrimination becomes the subject of a complaint or litigation. All of this is wholly consistent with an emphasis on economic opportunity and equal pay.

Specifically, as was noted by Secretary Herman in her remarks at a December 3rd event, there has been remarkable progress for women in the past 30 years because of the effectuation of Executive Order 11246. Recent media revelations regarding discriminatory employment practices in major U.S. companies have also underscored the importance of prevention and the self-auditing that is required by the OFCCP regulations.

¹Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA).

To promote fair (non-discriminatory) pay, OFCCP:

- conducts approximately 3,500 compliance reviews (systemic investigations) of federal contractors each year;
- recovered more than \$160 million dollars for victims of discrimination since 1994, including significant compensation adjustments for women and people of color;
- conducted 27 glass ceiling reviews which often focus on compensation issues from entry level to corporate suite;
- provided 11,458 employers with technical assistance during FY 97 alone;
- engaged in extensive outreach and technical assistance on the issue of compensation;
- placed its compliance manual, including chapter that addresses compensation, and other materials on the Internet at <http://www.dol.gov-esa>;
- activated an Internet E-laws project to provide interactive guidance;
- highlights and recognizes annually the best practices of enlightened employers through its annual EVE awards;
- routinely conducts Town Halls, seminars and other events to educate employers; and
- created the Office of the Ombudsperson to serve as a link to the public and additional customer service resource.

We recommend that the President continue to emphasize the importance of equal opportunity for all workers and its importance to the Nation. "Equal pay" covers many aspects of employment.

A key theme for the President remains "Remaining strong as One America". In delivering this message, President Clinton consistently emphasized that "we don't have a person to waste", "diversity is our greatest strength" and we "must strive to give all our citizens, whatever their background, an opportunity to achieve their own greatness." Economic opportunity has been a recurring theme. Equal pay is an aspect of economic opportunity.

ATTACHMENT D.

U.S. DEPT. OF LABOR ACTIVITIES IN SUPPORT OF PAY EQUITY

- 1997 - Women's Bureau drafted President's Proclamation proclaiming April 11, 1997, "National Pay Inequity Awareness Day."
- 1997 - Women's Bureau issued *What Works! The Working Women Count Honor Roll Report*, the final publication highlighting employer models from the Working Women Count Honor Roll, including a section on "Pay: What Works!."
- 1997 - Women's Bureau held a National Working Women's Summit broadcast to downlink sites nationwide at which wage and occupational gains made by women was addressed.
- 1997 - OFCCP announced settlements totaling over \$3.9 million in one region and \$1.3 million in another to benefit victims of wage discrimination through back pay awards and salary adjustments.
- 1996 - Women's Bureau released the *Working Women Count Honor Roll Report*, the first installment of its effort to respond to women's needs as reflected in the unprecedented Working Women Count survey.
- 1996 - Women's Bureau launched Fair Pay Clearinghouse to provide information and resources to working women and men, employers and other organizations.
- 1996 - Women's Bureau issued two publications on fair pay--Worth More Than We Earn: Fair Pay for Working Women and What Works: Fair Pay for Working Women.
- 1996 - Fair pay was the subject of a Working Women's Summit in Philadelphia, one of a series of regional Working Women's Summits at 19 sites across the country.
- 1996 - Women's Bureau issued "20 Facts on Women Workers," which contains information on the ratio of women's 1995 median weekly earnings to men's.
- 1994 - Women's Bureau issued *Working Women Count! A Report to the Nation* on the results of the Working Women Count survey, which found large percentages of women reporting that they weren't getting paid what the job is worth and that improving pay scales was a high priority.
- 1993 - Women's Bureau issued fact sheet on "Earnings Differences Between Women and Men."
- 1991 - Research reports on pay gap and earnings funded by the Women's Bureau were published.
- 1980 - Women's Bureau Director Alexis Herman testified at EEOC hearing on wage

discrimination.

- 1979 - Women's Bureau served on the steering committee and contributed funding for a Conference on Pay Equity. Women's Bureau Director Alexis Herman spoke about government efforts as part of a morning panel.

Jane Walstedt, 1/12/98

Attachment E



**MAKING FULL USE OF THE
NATION'S HUMAN CAPITAL**

**Recommendations of the
Federal Glass Ceiling
Commission**
Washington, D.C.
November 1995

SUMMARY OF RECOMMENDATIONS

BUSINESS

Demonstrate CEO commitment

Eliminating the glass ceiling requires that the CEO communicate visible and continuing commitment to workforce diversity throughout the organization. The Commission recommends that all CEOs and boards of directors set companywide policies that actively promote diversity programs and policies that remove artificial barriers at every level.

Include diversity in all strategic business plans and hold line managers accountable for progress

Businesses customarily establish short- and long-term objectives and measure progress in key business areas. The Commission recommends that all corporations include in their strategic business plans efforts to achieve diversity both at the senior management level and throughout the workforce. Additionally, performance appraisals, compensation incentives and other evaluation measures must reflect a line manager's ability to set a high standard and demonstrate progress toward breaking the glass ceiling.

Use affirmative action as a tool

Affirmative action is the deliberate undertaking of positive steps to design and implement employment procedures that ensure the employment system provides equal opportunity to all. The Commission recommends that corporate America use affirmative action as a tool ensuring that all qualified individuals have equal access and opportunity to compete based on ability and merit.

Select, promote and retain qualified individuals

Traditional prerequisites and qualifications for senior management and board of director positions focus too narrowly on conventional sources and experiences. The Commission recommends that organizations expand their vision and seek candidates from non-customary sources, backgrounds and experiences, and that the executive recruiting industry work with businesses to explore ways to expand the universe of qualified candidates.

**Prepare minorities and women
for senior positions**

Too often, minorities and women find themselves channeled into staff positions that provide little access and visibility to corporate decisionmakers, and removed from strategic business decisions. The Commission recommends that organizations expand access to core areas of the business and to various developmental experiences, and establish formal mentoring programs that provide career guidance and support to prepare minorities and women for senior positions.

Educate the corporate ranks

Organizations cannot make members of society blind to differences in color, culture or gender, but they can demand and enforce merit-based practice and behavior internally. The Commission recommends that companies provide formal training at regular intervals on company time to sensitize and familiarize all employees about the strengths and challenges of gender, racial, ethnic and cultural differences.

**Initiate work/life and
family-friendly policies**

Work/life and family-friendly policies, although they benefit all employees, are an important step in an organization's commitment to hiring, retaining and promoting both men and women. The Commission recommends that organizations adopt policies that recognize and accommodate the balance between work and family responsibilities that impact the lifelong career paths of all employees.

**Adopt high performance work-
place practices**

There is a positive relationship between corporate financial performance, productivity and the use of high performance workplace practices. The Commission recommends that all companies adopt high performance workplace practices, which fall under the categories of skills and information; participation, organization and partnership; and compensation, security and work environment.

GOVERNMENT

Lead by example

Government at all levels must be a leader in the quest to make equal opportunity a reality for minorities and women. The Commission recommends that all government agencies, as employers, increase their efforts to eliminate internal glass ceilings by examining their practices for promoting qualified minorities and women to senior management and decisionmaking positions.

Strengthen enforcement of anti-discrimination laws

Workplace discrimination presents a significant glass ceiling barrier for minorities and women. The Commission recommends that Federal enforcement agencies increase their efforts to enforce existing laws by expanding efforts to end systemic discrimination and challenging multiple discrimination. The Commission also recommends evaluating effectiveness and efficiency and strengthening interagency coordination as a way of furthering the effort. Additionally, updating anti-discrimination regulations, strengthening and expanding corporate management reviews and improving the complaint processing system play major roles in ending discrimination. Finally, the Commission recommends making sure that enforcement agencies have adequate resources to enforce anti-discrimination laws.

Improve data collection

Accurate data on minorities and women can show where progress is or is not being made in breaking glass ceiling barriers. The Commission recommends that relevant government agencies revise the collection of data by refining existing data categories and improving the specificity of data collected. All government agencies that collect data must break it out by race and gender, and avoid double counting of minority women, in order to develop a clear picture of where minorities and women are in the workforce.

Increase disclosure of diversity data

Public disclosure of diversity data — specifically, data on the most senior positions — is an effective incentive to develop and maintain innovative, effective programs to break glass ceiling barriers. The Commission recommends that both the public and private sectors work toward increased public disclosure of diversity data.

GAO

United States General Accounting Office

Report to Congressional Requesters

Attachment F

November 1995

FEDERAL JOB CLASSIFICATION

Comparison of Job Content With Grades Assigned in Selected Occupations



Effects of Female and Minority Representation on Relative Overgrading and Undergrading

To evaluate whether gender or minority representation had an effect on the variation between the actual grades and the questionnaire grades, we statistically eliminated the effect of the incumbents' GS grades.⁹ Analysis of the remaining variation showed that occupations with high female representation were 1.77 times more likely to be undergraded rather than aptly graded compared with occupations having a low or medium female representation. Occupations with high minority representation were 2.18 times more likely to be overgraded rather than aptly graded compared with occupations having a low or medium minority representation.¹⁰

Classification experts with whom we consulted about our results and the available literature offered a few occupation-specific hypotheses about possible causes. For example, key occupations with high minority representation that appeared to be overgraded included (1) border patrol agents, (2) equal employment opportunity and compliance specialists, and (3) computer specialists. Previous studies of federal classification issues maintained that FES was ineffective for specialists such as law enforcement related occupations because physical demands and work environment are not highly valued FES factors but are considered significant in these occupations.

Although empirical data are lacking, the classification experts we consulted suggested that when equal employment opportunity occupations were established in the 1970s, they involved a heavy workload of cases and, even though not recognized by FES, the GS grades of these occupations may have been increased on that basis. Furthermore, private sector wages may have resulted in overgrading positions in computer-related occupations. Explanations are somewhat less evident regarding occupations with high female representation, which appear more likely to be undergraded.

⁹The likelihood or odds of a position being overgraded increased as the GS grade increased; that is, as the grade increased by one GS grade, the odds that a position was overgraded versus aptly graded increased by a factor of 1.64. For example, the odds of positions being overgraded in occupations with an average grade of GS-9 were approximately 5 to 1 (i.e., five positions were overgraded for every one that was aptly graded), while the odds of positions being overgraded in occupations with an average grade of GS-10 were about 8.2 to 1. The factor of 1.64 ($8.2 / 5 = 1.64$) indicates that positions in the higher graded occupations were 1.64 times more likely than those in the lower graded occupations to be overgraded. At the 95 percent level of confidence, as the grade increased by one GS grade, the odds that a position was overgraded versus aptly graded increased by a factor ranging from 1.53 to 1.77.

The GS grade had no significant effect on the odds that a position was undergraded versus aptly graded.

¹⁰At the 95 percent level of confidence, occupations with high female representation were from 1.33 to 2.35 times more likely to be undergraded than occupations with medium or low female representation, and occupations with high minority representation were from 1.62 to 2.94 times more likely to be overgraded than those with medium or low representation.

Attachment G

A QUESTION OF

EQUITY

Women and the **GLASS CEILING**



A Report to the President and the Congress of the United States
by the U.S. Merit Systems Protection Board

A Special Study

A QUESTION OF EQUITY: Women and the Glass Ceiling in the Federal Government



**A Report to the President
and the Congress of the United States
by the U.S. Merit Systems Protection
Board**

EXECUTIVE SUMMARY

Women are an integral part of the Federal workforce, holding nearly half of white-collar jobs in the Government. Yet they still hold a small percentage of senior-level and executive positions in the executive branch. Is the poor representation of women in higher graded jobs due to the existence of a glass ceiling? That is, are there subtle barriers, bearing no relationship to women's career decisions or qualifications, which limit their advancement? Or do men continue to dominate senior positions because they have more experience, more formal education, and greater commitment to career advancement than women? The U.S. Merit Systems Protection Board sought to answer these questions in this study of career advancement in the Federal Government.

The Board found that barriers do exist that have resulted in women, overall, being promoted less often over the course of their Government careers than men with comparable education and experience. Women are promoted at a lower rate than men in grade levels and occupations that are important gateways to advancement. The women we surveyed express the same level of commitment to their jobs and careers as men, and women receive the same or better performance ratings as men, but their potential for advancement is often underestimated by managers using criteria which they traditionally have seen as a way to measure job commitment and advancement potential. A significant minority of women also believe they are confronted by stereotypes which cast doubts on their competence.

The Board suggests that because advancement to senior levels is a slow process, the imbalance in the percentage of women in high grades can be corrected within a reasonable timeframe only through concerted action. Recommended actions include a reaffirmation of the Government's commitment to equal opportunity, including ensuring that recruitment for senior positions is broad enough to encompass sufficient numbers of qualified women. The Board further recommends that managers make opportunities available for women to increase their competitiveness and demonstrate their abilities, actively discourage expressions of stereotypes of women at work, and reassess the validity of the criteria they use to evaluate an employee's potential for advancement.

Almost as many women as men are now employed in white-collar jobs in the Federal executive branch, yet only about 1 out of every 4 supervisors and 1 out of every 10 executives are women. Studies outside of the Federal Government have shown that women at work often face subtle barriers—or what has come to be known as a

"glass ceiling"—which constrain their career advancement. If such barriers exist in the Federal sector, the Government is paying a cost. It is underutilizing a major segment of its human resources and delaying attainment of an important goal of the Civil Service Reform Act; i.e., full representation of all segments of society at all grade levels in Government.

EXECUTIVE SUMMARY

The U.S. Merit Systems Protection Board (MSPB or the Board) has the statutory responsibility to report periodically to Congress and the President on the health of the Civil Service and other merit systems. In partial fulfillment of this responsibility, MSPB undertook an analysis of career advancement in the executive branch workforce. The study described in this report was designed to examine the process for career progression in the white-collar workforce, and the nature and extent of any barriers women may confront in that process. It included data from three sources: the U.S. Office of Personnel Management's Central Personnel Data File; focus groups of senior level (GS/GM 13-15) and senior executive (Senior Executive Service or SES) men and women; and a Governmentwide survey mailed to a sample of 13,000 employees in grades GS/GM 9-15 and the SES. A subsequent study will address any barriers which may confront minorities in the executive branch workforce.

Findings

- Women do confront inequitable barriers to advancement in their Federal careers. These barriers take the form of subtle assumptions, attitudes, and stereotypes which affect how managers sometimes view women's potential for advancement and, in some cases, their effectiveness on the job.
- Contrary to conventional wisdom, women are not promoted at a lower rate than men at the GS/GM 13 level and above, but rather face obstacles to advancement at lower levels in the pipeline. Women in Professional occupations are promoted at a lower rate than men at two critical grades, GS 9 and GS 11. As these grades are the gateway through which one must pass in moving from the entry level to the senior level, this disparity has the effect of reducing the number of women eligible for promotion in higher graded jobs. Results from a Governmentwide survey of employees currently in grades GS 9-15 and the SES

confirm that women at these levels have been promoted, on average, less often over the course of their Government careers than men who have comparable amounts of formal education and experience, and who entered Government at the same grade levels as the women.

- Given current trends, the percentage of Professional and Administrative jobs held by women will grow from 34 percent in 1990 to 42 percent by 2017. But even by 2017 women will remain significantly underrepresented in senior levels, holding less than one-third of senior executive positions. Unless action is taken, a dramatic increase in the representation of women in higher graded jobs will be precluded both by the slow process of advancement into higher graded jobs in general, and by the lower rate of promotion encountered by women.
- Women receive performance appraisals that are as good as or better than men's, and women surveyed expressed just as much commitment to their jobs and career advancement as men. However, there is evidence to suggest that women are often *perceived* to be less committed to their jobs than men. Particularly susceptible to this misperception are women in the first 5 years of their careers and, throughout their careers, women with children, who are promoted at an even lower rate than women without children.
- A significant minority of women in grades GS 9 and above believe they often encounter stereotypes that cast doubts on their competence, and that attribute their advancement to factors other than their qualifications.
- Minority women appear to face a double disadvantage. Their representation at top levels is even less than that of nonminority women, and minority women currently in grades GS 9 and above have been, on average, promoted less often than nonminority women with the same qualifications.

EXECUTIVE SUMMARY

Recommendations

1. The Government should reaffirm its commitment to equal employment opportunity and agencies should make special efforts to increase the representation of women in senior positions in the civil service. Because women are found in a minority of Professional and Administrative jobs above the midlevel, and because career advancement is slow above this level, agencies should make special efforts to ensure that women and, in particular, minority women, are included in the applicant pool.
2. Managers should evaluate the formal and informal criteria they may be using to evaluate employees' potential for advancement, especially when these criteria are used in making selections for developmental training, career-enhancing work assignments, and promotions. Managers should consider whether they are using criteria for evaluating employees' commitment to the job and potential for advancement that have little or no relationship to the quality of the employees' work or actual job requirements. Decisions about whom to develop should be based on an employee's qualifications, performance, and *expressed* desire for advancement. Managers need to recognize that results obtained are more important than the numbers of hours of overtime worked.
3. Managers should seek to curtail, within themselves and their organizations, any expressions of stereotypes or attitudes which may create an environment hostile to the advancement of women. Managers should encourage an environment conducive to the advancement of women by reexamining their own and their subordinates' attitudes and deportment, and actively discouraging expressions of stereotypes or behavior that reinforce negative stereotypes of women at work. Managers can further help to allay these stereotypes by giving qualified women opportunities to demonstrate their abilities in assignments traditionally thought to require male attributes.
4. Women should take full advantage of opportunities to increase their competitiveness and demonstrate their abilities, and agencies should make these opportunities available. Women, individually, can increase their potential for advancement by pursuing additional education and developmental programs available within the Government. Agencies should also actively ensure that women have access to developmental programs and other opportunities to augment their qualifications and demonstrate their abilities.
5. Agencies should conduct their own assessment of barriers to advancement for women. The results of this study are based on a Governmentwide view of the career advancement process and do not capture the diversity that is certain to occur among agencies. Agencies should use the broad findings of this report to develop specific assessments of barriers which may be impeding the advancement of women within their own organizations.

*Equal Pay
Self-audit
for employees*

DRAFT (3/18/98)
Working Women's Equal Pay Checklist

From the U.S. Department of Labor's
Women's Bureau

Working women are entitled to equal employment opportunity on the job, including the right to equal pay for equal work and to earn a paycheck that is free from unlawful bias. Yet working women continue to tell the U.S. Department of Labor that pay is one of their biggest workplace concerns. They tell us that they are not fairly compensated for their work.

President Clinton has called on employers, government officials, community educators and workers to recognize and reward the full value of the skills and contributions of women and people of color. Secretary of Labor Alexis Herman has directed the Women's Bureau to develop this Equal Pay Checklist as a guide to issues that affect pay. We hope this career development tool will provide a useful framework for women interested in furthering their opportunities and improving their earning power.

When was the last time you...

1. Thought about what you do on the job, the skills you use, your contributions, and the value you bring to your employer?
2. Compared your skills and responsibilities to those of others in your workplace and industry?
3. Consulted trade journals, career publications, or Department of Labor wage information to get a sense of salary ranges for someone of your qualifications within your industry, or in similar jobs in other industries?
4. Had a performance review and used it as an opportunity to discuss your responsibilities and the value of your skills to the company?
5. Asked for a raise?
6. Gathered information from supervisors, colleagues, etc. about the kinds of skills and training needed to move into better paying jobs in your company?
7. Networked with other people outside your company to broaden your knowledge of your occupation and trends in your industry including information about salaries, essential skills and training opportunities?
8. Sought training, special projects or other skills building opportunities that could lead to a better paying job?

9. Pursued opportunities at your current place of employment or with other firms?

10. Shared ideas and concerns about compensation issues with other women in your workplace?

As a complement to this checklist, the Women's Bureau has also developed *Ten Steps to an Equal Pay Self Audit for Employers*.

This checklist is designed as a general tool to provoke thought and open dialogue. It is not intended as a substitute for legal advice. Women who have questions about their legal right to equal pay may want to consider consulting an attorney, a counselor at the Equal Employment Opportunity Commission, or an Ombudsman at the Department of Labor's Office of Federal Contract Compliance Programs.

DRAFT (3/26/98)

DRAFT

Ten Steps to An Equal Pay Self-Audit for Employers
From the U.S. Department of Labor's
Women's Bureau

*Self-audit
for employers*

Women continue to tell the U.S. Department of Labor that pay is one of their biggest workplace concerns. They tell us they need better pay and they need fair pay. A look at earnings data indicates a continuing wage gap between women and men. Although the wage gap has narrowed over the years, in 1997, working women still earned only 74 percent of men's weekly earnings on average. The average woman would have to work from January of 1997 to April 3 of 1998 to earn what the average man earned in 1997 alone. For women of color, the gap is even greater.

Businesses have a great stake in equal pay issues as well. The wage gap and the glass ceiling reflect the undervaluation of an important sector in the workforce. Global competitiveness places greater demands on business. It means that we must band together to ensure recruitment and retention of the best talent available. In our competitive economy, we do not have a person to waste.

President Clinton is calling on all Americans to recognize and reward the full value of the skills and contributions of women and people of color. Secretary of Labor Alexis Herman has responded to the President's call to action by expanding the Fair Pay Clearinghouse in the Women's Bureau and making additional resources available that highlight model pay practices and help employers ensure equal pay. The following ten-step guide was developed -- with input from a variety of stakeholders -- to assist interested employers in analyzing their own wage-setting policies and establishing consistent and fair pay practices for all.

Employers vary greatly by size, numbers of employees and industry, yet very few are exempt from the laws that require equal pay and equal employment opportunity. This guide is intended to provide a general framework for policies that will ensure equal pay, regardless of an individual employer's characteristics. Small businesses may not need the formalized processes that are often essential for employers of larger workforces, yet may still find it useful to apply all or some of these concepts in assessing compensation programs for their employees.

1. Conduct an Equal Employment Opportunity Self Audit

- Does your hiring process seek diversity in the qualified applicant pool for positions?
- Are changes needed to increase diversity in the qualified applicant pool?

2. **Evaluate Your Compensation System for Internal Equity**

- How are salaries determined? How are benefit formulas calculated?
- Do you write position descriptions, seek employee input and develop consensus for position descriptions? In unionized workplaces, involve union leaders?
- Do you have a consistent job evaluation system? Are jobs scored or assigned grades? Are positions where women and minorities work scored or graded according to the same standards as jobs where men or non-minorities work?
- Is there a method for ensuring consistent pay for people with substantially similar levels of experience and education who hold jobs calling for substantially similar degrees of skill, effort, responsibility, and working conditions, even though job titles may be different?

3. **Evaluate Your Compensation System for Industry Competitiveness**

- How do you determine the market rate for any given job? How do you ensure that market rates are applied consistently? (i.e. Can you be confident that men and non-minority workers are not being compensated *at or above* market rates while women and minority workers' compensation is *at or below* market rates?)
- Would your company benefit from a fresh approach that updates position descriptions; assesses skill, effort, responsibility and working conditions of various jobs; assigns grades or scores; and ensures consistent application of market rates and external competitiveness?

4. **Conduct a New Job Evaluation System if Needed**

- Do you have up-to-date position descriptions for all occupations?
- Do you establish criteria for assigning values to skills, effort, responsibility and working conditions of jobs? Do you challenge basic assumptions about the value of skills before assigning points or grades? (i.e. — considered how skills such as caring for sick people, small muscle dexterity in typing, and other skills may have been undervalued in jobs that have been traditionally held by women?)
- Do you ensure agreement among worker representatives and management for criteria to evaluate jobs?
- Do you assign scores or grades to jobs and allow worker input?
- Do you compare your system with market rates and other external competitiveness factors? Do you consider whether the market has undercompensated certain occupations or professions before making adjustments?
- Do you assign consistent compensation to jobs within similar grades or scores and do you use market rates and other external competitiveness factors consistently?

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5. Examine Your Compensation System and Compare Job Grades/Scores

- How does pay compare for positions with similar grades or scores within your company? On average, are women and minorities paid similarly to men and non-minorities within the same grade or job score? What are the reasons for any disparities in pay between jobs with similar grades or scores? Are corrections needed to ensure consistency in assigning grades or scores?
- How long do men, women and minorities stay within job grades or scores before moving up? Do men or non-minority workers move up faster? What are the reasons that some workers move up faster? Is action needed to ensure that all workers have equal opportunity for advancement?

6. Review Data for Personnel Entering Your Company

- At what grades or positions do men, women and minorities typically enter your company? Within those grades and positions, are salaries consistent, or do men, women and minorities enter at different pay levels?
- How does negotiation affect entry-level salaries? Are men able to negotiate higher starting salaries than women or minorities?
- How do new hires compare in salary to those already working in the company in the same grades or positions? Do men, women and minorities entering the company get paid higher or lower than those who already hold the same positions or grades? Are there differences by gender or race?
- Are changes needed to ensure that new hires are treated consistently and incorporated into existing compensation systems on a compatible basis?

7. Assess Opportunity for Employees to Win Commissions and Bonuses

- Are men, women and minorities assigned projects or clients with high commission potential on a consistent basis?
- Are men, women and minorities with similar levels of performance awarded bonuses on a consistent basis? Do they receive bonuses of similar monetary values?

8. Assess How Raises are Awarded

- Is there a consistent method of evaluating performance for all workers? Do men, women and minorities receive consistent raises based on similar performance standards? (i.e. are all workers with outstanding evaluations awarded the same percentage increases? If not, what are the reasons for the difference?)

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9. Evaluate Employee Training, Development and Promotion Opportunities

- How are workers selected for participation in training opportunities or special projects that lead to advancement? Are there differences by race or gender? If so, what can be done to widen the pool to reflect equal opportunity?

10. Implement Changes Where Needed, Maintain Equity and Share Your Success

- Have you made changes to ensure consistency in evaluation of jobs, assignment of grades or scores, advancement within the system, performance evaluation, compensation levels, raises, bonuses, commissions and training? Evaluated your compensation system periodically to ensure that it meets equal employment opportunity goals?
- Do you maintain openness about compensation with your workforce? Regularly post job openings and salary ranges within the workplace? Do you allow employees to discuss compensation issues on their own time?
- Are you reaping the rewards of a productive, loyal workforce, and using your success as a competitive tool to attract the best and brightest workers?

How did you score on the audit?

Were there many questions for which you answered no or had not considered before? If so, can your company begin to work on implementing some of these policies?

Were you able to say yes to a majority of these questions, or readily respond with a program in place to ensure equal pay? Congratulations! Please let us know if you would like to be included on our fair pay mailing list.

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**UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration**

FAX TRANSMISSION

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DELIVER TO: Mary Smith

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**FROM: Jane W. Molloy
Director, Office of Policy Analysis**

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Message: Attached is the Commerce response to the questions on the equal pay initiatives.

Table 18. Occupation of Longest Job in 1996—Total Money Earnings in 1996 of Persons 15 Years Old and Over, by Work Experience in 1996, and Sex

*Numbers in thousands. Persons 15 years old and over as of March 1997. For meaning of symbols, see text

Numbers in thousands. Persons 15 years old and over as of March 1997. For meaning of symbols, see text											Median earnings		Mean earnings	
Occupation of longest job	Total with earnings	\$1 to \$2,499 or less	\$2,500 to \$4,999	\$5,000 to \$9,999	\$10,000 to \$19,999	\$20,000 to \$34,999	\$35,000 to \$49,999	\$50,000 to \$74,999	\$75,000 and over	Value (dol.)	Standard error (dol.)	Value (dol.)	Standard error (dol.)	
MALE														
Total	76 121	5 322	3 364	6 381	14 253	19 943	12 630	8 877	5 352	25 786	123	33 784	285	
Total	76 121	5 322	3 364	6 381	14 253	19 943	12 630	8 877	5 352	25 786	123	33 784	285	
Managerial and professional specialty occupations	19 514	487	328	703	1 725	3 954	4 113	4 435	3 788	42 434	414	56 557	849	
Executive, administrative, and managerial occupations	10 398	162	132	334	883	2 278	2 203	2 200	2 203	42 681	743	58 989	1 246	
Administrators and officials, public administration	373	7	17	12	11	60	138	94	35	44 004	1 717	48 293	3 221	
Federal	138	—	7	1	4	22	48	42	14	46 386	1 555	47 835	2 954	
State or local	235	7	10	12	6	38	90	52	21	42 405	1 620	48 563	4 812	
Other administrators and officials, salaried	7 418	39	74	175	586	1 521	1 510	1 702	1 809	46 990	782	63 379	1 588	
Manufacturing	1 691	3	10	21	48	304	269	427	610	57 417	2 582	72 883	3 348	
Retail trade	873	3	12	54	191	217	151	128	118	31 988	1 532	48 533	4 648	
Finance, insurance, and real estate	782	—	9	22	53	167	141	153	246	60 207	1 655	81 818	8	
Other industries	4 080	34	44	79	294	832	949	983	835	45 584	826	59 098	1	
Other administrators and officials, self-employed	752	72	7	78	138	215	80	88	75	22 377	1 388	35 775	2 717	
Management related occupations	1 854	45	34	69	149	482	475	316	283	39 480	1 414	53 059	2 654	
Accountants and auditors	863	3	14	16	48	220	178	121	64	37 202	2 189	44 677	2 163	
Professional specialty occupations	9 118	325	197	368	842	1 675	1 909	2 234	1 588	42 309	467	53 772	1 129	
Engineers, architects, and surveyors	2 048	18	7	37	88	255	538	540	254	50 962	496	51 604	1 041	
Engineers	1 679	14	7	30	83	205	512	790	228	51 264	543	61 884	1 041	
Natural scientists and mathematicians	1 352	8	20	25	57	228	326	485	235	50 459	1 712	52 694	1 245	
Health diagnosing occupations	735	—	—	13	5	85	96	102	464	86 988	4 934	122 698	8 803	
Health assessment and treating occupations	370	2	—	18	30	102	82	107	19	36 106	1 881	41 787	1 915	
Teachers, post secondary	530	23	38	45	83	75	71	111	85	35 780	4 080	48 658	3 831	
Teachers, except post secondary	1 204	98	37	61	138	354	328	172	18	31 793	800	31 030	883	
Lawyers and judges	579	6	—	—	18	36	74	122	316	76 916	2 857	112 388	10 167	
Other professional specialty occupations	2 299	170	90	170	413	573	384	325	174	28 808	828	35 005	1 753	
Technical, sales, and administrative support occupations	14 675	833	664	1 225	2 421	4 131	2 635	1 782	1 004	26 601	247	34 204	821	
Health technologists and technicians, except licensed practical nurses	351	2	—	18	65	145	88	34	—	30 341	2 134	29 808	1	
Licensed practical nurses	51	3	—	2	2	32	2	9	—	(B)	(B)	(B)	(B)	
Technologists and technicians, except health	1 654	52	38	103	162	459	418	272	151	35 288	1 280	41 294	2 005	
Use occupations	8 324	902	391	664	1 277	2 252	1 338	1 109	792	27 493	589	37 580	972	
Supervisors and proprietors, sales occupations, salaried	2 657	24	15	64	231	911	684	438	312	34 258	1 401	44 438	1	
Supervisors and proprietors, sales occupations, self-employed	376	30	4	45	43	134	46	32	41	26 208	880	32 305	2 436	
Sales representatives, finance and business services	1 428	48	35	88	198	294	187	302	276	36 830	1 261	54 280	3	
Sales representatives, commodities, except retail	1 147	16	16	20	91	233	313	244	112	38 494	1 065	49 992	4 123	
Sales workers, retail and personal services	2 693	384	314	434	611	580	227	95	49	11 780	332	17 834	600	
Cashiers	744	184	142	165	172	62	13	3	2	6 164	542	8 825	654	
Sales related occupations	26	—	7	12	5	—	—	—	—	(B)	(B)	(B)	(B)	
Administrative support occupations, including clerical	4 294	274	235	438	914	1 244	790	339	61	22 450	542	25 224	519	
Supervisors, administrative support occupations, including clerical	311	5	—	11	31	100	102	55	8	26 234	3 955	36 282	1	
Computer equipment operators	196	2	20	16	32	85	22	13	6	26 089	1 701	26 398	2	
Secretaries, stenographers, and typists	82	8	4	21	29	20	6	2	2	13 702	1 805	18 382	3 148	
Financial records processing occupations	214	14	11	44	62	58	16	8	2	16 431	1 008	18 625	1 530	
Mail and message distributing occupations	620	9	18	59	80	156	259	59	—	26 274	1 434	31 222	945	
Material recording, scheduling, and distribution clerks	1 116	71	43	77	343	388	126	84	8	20 813	873	23 470	746	
Other administrative support occupations, including clerical	1 747	166	139	210	267	459	261	118	28	20 034	1 176	23 529	1 021	
Service occupations	8 340	1 382	750	1 184	2 315	1 844	610	349	107	12 569	309	16 940	284	
Private household occupations	34	18	—	8	5	4	—	—	—	(B)	(B)	(B)	(B)	
Protective service occupations	1 954	108	78	172	340	500	392	290	77	28 907	1 411	30 688	750	
Police and firefighters	671	2	6	8	37	174	240	185	43	40 418	763	42 739	1 113	
Service, except protective and household	6 351	1 255	674	1 008	1 870	1 140	218	58	29	10 812	210	12 784	405	
Food preparation and service occupations	3 366	514	421	618	1 032	417	52	12	1	8 371	436	10 027	405	
Health service occupations	313	13	27	26	163	69	20	6	—	16 335	782	17 162	1 055	
Cleaning and building service occupations, except household	2 012	246	153	267	683	556	94	29	13	14 810	675	18 223	451	
Personal service occupations	661	183	72	108	123	98	52	11	15	7 254	1 103	14 288	1 113	
Farming, forestry, and fishing occupations	3 284	639	246	567	916	587	201	87	41	11 365	303	17 630	1 478	
Farm operators and managers	974	148	19	65	215	298	136	62	31	21 010	611	29 220	3	
Farm occupations, except managerial	912	179	100	224	311	94	5	—	—	8 861	587	9 828	405	
Related agricultural occupations	1 230	298	111	243	350	171	39	8	8	8 991	714	12 118	1 055	
Forestry and fishing occupations	168	15	18	23	40	34	21	17	3	16 137	2 766	37 039	15 749	
Precision production, craft, and repair occupations	13 993	516	431	1 003	2 673	4 800	2 896	1 370	303	26 286	229	28 880	320	
Mechanics and repairers, except auto	1 199	42	39	138	360	356	171	85	9	20 599	758	23 841	866	
Mechanics and repairers, except auto	3 466	120	86	171	603	1 241	880	391	83	29 503	653	31 344	588	
Carpenters	1	76	87	159	377	533	173	54	10	20 828	690	21 782	670	
Construction trades	4 434	211	148	376	967	1 384	851	428	70	25 012	562	27 221	518	
Construction trades	144	—	19	1	21	42	37	17	8	31 857	1 330	766	3 125	

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Numbers in thousands. Persons 15 years old and over as of March 1997. For meaning of symbols, see text.													
Occupation of longest job	Total with earnings	\$1 to \$2,499 or less	\$2,500 to \$4,999	\$5,000 to \$9,999	\$10,000 to \$19,999	\$20,000 to \$34,999	\$35,000 to \$49,999	\$50,000 to \$74,999	\$75,000 and over	Median earnings		Mean earnings	
										Value (dol.)	Standard error (dol.)	Value (dol.)	Standard error (dol.)
MALE—Con.													
1 —Con.													
Precision production occupations	3 182	67	71	160	544	1 043	785	395	118	29 970	623	33 369	865
Supervisors, production occupations	1 043	9	9	26	127	293	294	201	64	36 725	763	40 906	1 287
Precision metal working occupations	990	27	18	33	154	348	284	107	20	30 309	1 024	33 808	2 171
Plant and system operators	250	—	3	4	18	76	61	66	3	37 563	1 910	39 248	1 643
Other precision production occupations	898	31	41	98	245	327	126	21	9	20 951	649	22 488	833
Operators, fabricators, and laborers	15 617	1 449	945	1 668	3 891	4 685	2 043	817	120	19 520	327	21 896	311
Machine operators and tenders, precision	3 280	109	119	272	912	1 217	432	187	23	21 777	350	24 028	517
Ironworkers, assemblers, and hand-working occupations	1 582	78	60	142	387	551	258	98	13	22 011	497	26 519	1 880
Production inspectors, testers, samplers, and weighers	466	19	3	32	108	165	85	42	—	28 501	878	27 085	1 149
Vehicle operators	3 865	205	187	358	877	1 319	682	286	32	22 661	538	24 510	519
Transportation occupations, except vehicle	207	2	—	—	3	42	85	53	22	45 567	2 383	47 200	2
Moving equipment operators	1 163	33	31	48	337	388	219	104	2	23 591	883	26 110	721
Handers, equipment cleaners, helpers, and laborers	5 066	1 006	545	814	1 288	1 003	302	91	29	10 908	310	14 563	462
Construction laborers	892	167	90	186	257	211	39	38	6	11 809	727	17 115	1 822
Freight, stock, and material handlers	1 968	503	256	299	441	313	112	31	13	8 534	586	12 846	485
Hand packers and packagers	108	15	4	17	36	26	12	—	—	14 900	3 103	18 922	1 840
Helpers and miscellaneous manual occupations	1 866	331	185	304	533	453	139	22	10	12 125	492	14 909	441
Force	699	18	—	41	113	332	133	56	8	25 778	701	29 286	1
Year-Round, Full-Time Workers													
Total	53 787	370	251	1 598	6 429	17 286	11 533	8 325	4 898	32 144	115	42 049	372
Managerial and professional specialty occupations	16 151	63	61	178	1 036	3 323	3 758	4 194	3 550	47 590	558	62 739	978
Executive, administrative, and managerial occupations	9 069	38	28	122	337	1 897	2 085	2 102	2 067	46 654	485	63 340	1
Administrators and officials, public administration	331	—	3	—	9	56	134	94	35	45 881	1 375	52 909	3 302
Federal	125	—	3	—	3	18	45	42	14	47 297	2 391	50 114	2
State or local	205	—	—	—	5	38	90	52	21	44 578	1 827	54 618	5 139
Other administrators and officials, salaried	6 673	5	22	64	428	1 365	1 426	1 637	1 788	50 167	588	66 849	1
Manufacturing	1 579	—	10	9	24	276	255	413	583	60 535	2 065	79 004	3 844
Retail trade	781	—	—	25	175	189	145	122	105	34 321	1 489	50 753	5 199
Finance, insurance, and real estate	688	—	—	5	32	141	137	148	235	52 374	3 012	86 217	6 469
Other industries	3 634	5	12	24	198	758	891	953	793	47 872	1 196	62 408	2 188
Other administrators and officials, self-employed	587	32	—	48	98	170	75	77	69	26 772	1 614	41 914	3 443
Management related occupations	1 486	2	3	10	64	407	448	284	267	42 838	955	58 454	2
Accountants and auditors	898	—	—	5	23	183	173	121	61	41 433	1 294	47 680	2 017
Professional specialty occupations	7 085	18	33	86	439	1 326	1 673	2 082	1 453	50 012	748	61 970	1
Engineers, architects, and surveyors	1 786	7	—	1	32	179	483	820	244	52 802	1 074	55 480	1 048
Engineers	1 629	3	—	—	32	139	456	776	223	53 826	1 348	55 805	1 089
Natural scientists and mathematicians	1 186	—	—	1	39	178	311	445	220	52 780	2 080	56 454	1 271
Health diagnosing occupations	650	—	—	3	—	40	78	91	437	61 606	11 629	130 449	7 430
Health assessment and treating occupations	303	—	—	3	17	78	81	107	19	41 706	2 199	46 465	2 086
Teachers, post secondary	300	—	—	2	13	54	61	101	70	62 018	2 999	66 347	5 864
Teachers, except post secondary	757	7	7	12	73	279	237	126	16	36 012	802	38 118	1 058
Lawyers and judges	510	—	3	—	4	17	70	110	306	82 133	6 277	121 541	11 336
Other professional specialty occupations	1 813	1	23	33	266	504	354	283	139	34 136	1 262	40 936	1 678
Technical, sales, and administrative support occupations	10 510	38	6	257	1 438	3 686	2 491	1 682	932	33 500	706	42 402	778
Health technologists and technicians, except licensed practical nurses	285	—	—	7	40	131	82	34	—	32 252	1 216	32 526	1 187
Licensed practical nurses	45	—	—	—	2	32	2	9	—	(B)	(B)	(B)	(B)
Technologists and technicians, except health	1 288	6	—	26	77	400	404	255	130	38 921	1 304	46 520	2
Sales occupations	5 997	31	4	167	757	2 023	1 237	1 034	743	35 104	701	46 567	1 223
Supervisors and proprietors, sales occupations, salaried	2 358	3	2	32	222	860	531	410	280	35 806	510	48 311	1 411
Supervisors and proprietors, sales occupations, self-employed	279	11	—	24	25	126	30	28	35	27 237	1 833	36 002	2
Sales representatives, finance and business services	1 058	8	—	28	93	229	174	274	252	48 846	2 735	64 831	3 640
Sales representatives, commodities, except retail	1 020	1	—	5	65	301	299	238	112	40 248	959	53 750	4
Sales workers, retail and personal services	1 277	7	2	77	348	508	203	87	47	24 586	801	28 627	881
Cashiers	194	4	—	32	86	54	13	3	3	15 382	1 057	19 481	1 919
Sales related occupations	5	—	—	2	4	—	—	—	—	(B)	(B)	(B)	(B)
Administrative support occupations, including clerical	2 875	1	2	57	562	1 100	785	329	56	30 381	518	33 004	840
Supervisors, administrative support occupations, including clerical	284	—	—	—	26	100	97	54	8	37 086	2 687	38 083	1
Computer equipment operators	129	—	—	—	18	72	20	13	6	30 115	1 849	33 845	2 439
Secretaries, stenographers, and typists	46	—	—	11	10	18	6	—	2	(B)	(B)	(B)	(B)
Financial records processing occupations	128	—	—	8	49	50	13	6	2	21 279	1 812	24 170	1 648
Mail and message carrying occupations	—	—	—	1	17	143	242	50	—	27 543	811	28 648	778

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Occupation of longest job	Total with earnings	\$1 to \$2,499 or less	\$2,500 to \$4,999	\$5,000 to \$9,999	\$10,000 to \$19,999	\$20,000 to \$34,999	\$35,000 to \$49,999	\$50,000 to \$74,999	\$75,000 and over	Median earnings		Mean earnings	
										Value (dol.)	Standard error (dol.)	Value (dol.)	Standard error (dol.)
MALE—Con.													
Y Round, Full-Time Workers—Con.													
Material recording, scheduling, and distribution clerks	804	1	—	22	230	338	123	84	8	26 566	852	26 909	824
Other administrative support occupations, including clerical	986	—	2	15	190	380	250	114	35	28 955	913	34 487	1 550
Service occupations	4 654	30	45	334	1 748	1 491	581	326	99	21 028	322	25 194	379
Private household occupations	9	—	—	6	—	2	—	1	—	(B)	(B)	(B)	(B)
Protective service occupations	1 489	10	1	26	250	475	377	273	77	34 354	1 059	36 794	781
Police and firefighters	630	2	—	—	27	167	233	157	43	40 773	682	43 817	1 100
Service, except protective and household	3 156	21	44	302	1 486	1 014	205	82	21	17 871	326	19 744	321
Food preparation and service occupations	1 383	5	12	207	770	338	50	10	1	15 488	373	16 788	358
Health service occupations	216	—	17	2	122	52	17	6	—	17 972	729	19 816	1 181
Cleaning and building service occupations, except household	1 281	11	8	68	539	531	90	28	7	20 222	437	21 519	476
Personal service occupations	268	4	7	25	87	94	49	7	13	23 577	2 087	26 877	1 940
Farming, forestry, and fishing occupations	1 672	97	29	168	618	482	169	77	37	18 127	792	27 010	2 824
Farm operators and managers	750	82	9	41	160	253	118	57	29	22 367	1 098	33 532	4
Farm occupations, except managerial	360	—	15	88	219	73	5	—	—	13 939	779	14 878	—
Related agricultural occupations	458	10	—	62	223	127	23	9	5	16 448	901	20 887	2 824
Forestry and fishing occupations	84	5	6	4	14	28	13	12	3	28 262	4 497	58 990	30
Precision production, craft, and repair occupations	10 278	85	87	267	1 835	3 901	2 573	1 288	282	30 421	822	33 848	366
Auto mechanics and repairers	903	11	8	65	258	330	158	75	8	23 806	878	26 473	981
Mechanics and repairers, except auto	2 950	9	5	55	448	1 124	842	374	82	31 888	375	34 878	642
Carpenters	847	18	19	36	191	368	136	44	7	25 530	518	28 402	791
Construction trades, except carpenters	2 868	45	29	62	531	1 066	664	384	57	30 083	529	31 838	—
Extractive occupations	107	—	—	—	16	37	31	17	6	35 508	4 082	40 385	3 822
Precision production occupations	2 589	5	6	50	281	917	743	373	114	32 885	1 011	37 136	1 033
Supervisors, production occupations	934	—	—	7	88	283	281	181	82	36 643	1 584	43 361	1 351
Precision metal working occupations	768	—	—	16	80	289	257	98	20	33 893	1 584	37 683	2 718
Plant and system operators	229	—	—	—	10	70	79	68	8	39 774	2 365	41 280	1 814
Other precision production occupations	868	5	6	26	200	274	126	21	9	23 834	1 255	26 378	865
Restorers, fabricators, and laborers	9 897	58	43	357	2 673	4 068	1 834	742	89	25 351	218	28 223	396
Machine operators and tenders, except precision	2 531	19	4	83	680	1 114	409	180	23	25 078	474	27 646	603
Assemblers, and hand-working occupations	1 149	8	2	34	271	503	239	85	10	25 577	688	30 154	1
Production inspectors, testers, samplers, and weighers	362	—	1	7	72	142	87	42	—	30 283	1 323	31 327	—
Motor vehicle operators	2 685	16	15	101	584	1 144	582	210	22	27 293	487	29 502	—
Transportation occupations, except motor vehicle	154	—	—	—	—	27	67	48	13	48 942	1 320	48 382	1 974
Mechanical moving equipment operators	818	5	7	7	208	323	178	91	2	28 485	924	29 367	843
Handiers, equipment cleaners, helpers, and laborers	2 231	14	15	126	689	836	254	77	20	20 793	369	24 058	893
Construction laborers	347	3	—	20	141	124	24	28	8	20 581	885	30 118	5 186
Freight, stock, and material handlers	827	3	8	68	342	282	98	27	4	19 834	855	22 459	659
Hand packers and packagers	72	—	—	2	33	26	12	—	—	(B)	(B)	(B)	(B)
Helpers and miscellaneous manual occupations	984	8	7	48	354	403	132	22	10	21 804	429	23 319	—
Forces	625	7	—	30	84	314	128	56	8	26 869	728	30 891	1
FEMALE													
Total													
Total	66 681	7 621	5 089	9 508	17 253	16 899	8 404	2 884	1 014	18 028	109	20 038	181
Managerial and professional specialty occupations	19 314	940	651	1 373	3 134	6 489	3 970	2 038	719	27 516	270	31 451	417
Executive, administrative, and managerial occupations	8 493	228	182	531	1 558	3 077	1 644	904	380	27 388	334	31 813	480
Administrators and officials, public administration	311	17	10	8	32	107	103	28	8	32 214	1 461	33 847	1
Federal	117	2	2	5	9	15	63	14	8	41 582	3 365	40 352	2 801
State or local	194	14	7	1	23	91	40	14	2	30 448	1 308	29 588	1 779
Other administrators and officials, salaried	5 153	109	123	327	804	1 788	1 001	633	288	28 363	726	33 529	587
Manufacturing	828	10	20	29	61	210	125	110	64	33 706	1 636	40 342	1 825
Retail trade	672	20	8	115	196	227	68	22	17	19 718	1 330	22 454	1 108
Finance, insurance, and real estate	894	10	27	20	98	294	122	68	54	28 898	1 094	35 329	1
Other industries	3 159	70	88	162	549	1 038	686	433	153	30 303	620	34 135	173
Other administrators and officials, self-employed	289	32	17	47	65	43	19	20	8	12 107	1 786	21 122	2
Management related occupations	2 761	71	43	151	535	1 159	521	223	58	26 689	401	29 444	—
Accountants and auditors	942	21	6	53	179	408	174	67	33	26 843	683	31 525	1
Professional specialty occupations	10 821	711	459	842	1 578	3 411	2 326	1 134	359	27 721	409	31 186	631
Engineers, architects, and surveyors	270	2	1	8	16	48	104	79	11	41 696	804	42 044	1 729
Engineers	240	2	1	7	14	39	83	74	10	41 917	1 308	42 930	1 855
Natural scientists and mathematicians	614	10	2	11	38	165	216	144	27	41 027	824	40 270	1 138
diagnosing	222	3	—	5	12	34	32	42	85	88 093	7 853	122 331	22 735
assessments and training occupations	2 409	19	48	85	356	732	749	378	40	33 740	1	33 887	548
Teachers, secondary	441	46	25	81	78	71	100	37	23	22 497	2	27	1 780

Table 18. Occupation of Longest Job in 1996—Total Money Earnings in 1996 of Persons 15 Years Old and Over, by Work Experience in 1996, and Sex—Con.

in thousands. Persons 15 years old and over as of March 1997. For meaning of symbols, see text

Occupation of longest job	Total with earnings	\$1 to \$2,499 or less	\$2,500 to \$4,999	\$5,000 to \$9,999	\$10,000 to \$19,999	\$20,000 to \$34,999	\$35,000 to \$49,999	\$50,000 to \$74,999	\$75,000 and over	Median earnings		Mean earnings	
										Value (dol.)	Standard error (dol.)	Value (dol.)	Standard error (dol.)
FEMALE—Con.													
1 —Con.													
Lawyers and judges	230	12	—	7	11	48	37	40	74	48 681	7 668	58 673	4 368
Other professional specialty occupations	2 641	247	148	270	548	887	335	165	84	21 360	487	25 347	1 166
Technical, sales, and administrative support occupations	27 393	3 066	2 095	3 982	7 064	7 600	1 858	609	238	15 626	152	17 896	210
Health technologists and technicians, except licensed practical nurses	904	27	45	59	318	378	133	27	9	21 441	748	23 223	—
Licensed practical nurses	589	18	22	26	127	274	100	14	11	23 911	887	25 659	1 120
Technologists and technicians, except health occupations	821	23	30	35	175	314	157	62	24	28 760	898	30 912	1 658
Supervisors and proprietors, sales occupations, salaried	9 328	1 877	1 054	1 880	2 160	1 619	460	320	145	10 112	218	15 118	—
Supervisors and proprietors, sales occupations, self-employed	1 757	51	28	175	488	648	227	102	31	21 597	409	24 261	621
Sales representatives, finance and business services	203	38	12	13	48	49	18	23	2	15 059	4 179	21 810	3
Sales representatives, commodities, except retail	1 156	86	68	121	200	282	125	106	80	25 068	1 044	29 006	1 245
Sales workers, retail and personal services	381	14	8	41	84	119	38	50	10	26 183	2 711	27 924	1 562
Cashiers	5 732	1 456	923	1 511	1 318	410	55	38	19	8 197	146	8 580	217
Sales related occupations	3 013	740	580	878	636	185	25	8	2	5 857	179	7 522	209
Administrative support occupations, including clerical	118	52	18	29	11	2	—	2	3	3 428	1 174	10 331	4 615
Supervisors, administrative support occupations, including clerical	15 683	1 321	944	1 952	5 184	5 018	1 010	188	50	17 029	184	18 236	—
Computer equipment operators	424	14	—	14	57	227	78	32	3	25 811	845	28 412	1 115
Secretaries, stenographers, and typists	259	6	22	23	81	89	18	10	—	19 707	1 082	20 235	1 217
Financial records processing occupations	3 783	248	230	384	1 297	1 285	289	48	13	17 881	350	20 288	1
Mail and message distributing occupations	2 148	127	125	233	711	818	107	22	4	18 224	524	18 084	378
Material recording, scheduling, and distribution clerks	406	45	17	43	61	120	124	4	2	28 417	2 537	25 824	2 772
Other administrative support occupations, including clerical	1 009	70	68	103	281	319	78	8	3	16 371	778	17 884	—
Household occupations	7 838	811	481	1 142	2 628	2 148	339	68	24	15 494	239	16 279	286
Food preparation and service occupations	12 545	2 881	1 708	2 982	3 584	1 301	221	97	21	7 758	184	10 085	149
Protective service occupations	900	378	93	211	178	38	—	4	—	4 428	621	6 046	361
Police and firefighters	847	131	67	44	114	92	63	44	2	13 783	1 890	18 132	1 172
Service, except protective and household	89	6	2	2	7	23	34	13	2	35 588	1 682	39 549	2
Food preparation and service occupations	11 086	2 172	1 558	2 887	3 275	1 170	158	49	19	8 005	188	10 018	152
Health service occupations	4 296	1 027	703	1 229	1 083	220	17	12	4	6 413	174	7 790	176
Cleaning and building service occupations, except household	2 411	236	250	444	851	479	27	17	7	12 133	298	13 287	—
Personal service occupations	1 678	323	244	389	531	174	29	8	—	8 702	431	10 023	400
Farming, forestry, and fishing occupations	2 713	588	380	858	710	297	85	11	7	7 334	288	10 848	—
Farm operators and managers	707	243	103	101	131	72	20	33	4	6 332	804	11 150	838
Farm occupations, except managers	273	78	43	22	88	38	8	33	—	7 367	2 537	14 894	1 784
Related agricultural occupations	200	85	30	42	28	8	2	—	3	3 756	912	7 544	1 445
Forestry and fishing occupations	231	81	30	36	47	27	10	—	1	5 582	1 332	9 885	1 444
Precision production, craft, and repair occupations	3	1	—	2	—	1	—	—	—	(B)	(B)	(B)	(B)
Auto mechanics and repairers	1 345	63	77	182	449	387	135	37	15	16 640	505	19 704	775
Mechanics and repairers, except auto	25	—	3	4	8	6	3	—	—	(B)	(B)	(B)	(B)
Carpenters	171	7	2	18	51	41	23	14	8	21 480	3 315	28 048	3 851
Construction trades, except carpenters	25	4	2	6	11	2	—	—	—	(B)	(B)	(B)	(B)
Extrusive occupations	180	18	9	84	48	46	9	3	1	15 307	2 034	17 279	2 542
Precision production occupations	—	—	—	—	—	—	—	—	—	(B)	(B)	(B)	(B)
Supervisors, production occupations	972	59	61	130	334	272	88	20	8	16 432	577	18 956	726
Precision metal working occupations	282	8	8	30	70	95	37	9	4	21 838	2 485	24 103	1 548
Plant and system operators	74	2	1	3	22	29	16	1	—	(B)	(B)	(B)	(B)
Other precision production occupations	18	—	—	4	3	3	4	5	—	(B)	(B)	(B)	(B)
Operators, fabricators, and laborers	618	50	51	83	239	144	32	5	4	13 918	978	15 980	819
Machine operators and tenders, except precision	5 281	608	481	836	1 980	1 034	196	50	17	12 278	204	14 319	278
Fabricators, assemblers, and hand-working occupations	2 207	176	154	409	912	485	80	6	5	12 500	357	14 435	—
Production inspectors, testers, samplers, and weighers	843	99	80	112	301	183	96	27	8	15 007	683	17 274	—
Motor vehicle operators	449	47	27	72	167	106	14	13	3	13 717	1 481	15 810	898
Transportation occupations, except motor vehicle	503	40	51	114	171	88	36	—	3	11 837	894	15 489	1 274
Material moving equipment operators	4	—	—	—	2	2	—	—	—	(B)	(B)	(B)	(B)
Drivers, equipment cleaners, helpers, and laborers	70	3	—	8	36	18	6	2	—	(B)	(B)	(B)	(B)
Construction laborers	1 206	243	189	224	380	153	25	1	—	9 060	793	10 717	418
Freight, stock, and material handlers	49	4	12	5	22	7	—	—	—	(B)	(B)	(B)	(B)
Packers and packagers	527	121	81	117	137	60	11	—	—	7 322	757	9 807	622
Repair miscellaneous occupations	189	29	16	38	78	26	2	1	—	11 158	935	11 947	1 048
Repair miscellaneous occupations	440	89	59	88	184	60	13	—	—	—	—	—	—

Table 18. **Occupation of Longest Job in 1996—Total Money Earnings in 1996 of Persons 15 Years Old and Over, by Work Experience in 1996, and Sex—Con.**

Table 18. Occupation of Longest Job in 1996—Total Money Earnings in 1996 of Persons 15 Years Old and Over, by Work Experience in 1996, and Sex—Con.

Numbers in thousands. Persons 15 years old and over as of March 1997. For meaning of symbols, see text.

Occupation of longest job	Total with earnings	\$1 to \$2,499 or less	\$2,500 to \$4,999	\$5,000 to \$9,999	\$10,000 to \$19,999	\$20,000 to \$34,999	\$35,000 to \$49,999	\$50,000 to \$74,999	\$75,000 and over	Median earnings		Mean earnings	
										Value (dol.)	Standard error (dol.)	Value (dol.)	Standard error (dol.)
FEMALE—Con.													
Year-Round, Full-Time Workers—Con.													
Precision production occupations	638	5	—	17	281	255	78	20	4	20 964	536	23 542	801
Supervisors, production occupations	204	—	—	5	62	82	31	9	4	26 304	1 842	27 837	1 877
Precision metal working occupations	49	2	—	—	10	26	11	1	—	(B)	(B)	(B)	(B)
Plant and system operators	14	—	—	—	3	3	4	8	—	(B)	(B)	(B)	(B)
Other precision production occupations	371	3	—	12	187	139	30	5	—	18 551	1 238	20 468	848
Operators, fabricators, and laborers	2 823	23	21	239	1 391	913	175	46	14	17 345	284	19 785	375
Machine operators and tenders, except precision	1 881	7	12	146	686	443	56	8	5	16 831	406	18 457	468
Fabricators, assemblers, and hand-working occupations	507	5	—	25	228	167	80	27	6	19 778	897	23 651	1 302
Production inspectors, testers, samplers, and weighers	271	4	—	18	138	85	14	9	3	17 689	1 042	20 353	1 114
Motor vehicle operators	185	—	—	14	86	61	24	—	—	17 279	2 183	20 792	1 201
Transportation occupations, except vehicle	4	—	—	—	2	2	—	—	—	(B)	(B)	(B)	(B)
Material moving equipment operators	46	—	—	—	21	18	8	2	—	(B)	(B)	(B)	(B)
Handlers, equipment cleaners, helpers, and laborers	448	7	9	37	230	138	28	1	—	16 856	507	18 440	685
Construction laborers	20	—	6	—	10	4	—	—	—	(B)	(B)	(B)	(B)
Freight, stock, and material handlers	170	—	1	17	84	57	11	—	—	18 006	1 283	19 414	1 076
Hand packers and packagers	70	—	—	11	34	22	2	1	—	(B)	(B)	(B)	(B)
Helpers and miscellaneous manual occupations	189	7	3	9	103	58	12	—	—	16 870	520	17 830	1 058
Force	87	—	—	—	27	38	3	1	—	(B)	(B)	(B)	(B)

American Federation of Labor and Congress of Industrial Organizations



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March 6, 1998

Memorandum for: Karen Tramontano
Deputy Assistant to the President and Counsel to the Chief of Staff

From: Gerry Shea
Assistant to the President for Government Affairs, AFL-CIO

Subject: Equal Pay

As follow up to our discussion of Tuesday, attached please find our suggestions for an Administration initiative on equal pay enforcement and an equal pay event. I'd appreciate your sharing this with people in Tuesday's meeting.

Thank you.

Attachments

Andrew C
67300
(15)

Proposed Equal Pay Day Event April 1 or 2, 1998

Based on our discussions earlier this week, we propose specific elements for a White House event on April 1 or 2, 1998 to announce a White House initiative on equal pay for Equal Pay Day.

Background

Equal pay is a chief concern of both working women and men. Women in every job category and income identify equal pay as a problem. Last summer, for example, 94% of women responding to the AFL-CIO *Ask a Working Woman* survey described equal pay as "very important," and another five percent called it "somewhat important." Yet one-third of the survey respondents said they do not get equal pay on their jobs.

Working women and men use the term "equal pay" to cover a range of issues, including equal pay for equal work, pay equity, and reduced income in retirement. Men as well as women think that pay inequality is a serious workplace issue, that it reduces family income, and that the solution is tougher law enforcement. In the 1996 *Women's Voice* survey, both men and women ranked equal pay as one of the two biggest problems for women at work (combining work and family was the other¹). The overwhelming majority of men and women said women get paid less than men for the same work, and the solution these respondents favored most was tougher law enforcement, followed by increasing wages for jobs usually held by women. Two oft-cited strategies to raise women's pay — moving women into men's jobs or improving their education and training — trailed significantly. According to pollster Celinda Lake, six of ten voters (1992) agree that "both men and women benefit as a result of pay equity because overall household incomes go up."

Women's organizations and unions will highlight the wage discrimination issue during the week leading up to Equal Pay Day, April 3, staging actions in 500 cities and work sites around the country. A White House event coinciding with these activities will reverberate powerfully with local activists, bring greater visibility to the issue, capitalize on the powerful public sentiment about equal pay, and help catalyze Congressional action and other activities over the next several months.

¹ The work/family concern relates to equal pay. As a forthcoming report by the *Family and Work Institute* confirms, families have stayed afloat economically over the last twenty years because more women are working, and family work hours have increased. This combination strains working families. Paying women fairly would enable many families to strike a different balance, either reducing overall work hours or having greater resources to invest in ways that mitigate the family/work burdens.

Event

We propose an event at the White House in the East Room with the President or Vice-President. An audience of 100 people would include 50 women workers from around the country representing different occupations and incomes. Another 50 participants would be drawn from the leadership of women's organizations and unions.

In addition to the President or Vice-President, speakers would include two working women and one working man. One working woman would have a problem related to equal pay for equal work, one woman would have a problem related to equal pay for work of equal value, and the man could tell a story of how lack of equal pay for his wife affects their family. There would be a role for the president of the National Committee on Pay Equity, an officer of the AFL-CIO and Senator Daschle.

Initiative

The White House could announce the following initiatives:

- Support for the Daschle bill, including increased funding for the EEOC going beyond what is called for by Daschle.
- An Executive Order or directive to the EEOC, with the ultimate objective of requiring employers to report salary information to the EEOC. This information, not currently available on a routine basis, will aid the EEOC in investigating wage discrimination (especially systemic practices) and stepping up its law enforcement activity. (See attached addendum regarding EEOC authority to require wage information).
- A federal sector equal pay project designed to showcase the federal government as a model employer. Possibilities for such program include a directive to OPM to conduct an up-to-date study on pay inequity in the federal sector; a pilot law enforcement strategy of some sort to identify and remedy specific instances of pay inequity (e.g., OFCCP to conduct a "glass ceiling" review of a federal agency or program or to provide training to agency EEO officials who in turn would be empowered to undertake such reviews); a labor-management summit, at which participants and witnesses discuss problems of pay inequity and other barriers confronting women and minorities in the federal sector and propose collaborative remedial strategies.
- A call by the President or Vice-President for working families to tell their stories to the Administration about equal pay, including the problems faced by women who don't have a man doing the same job down the hall. The Administration wants a better sense of the scope of the problem and the solutions.
- A strong call by the President or Vice President for employers to disclose wage information voluntarily and to respect their employees' rights to seek and discuss salary information. This call should be coupled with a statement directing the EEOC, OFCCP,

What
do you
think
about
this?

and the NLRB to investigate as possible retaliation any charges alleging that workers have been fired or otherwise sanctioned for activities designed to end wage discrimination (including requests for and discussion of salary information), and to undertake vigorous agency enforcement actions where such retaliation is found.

Message

The message is that every working woman has the right to equal pay, and that the Administration is committed to vigorous law enforcement to translate that right into a reality. Each element of the President's initiative — supporting the Daschle bill, boosting access to wage data, protecting worker's rights, instituting federal sector reforms, and inviting working families to share their stories — is designed to bolster enforcement by building our informational base, boosting agency resources and investigative handles, strengthening remedies and worker protections, and encouraging voluntary actions to end pay discrimination.

Press

In addition to national press, the working women from around the country who participate could tell their stories to regional press.

ADDENDUM ON EXECUTIVE ACTION RE: SALARY INFORMATION

One proposal under consideration for Equal Pay Day is a Presidential directive designed ultimately to require certain employers covered by Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, and the Equal Pay Act of 1963 (EPA), 29 U.S.C. 206(d), to report wage information to the EEOC. For years, the EEOC has required private employers with 100 or more employees to file confidential EEO-1 reports providing broad occupational information by gender, race, and national origin. The EEOC does not routinely require employers to report wage information, though the relevant provisions of Title VII and the EPA suggest there is authority to do so to aid the agency's enforcement of wage discrimination prohibitions.

Executive action designed to secure reporting of wage and salary information could take one of two forms. The President could issue an Executive Order directing those employers subject to EEO-1 reporting requirements to provide wage information as well, broken down by gender, race and ethnicity. Alternatively, the President could direct the EEOC to consider rulemaking -- or the President and EEOC Chair might jointly announce the EEOC's intention to initiate rulemaking -- with the objective of implementing an appropriate salary reporting requirement. Either approach is likely to invite a Congressional reaction. The latter may be less vulnerable to judicial challenge, as it is arguably more consistent with relevant statutory provisions of Title VII and the EPA (42 U.S.C. 2000e-8, 42 U.S.C. 2000e-12, and 29 U.S.C. 211(c)), which seem to contemplate some form of agency rulemaking as a prerequisite to imposing new reporting requirements. Whichever course the Administration chooses, its announcement should be coupled with a strong Presidential statement that, among other things, stresses the importance of ending wage discrimination once and for all; emphasizes that access to wage information is critical to effective enforcement of the laws' protections; urges employers to cooperate fully, constructively and voluntarily in the process; admonishes them to honor workers' "free speech" rights to seek, discuss and/or disclose wage information to help end pay discrimination; advises the EEOC to investigate and, as appropriate, prosecute employers who retaliate against workers for exercising these free speech rights; and urges unions and employers to work together to correct wage disparities.

DRAFT

In spite of the substantial wage gap between working women and men, pay inequities have proven a difficult problem to address. This is due, in large part, to the fact that only limited data is currently available to our civil rights enforcement agencies regarding what companies pay their employees. In fact, these agencies, for the most part, must rely on a reporting form -- the EEO-1 -- that includes no pay data and has not been revised in any significant fashion since it was first put into use in 1966, over thirty years ago. This is in spite of the fact that the economy has dramatically changed during that period of time and many of the problems facing women and minorities in the workplace have also changed. The EEO-1 form, which is filed annually by firms with over 100 employees, and federal contractors with over 50 employees, provides valuable, basic information regarding the EEO profiles of the reporting companies. However, in important respects, it is out of date.

Clearly, sunshine is one of the best antidotes to discrimination. As a result, I am asking the Equal Employment Opportunity Commission, the Department of Labor, and the Department of Justice to develop jointly recommendations to revise and bring up to date the EEO-1 form. In developing these recommendations, which should be submitted to [] no later than [], the agencies should:

1. Consider various options for gathering pay data. These could include expanding the current form, instituting supplemental salary surveys, or proposing other approaches;
2. Assure that any pay data collected through these reporting mechanisms will be in the aggregate only and that employers will not be required to provide information regarding the salaries of individually identifiable employees;
3. Explore options for bringing the EEO-1 up to date in other respects, including regarding the use of occupational classifications, race/ethnic categories, and industry classification codes;
4. Address alternate reporting procedures, including the frequency of reporting;
5. Accelerate the examination of alternative methods of filing, including electronic filing and the use of scanned forms;
6. Seek to minimize burdens on the public to the extent feasible;
7. Reinvigorate efforts to assure that federal agencies will more efficiently work together and avoid duplication in the gathering and analysis of this type of data; and
8. Consult with stakeholders in the development of the recommendations.

TOM DASCHLE

U.S. Senator for South Dakota

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FROM: Jeff Chod / Caroline Fredrickson

Senator Tom Daschle
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MESSAGE: This is the most recent edited version of the
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105TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. DASCHLE introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To amend the Equal Pay Act, the Fair Labor Standards Act of 1938, and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Paycheck Fairness
5 Act".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Women have entered the workforce in
2 record numbers.

3 (2) Even in the 1990s, women earn signifi-
4 cantly lower pay than men for work on jobs that re-
5 quire equal skill, effort, and responsibility and that
6 are performed under similar working conditions.
7 These pay disparities exist in both the private and
8 governmental sectors. In many instances, the pay
9 disparities can only be due to continued intentional
10 discrimination or the lingering effects of past dis-
11 crimination.

12 (3) The existence of such pay disparities—

13 (A) depresses the wages of working fami-
14 lies who rely on the wages of all members of the
15 family to make ends meet;

16 (B) prevents the optimum utilization of
17 available labor resources;

18 (C) has been spread and perpetuated,
19 through commerce and the channels and instru-
20 mentalities of commerce, among the workers of
21 the several States;

22 (D) burdens commerce and the free flow of
23 goods in commerce;

24 (E) constitutes an unfair method of com-
25 petition in commerce;

1 (F) leads to labor disputes burdening and
2 obstructing commerce and the free flow of
3 goods in commerce;

4 (G) interferes with the orderly and fair
5 marketing of goods in commerce; and

6 (H) in many instances, may deprive work-
7 ers of equal protection on the basis of sex in
8 violation of the fifth and 14th amendments.

9 (4)(A) Artificial barriers to the elimination of
10 discrimination in the payment of wages on the basis
11 of sex continue to exist more than 3 decades after
12 the enactment of the Fair Labor Standards Act of
13 1938 (29 U.S.C. 201 et seq.) and the Civil Rights
14 Act of 1964 (42 U.S.C. 2000a et seq.).

15 (B) Elimination of such barriers would have
16 positive effects, including—

17 (i) providing a solution to problems in the
18 economy created by unfair pay disparities;

19 (ii) substantially reducing the number of
20 working women earning unfairly low wages,
21 thereby reducing the dependence on public as-
22 sistance;

23 (iii) promoting stable families by enabling
24 all family members to earn a fair rate of pay;

1 (iv) remedying the effects of past discrimi-
2 nation on the basis of sex and ensuring that in
3 the future workers are afforded equal protection
4 on the basis of sex; and

5 (v) in the private sector, ensuring equal
6 protection pursuant to Congress' power to en-
7 force the fifth and 14th amendments.

8 (5) With increased information about the provi-
9 sions added by the Equal Pay Act of 1963 and gen-
10 eralized wage data, along with more effective rem-
11 edies, women will be better able to recognize and en-
12 force their rights to equal pay for work on jobs that
13 require equal skill, effort, and responsibility and that
14 are performed under similar working conditions.

15 (6) Certain employers have already made great
16 strides in eradicating unfair pay disparities in the
17 workplace and their achievements should be recog-
18 nized.

19 **SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY RE-**
20 **QUIREMENTS.**

21 (a) NONRETALIATION PROVISION.—Section 15(a)(3)
22 of the Fair Labor Standards Act of 1938 (29 U.S.C.
23 215(a)(3)) is amended—

24 (1) by striking “or has” each place it appears
25 and inserting “has”; and

1 (2) by inserting before the semicolon the follow-
2 ing: “, or has inquired about, discussed, or otherwise
3 disclosed the wages of the employee or another em-
4 ployee”.

5 (b) ENHANCED PENALTIES.—Section 16(b) of such
6 Act (29 U.S.C. 216(b)) is amended—

7 (1) by inserting after the first sentence the fol-
8 lowing: “Any employer who violates section 6(d)
9 shall additionally be liable for such compensatory or
10 punitive damages as may be appropriate, except that
11 the United States shall not be liable for punitive
12 damages.”;

13 (2) in the sentence beginning “An action to”,
14 by striking “either of the preceding sentences” and
15 inserting “any of the preceding sentences of this
16 subsection”;

17 (3) in the sentence beginning “No employees
18 shall”, by striking “No employees” and inserting
19 “Except with respect to class actions brought to en-
20 force section 6(d), no employee”;

21 (4) by inserting after such sentence the follow-
22 ing: “Notwithstanding any other provision of Fed-
23 eral law, any action brought to enforce section 6(d)
24 may be maintained as a class action as provided by
25 the Federal Rules of Civil Procedure.”; and

1 (5) in the sentence beginning "The court in"—

2 (A) by striking "in such action" and in-
3 serting "in any action brought to recover the li-
4 ability prescribed in any of the preceding sen-
5 tences of this subsection"; and

6 (B) by inserting before the period the fol-
7 lowing: ", including expert fees".

8 (c) ACTION BY SECRETARY.—Section 16(c) of such
9 Act (29 U.S.C. 216(c)) is amended—

10 (1) in the first sentence—

11 (A) by inserting "or, in the case of a viola-
12 tion of section 6(d), additional compensatory or
13 punitive damages," before "and the agree-
14 ment"; and

15 (B) by inserting before the period the fol-
16 lowing: ", or such compensatory or punitive
17 damages, as appropriate";

18 (2) in the second sentence, by inserting before
19 the period the following: " and, in the case of a vio-
20 lation of section 6(d), additional compensatory or
21 punitive damages";

22 (3) in the third sentence, by striking "the first
23 sentence" and inserting "the first or second sen-
24 tence"; and

1 (4) in the last sentence, by inserting after "in
2 the complaint" the following: "or becomes a party
3 plaintiff in a class action brought to enforce section
4 6(d)".

5 **SEC. 4. TRAINING.**

6 The Equal Employment Opportunity Commission
7 and the Office of Federal Contract Compliance Programs,
8 subject to the availability of funds appropriated under sec-
9 tion 9(b), shall provide training to Commission employees
10 and affected individuals and entities on matters involving
11 discrimination in the payment of wages.

12 **SEC. 5. RESEARCH, EDUCATION, AND OUTREACH.**

13 The Secretary of Labor shall conduct studies and
14 provide information to employers, labor organizations, and
15 the general public concerning the means available to elimi-
16 nate pay disparities between men and women, including—

17 (1) conducting and promoting research to de-
18 velop the means to correct expeditiously the condi-
19 tions leading to the pay disparities;

20 (2) publishing and otherwise making available
21 to employers, labor organizations, professional asso-
22 ciations, educational institutions, the media, and the
23 general public the findings resulting from studies
24 and other materials, relating to eliminating the pay
25 disparities;

(3) sponsoring and assisting State and community informational and educational programs;

(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities;

(5) recognizing and promoting the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities; and

(6) convening a national summit to discuss, and consider approaches for rectifying, the pay disparities.

SEC. 6. TECHNICAL ASSISTANCE AND EMPLOYER RECOGNITION PROGRAM.

(a) GUIDELINES.—

(1) **IN GENERAL.**—The Secretary of Labor shall develop guidelines to enable employers to evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility, including decisionmaking responsibility and de facto supervisory responsibility.

(2) **USE.**—The guidelines developed under paragraph (1) shall be designed to enable employers

1 voluntarily to compare wages paid for different jobs
2 to determine if the pay scales involved adequately
3 and fairly reflect the educational requirements, skill
4 requirements, independence, working conditions, and
5 responsibility for each such job with the goal of
6 eliminating unfair pay disparities between occupa-
7 tions traditionally dominated by men or women.

8 (3) PUBLICATION.—The guidelines shall be de-
9 veloped under paragraph (1) and published in the
10 Federal Register not later than 180 days after the
11 date of enactment of this Act.

12 (b) EMPLOYER RECOGNITION.—

13 (1) PURPOSE.—It is the purpose of this sub-
14 section to emphasize the importance of, encourage
15 the improvement of, and recognize the excellence of
16 employer efforts to pay wages to women that reflect
17 the real value of the contributions of such women to
18 the workplace.

19 (2) IN GENERAL.—To carry out the purpose of
20 this subsection, the Secretary of Labor shall estab-
21 lish a program under which the Secretary shall pro-
22 vide for the recognition of employers who, pursuant
23 to a voluntary job evaluation conducted by the em-
24 ployer, adjust their wage scales (such adjustments
25 shall not include the lowering of wages paid to men)

1 using the guidelines developed under subsection (a)
2 to ensure that women are paid fairly in comparison
3 to men.

4 (3) TECHNICAL ASSISTANCE.—The Secretary of
5 Labor may provide technical assistance to assist an
6 employer in carrying out an evaluation under para-
7 graph (2).

8 (c) REGULATIONS.—The Secretary of Labor shall
9 promulgate such rules and regulations as may be nec-
10 essary to carry out this section.

11 **SEC. 7. ESTABLISHMENT OF THE NATIONAL AWARD FOR**
12 **PAY EQUITY IN THE WORKPLACE.**

13 (a) IN GENERAL.—There is established the Robert
14 Reich National Award for Pay Equity in the Workplace,
15 which shall be evidenced by a medal bearing the inscrip-
16 tion "Robert Reich National Award for Pay Equity in the
17 Workplace". The medal shall be of such design and mate-
18 rials, and bear such additional inscriptions, as the Sec-
19 retary may prescribe.

20 (b) CRITERIA FOR QUALIFICATION.—To qualify to
21 receive an award under this section a business shall—

22 (1) submit a written application to the Sec-
23 retary, at such time, in such manner, and containing
24 such information as the Secretary may require, in-
25 cluding at a minimum information that dem-

onstrates that the business has made substantial effort to eliminate pay disparities between men and women, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Secretary determines to be appropriate.

(c) MAKING AND PRESENTATION OF AWARD.—

(1) AWARD.—After receiving recommendations from the Secretary, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) PRESENTATION.—The President or the designated representative of the President shall present the award with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(d) BUSINESS.—For the purposes of this section, the term “business” includes—

(1)(A) a corporation, including a nonprofit corporation;

(B) a partnership;

(C) a professional association;

1 (D) a labor organization; and

2 (E) a business entity similar to an entity de-
3 scribed in any of subparagraphs (A) through (D);

4 (2) an entity carrying out an education referral
5 program, a training program, such as an apprentice-
6 ship or management training program, or a similar
7 program; and

8 (3) an entity carrying out a joint program,
9 formed by a combination of any entities described in
10 paragraph (1) or (2).

11 **SEC. 8. SENSE OF THE SENATE REGARDING INCREASED IN-**
12 **FORMATION ON PAY DISPARITIES.**

13 It is the sense of the Senate that the President should
14 take appropriate steps to increase the amount of informa-
15 tion available with respect to wage disparities. In so doing,
16 the President, or his designees, should consider ways of
17 collecting this data that—

18 (1) maximize the utility of the information for
19 both the government and the public; while

20 (2) protecting individuals' privacy and minimiz-
21 ing the burdens on reporting entities.

Equal Payoption:
job segregation

MEMORANDUM

TO: Audrey Tayse Haynes
Director, The White House's Office on Women's Initiatives and Outreach
FR: Kim Koivisto, Associate Director of Democratic Steering and Coordination
Caroline Fredrickson, Counsel to Senator Daschle
RE: Paycheck Fairness Act
DATE: February 12, 1998

The Paycheck Fairness Act (PFA) now addresses cases of overt pay discrimination in which employers pay men and women differently even though they do the same or similar work. While this type of discrimination is still a problem, job segregation is the predominant cause of women's lower earnings. Women tend to fill jobs that pay less than traditional men's jobs. In other words, secretaries usually make less than janitors. This new provision of PFA would attempt to focus a spotlight on this problem, without mandating a major overhaul of pay scales by employers.

The new provision of PFA would do the following:

- instruct DOL to develop and publicize voluntary fair pay guidelines
- the pay guidelines would give employers an objective means to evaluate how much a particular job category is worth, i.e., years of education, skill level required, numbers of hours worked, responsibility, etc. [OFCCP does something similar now with federal contractors to ensure that they are abiding by the Executive Order on affirmative action].
- employers could choose to use the guidelines to revise their pay scales [with the proviso that they should avoid lowering men's wages as a result]
- employers that voluntarily participate in the program would get some benefit. This could be public recognition through an award, publication of the names of award recipients by DOL, and the recipients' ability to use their award as part of their marketing. [we are looking for some bigger carrot, similar to OSHA's promise to eliminate random inspections for participants in the agency's voluntary compliance program, but have not yet come up with one.]

PAYCHECK FAIRNESS ACT

This bill amends the Equal Pay Act and the Civil Rights Act of 1964 to provide more effective remedies to women who are not being paid equal wages for doing equal work.

SECTION 1. Short Title: PAYCHECK FAIRNESS ACT

SECTION 2: Findings. This section sets forth the basis for this legislation: women's wages are more and more important in our economy and to working families. Despite the existence of the Equal Pay Act (EPA), women's wages still stagnate at 71 cents to every dollar earned by a man. Such pay disparities need to be eradicated to help families get by, keep people off public assistance, allow for the best utilization of labor and ensure that commerce is not burdened by labor disputes or unfair competition. To accomplish these ends, women need more effective remedies under the Equal Pay Act and more access to information about pay disparities in the work place. As part of this goal of education and outreach, it is important to recognize employers that have made great strides in addressing pay disparities.

SECTION 3. Enhanced Enforcement of Equal Pay Requirements.

(a) **Nonretaliation provision.** This provision amends the EPA to prohibit employers from penalizing employees for sharing information about their salaries with coworkers. Currently, it is unlawful under the National Labor Relations Act to discipline or terminate employees for such discussions. Because of the difficulty of proceeding under the NLRA, it is essential to provide remedies under the EPA as well.

(b) **Enhanced penalties.** This section allows for compensatory and punitive damages not currently available under the EPA. The EPA currently provides only liquidated damages -- essentially back pay awards -- which tend to be very insubstantial. Without adequate damages, similar to those provided under the Civil Rights statutes, there is little or no deterrent effect on employers. In addition, this section rectifies a long-standing EPA problem. Currently, it is very difficult for a lawsuit to proceed as a class action because the EPA, adopted prior to the current form of Rule 23 of the Federal Rules of Civil Procedure, requires plaintiffs to opt in to a suit. This section will conform the EPA procedures to those already provided under the Federal Rules.

(c) **Action by Secretary.** This section enables the Equal Employment Opportunities Commission (EEOC), in addition to private plaintiffs, to pursue claims under the new damage provisions described above.

SECTION 4. Collection of Pay Information by the EEOC.

(1) **Reporting.** This section adds a new category of wage information that by law must be submitted by employers to the EEOC. This bill would require only those employers with one hundred or more employees to report generalized pay information by race, sex and national origin. This information would not be public and would not identify employees. This information is necessary to enable the EEOC and the public better to understand the nature of pay disparities in the workplace as well as national and industry trends.

(2) **Enforcement and Waiver:** In cases of noncompliance with subsection 1 of this section, the EEOC may apply to a United States District Court for an order requiring compliance. Employers who find that the requirement would result in undue hardship may request an exemption from the

requirement set forth in subsection 1 of this section and may bring a civil action if the EEOC denies the request for exemption.

SECTION 5. Training. This section requires the EEOC to provide training for its employees to improve the intake and processing of EPA claims.

SECTION 6. Research, Education, and Outreach. This section enhances programs already in place in the Women's Bureau of the Department of Labor and specifically requires the Bureau to undertake research in the area of sex-based pay disparities, disseminate that information to interested members of the general public, provide information on means of eradicating such disparities, assist State and local information and educational programs, recognize and promote the achievements of employers that have made strides to eliminate pay disparities, and convene a national summit to discuss and highlight the issue of sex-based pay disparities.

SECTION 7. Establishment of the National Award for Pay Equity in the Workplace. This section establishes an award, to be administered by the Women's Bureau of the Department of Labor, to recognize and promote the achievements of employers that have made strides to eliminate pay disparities.

SECTION 8. Increased Resources for Enforcement and Education.

(a) **General Resources:** This section addresses the fact that the EEOC's level of appropriations has remained stagnant despite an ever-increasing set of new responsibilities, including enforcement of such new civil rights statutes as the Americans with Disabilities Act (ADA). This section simply brings the EEOC appropriations level up to that requested by the President for FY 1997 by adding \$36 million to its budget.

(b) **Targeted Resources.** To enable EEOC to carry out the training of its employees, as required by section 5 of the bill, this provision authorizes \$500,000 in supplemental appropriations.

(c) **Research, Education, Outreach, and National Award.** This subsection authorizes funding for the Women's Bureau's activities to address pay disparities in the workplace, described in sections 6 and 7.

105TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. DASCHLE introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To amend the Equal Pay Act, the Fair Labor Standards Act of 1938, and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

1 *Be it enacted by the Senate and House of Representa*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Paycheck Fairness
5 Act".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Women have entered the workforce in
2 record numbers.

3 (2) Even in the 1990s, women earn signifi-
4 cantly lower pay than men for work on jobs that re-
5 quire equal skill, effort, and responsibility and that
6 are performed under similar working conditions.

7 (3) The existence of such pay disparities—

8 (A) depresses the wages of working fami-
9 lies who rely on the wages of all members of the
10 family to make ends meet;

11 (B) prevents the optimum utilization of
12 available labor resources;

13 (C) has been spread and perpetuated,
14 through commerce and the channels and instru-
15 mentalities of commerce, among the workers of
16 the several States;

17 (D) burdens commerce and the free flow of
18 goods in commerce;

19 (E) constitutes an unfair method of com-
20 petition in commerce;

21 (F) leads to labor disputes burdening and
22 obstructing commerce and the free flow of
23 goods in commerce; and

24 (G) interferes with the orderly and fair
25 marketing of goods in commerce.

1 (4)(A) Artificial barriers to the elimination of
2 discrimination in the payment of wages on the basis
3 of sex continue to exist more than 3 decades after
4 the enactment of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 201 et seq.) and the Civil Rights
6 Act of 1964 (42 U.S.C. 2000a et seq.).

7 (B) Elimination of such barriers would have
8 positive effects, including—

9 (i) providing a solution to problems in the
10 economy created by unfair pay disparities;

11 (ii) substantially reducing the number of
12 working women earning unfairly low wages,
13 thereby reducing the dependence on public as-
14 sistance; and

15 (iii) promoting stable families by enabling
16 all family members to earn a fair rate of pay.

17 (5) Only with increased information about the
18 provisions added by the Equal Pay Act of 1963 and
19 generalized wage data, along with more effective
20 remedies, will women recognize and enforce their
21 rights to equal pay for work on jobs that require
22 equal skill, effort, and responsibility and that are
23 performed under similar working conditions.

24 (6) Certain employers have already made great
25 strides in eradicating unfair pay disparities in the

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1 workplace and their achievements should be recog-
2 nized.

3 **SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY RE-**
4 **QUIREMENTS.**

5 (a) **NONRETALIATION PROVISION.**—Section 15(a)(3)
6 of the Fair Labor Standards Act of 1938 (29 U.S.C.
7 215(a)(3)) is amended—

8 (1) by striking “or has” each place it appears
9 and inserting “has”; and

10 (2) by inserting before the semicolon the follow-
11 ing: “, or has inquired about, discussed, or otherwise
12 disclosed the wages of the employee or another em-
13 ployee”.

14 (b) **ENHANCED PENALTIES.**—Section 16(b) of such
15 Act (29 U.S.C. 216(b)) is amended—

16 (1) by inserting after the first sentence the fol-
17 lowing: “Any employer who violates section 6(d)
18 shall additionally be liable for such compensatory or
19 punitive damages as may be appropriate.”;

20 (2) in the sentence beginning “An action to”,
21 by striking “either of the preceding sentences” and
22 inserting “any of the preceding sentences of this
23 subsection”;

24 (3) in the sentence beginning “No employees
25 shall”, by striking “No employees” and inserting

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1 "Except with respect to class actions brought to en-
2 force section 6(d), no employee";

3 (4) by inserting after such sentence the follow-
4 ing: "Notwithstanding any other provision of Fed-
5 eral law, any action brought to enforce section 6(d)
6 may be maintained as a class action as provided by
7 the Federal Rules of Civil Procedure."; and

8 (5) in the sentence beginning "The court in" —

9 (A) by striking "in such action" and in-
10 serting "in any action brought to recover the li-
11 ability prescribed in any of the preceding sen-
12 tences of this subsection"; and

13 (B) by inserting before the period the fol-
14 lowing: ", including expert fees".

15 (c) ACTION BY SECRETARY.—Section 16(c) of such
16 Act (29 U.S.C. 216(c)) is amended—

17 (1) in the first sentence—

18 (A) by inserting "or, in the case of a viola-
19 tion of section 6(d), additional compensatory or
20 punitive damages," before "and the agree-
21 ment"; and

22 (B) by inserting before the period the fol-
23 lowing: ", or such compensatory or punitive
24 damages, as appropriate";

1 (2) in the second sentence, by inserting before
2 the period the following: " and, in the case of a vio-
3 lation of section 6(d), additional compensatory or
4 punitive damages";

5 (3) in the third sentence, by striking "the first
6 sentence" and inserting "the first or second sen-
7 tence"; and

8 (4) in the last sentence, by inserting after "in
9 the complaint" the following: "or becomes a party
10 plaintiff in a class action brought to enforce section
11 6(d)".

12 **SEC. 4. COLLECTION OF PAY INFORMATION BY THE EQUAL**
13 **EMPLOYMENT OPPORTUNITY COMMISSION.**

14 Section 705 of the Civil Rights Act of 1964 (42
15 U.S.C. 2000e-4) is amended by adding at the end the fol-
16 lowing new subsection:

17 "(1)(1) The Commission shall, by regulation, require
18 each employer who has 100 or more employees for each
19 working day in each of 20 or more calendar weeks in the
20 current or preceding calendar year to maintain payroll
21 records and to prepare and submit to the Commission re-
22 ports containing information from the records. The re-
23 ports shall contain pay information, analyzed by the race,
24 sex, and national origin of the employees. The reports

1 shall not disclose the pay information of an employee in
2 a manner that permits the identification of the employee.

3 “(2) The third through fifth sentences of section
4 709(c) shall apply to employers, regulations, and records
5 described in paragraph (1) in the same manner and to
6 the same extent as the sentences apply to employers, regu
7 lations, and records described in such section.”.

8 **SEC. 5. TRAINING.**

9 The Equal Employment Opportunity Commission
10 and the Office of Federal Contract Compliance Programs,
11 subject to the availability of funds appropriated under sec
12 tion 9(b), shall provide training to Commission employees
13 and affected individuals and entities on matters involving
14 discrimination in the payment of wages.

15 **SEC. 6. RESEARCH, EDUCATION, AND OUTREACH.**

16 The Secretary of Labor shall conduct studies and
17 provide information to employers, labor organizations, and
18 the general public concerning the means available to elimi
19 nate pay disparities between men and women, including

20 (1) conducting and promoting research to de
21 velop the means to correct expeditiously the condi
22 tions leading to the pay disparities;

23 (2) publishing and otherwise making available
24 to employers, labor organizations, professional asso
25 ciations, educational institutions, the media, and the

1 general public the findings resulting from studies
2 and other materials, relating to eliminating the pay
3 disparities;

4 (3) sponsoring and assisting State and commu
5 nity informational and educational programs;

6 (4) providing information to employers, labor
7 organizations, professional associations, and other
8 interested persons on the means of eliminating the
9 pay disparities;

10 (5) recognizing and promoting the achievements
11 of employers, labor organizations, and professional
12 associations that have worked to eliminate the pay
13 disparities;

14 (6) convening a national summit to discuss, and
15 consider approaches for rectifying, the pay dispari-
16 ties; and

17 (7) issuing to employers voluntary pay guide-
18 lines for the relative pay ranges of a selection of
19 male- and female-dominated widely held occupations.

20 **SEC. 7. SALARY RANGE GUIDELINES AND EMPLOYER REC-**
21 **OGNITION PROGRAM.**

22 (a) GUIDELINES.---

23 (1) IN GENERAL.—The Secretary of Labor shall
24 develop guidelines to enable employers to evaluate
25 job categories based on objective criteria such as

1 educational requirements, skill requirements, inde-
2 pendence, working conditions, and responsibility, in-
3 cluding decisionmaking responsibility and de facto
4 supervisory responsibility.

5 (2) USE.—The guidelines developed under
6 paragraph (1) shall be designed to enable employers
7 to compare wages paid for different jobs to deter-
8 mine if the pay scales involved adequately and fairly
9 reflect the educational requirements, skill require-
10 ments, independence, working conditions, and re-
11 sponsibility for each such job with the goal of elimi-
12 nating unfair pay disparities between occupations
13 traditionally dominated by men or women.

14 (3) POINTS.—Each job characteristic used
15 under the guidelines developed under paragraph (1),
16 including the characteristics described in paragraph
17 (2), shall be assigned a point value and such point
18 values shall be used to create new unbiased salary
19 ranges.

20 (4) PUBLICATION.—The guidelines shall be de-
21 veloped under paragraph (1) and published in the
22 Federal Register not later than 180 days after the
23 date of enactment of this Act.

24 (b) EMPLOYER RECOGNITION.—

1 (1) PURPOSE.—It is the purpose of this sub-
2 section to emphasize the importance of, encourage
3 the improvement of, and recognize the excellence of
4 employer efforts to pay wages to women that reflect
5 the real value of the contributions of such women to
6 the workplace.

7 (2) IN GENERAL.—To carry out the purpose of
8 this subsection, the Secretary of Labor shall estab-
9 lish a program under which the Secretary shall pro-
10 vide for the recognition of employers who, pursuant
11 to a voluntary job evaluation conducted by the em-
12 ployer, adjust their wage scales (such adjustments
13 shall not include the lowering of wages paid to men)
14 using the guidelines developed under subsection (a)
15 to ensure that women are paid fairly in comparison
16 to men.

17 (3) TECHNICAL ASSISTANCE.—The Secretary of
18 Labor may provide technical assistance to assist an
19 employer in carrying out an evaluation under para-
20 graph (2).

21 (c) REGULATIONS.—The Secretary of Labor shall
22 promulgate such rules and regulations as may be nec-
23 essary to carry out this section.

1 **SEC. 8. ESTABLISHMENT OF THE NATIONAL AWARD FOR**
2 **PAY EQUITY IN THE WORKPLACE.**

3 (a) **IN GENERAL.**—There is established the Robert
4 Reich National Award for Pay Equity in the Workplace,
5 which shall be evidenced by a medal bearing the inscrip-
6 tion “Robert Reich National Award for Pay Equity in the
7 Workplace”. The medal shall be of such design and mate-
8 rials, and bear such additional inscriptions, as the Sec-
9 retary may prescribe.

10 (b) **CRITERIA FOR QUALIFICATION.**—To qualify to
11 receive an award under this section a business shall—

12 (1) submit a written application to the Sec-
13 retary, at such time, in such manner, and containing
14 such information as the Secretary may require, in-
15 cluding at a minimum information that dem-
16 onstrates that the business has made substantial ef-
17 fort to eliminate pay disparities between men and
18 women, and deserves special recognition as a con-
19 sequence; and

20 (2) meet such additional requirements and
21 specifications as the Secretary determines to be ap-
22 propriate.

23 (c) **MAKING AND PRESENTATION OF AWARD.**—

24 (1) **AWARD.**—After receiving recommendations
25 from the Secretary, the President or the designated
26 representative of the President shall annually

1 present the award described in subsection (a) to
2 businesses that meet the qualifications described in
3 subsection (b).

4 (2) PRESENTATION. —The President or the des-
5 ignated representative of the President shall present
6 the award with such ceremonies as the President or
7 the designated representative of the President may
8 determine to be appropriate.

9 (3) PUBLICITY.—A business that receives an
10 award under this section may publicize the receipt of
11 the award and use the award in its advertising, if
12 the business agrees to help other United States busi-
13 nesses improve with respect to the elimination of pay
14 disparities between men and women.

15 (d) BUSINESS. For the purposes of this section, the
16 term “business” includes—

17 (1)(A) a corporation, including a nonprofit cor-
18 poration;

19 (B) a partnership;

20 (C) a professional association;

21 (D) a labor organization; and

22 (E) a business entity similar to an entity de-
23 scribed in any of subparagraphs (A) through (D);

24 (2) an entity carrying out an education referral
25 program, a training program, such as an apprentice

1 ship or management training program, or a similar
2 program; and

3 (3) an entity carrying out a joint program,
4 formed by a combination of any entities described in
5 paragraph (1) or (2).

6 **SEC. 9. INCREASED RESOURCES FOR ENFORCEMENT AND**
7 **EDUCATION.**

8 **(a) GENERAL RESOURCES.—**

9 (1) **EQUAL EMPLOYMENT OPPORTUNITY COM-**
10 **MISSION.—**There is authorized to be appropriated to
11 the Equal Employment Opportunity Commission, for
12 necessary expenses of the Commission in carrying
13 out title VII of the Civil Rights Act of 1964 (42
14 U.S.C. 2000e et seq.), title I of the Americans with
15 Disabilities Act of 1990 (42 U.S.C. 12111 et seq.),
16 the Age Discrimination in Employment Act of 1967
17 (29 U.S.C. 621 et seq.), and section 6(d) of the Fair
18 Labor Standards Act of 1938 (29 U.S.C. 206(d)),
19 \$36,000,000, in addition to sums otherwise appro-
20 priated for such expenses. Any amounts so appro-
21 priated shall remain available until expended.

22 (2) **OFFICE OF FEDERAL CONTRACT COMPLI-**
23 **ANCE PROGRAMS.—**There is authorized to be appro-
24 priated to the Office of Federal Contract Compliance
25 Programs for necessary expenses of the Office

1 \$10,000,000 in addition to sums otherwise appro-
2 priated for such expenses. Any amounts so appro-
3 priated shall remain available until expended.

4 (b) TARGETED RESOURCES.—

5 (1) EQUAL EMPLOYMENT OPPORTUNITY COM-
6 MISSION.—There is authorized to be appropriated to
7 the Equal Employment Opportunity Commission to
8 carry out section 5, \$500,000, in addition to sums
9 otherwise appropriated for providing training de-
10 scribed in such section. Any amounts so appro-
11 priated shall remain available until expended.

12 (2) OFFICE FEDERAL CONTRACT COMPLIANCE
13 PROGRAMS.—There is authorized to be appropriated
14 to the Office of Federal Contract Compliance Pro-
15 grams to carry out section 5, \$500,000, in addition
16 to sums otherwise appropriated for providing train-
17 ing described in such section. Any amounts so ap-
18 propriated shall remain available until expended.

19 (c) RESEARCH, EDUCATION, OUTREACH, AND NA-
20 TIONAL AWARD.—There is authorized to be appropriated
21 to the Secretary of Labor to carry out sections 6 and 8,
22 \$1,000,000. Any amounts so appropriated shall remain
23 available until expended.

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FAX COVER SHEET

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TO:

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 Audrey Tayse Hooper

FAX #:

FROM:

Kim Koiliso

Democratic Steering and Coordination Committee

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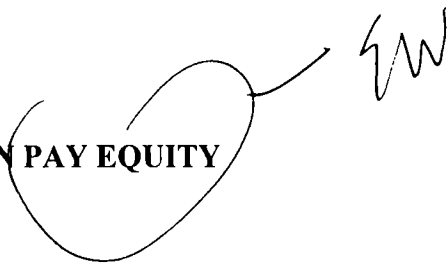
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MESSAGES:

of Pages including cover:

(11)



DRAFT MEMORANDUM ON PAY EQUITY

I. BACKGROUND

Attached are summaries of the two main bills on equal pay and a list of ideas on the topic we solicited from DOL, the EEOC, and various outside groups.

According to the Department of Labor, women earn on average only 75 cents for each dollar a man earns. African American women earn 63 cents and Hispanic women earn only 54 cents to each dollar that white men earn.

The AFL-CIO and Gephardt are pushing this issue. It also fits in with our families agenda because equal pay is not just for women; it is for families. In two-earner families, if the wife starts earning more, the extra money helps the entire family, not just the female wage-earner.

Even though the President is currently scheduled to travel on April 3, **April 3 is Equal Pay Day**, the day on which women's earnings, added to their previous year earnings, equal what men earn in one calendar year. The AFL-CIO and other organizations are planning events on April 3 at various sites across the country, and if we had some kind of announcement, we could plug into what they already have planned.

II. LEGISLATIVE OPTIONS

There are two main bills regarding fair pay that have been introduced, one by Senator Daschle (D-SD) and one by Senator Harkin (D-IA). Attached are section-by-section analyses of these bills. In addition, below is a brief summary of the main provisions of each of these bills.

A. Paycheck Fairness Act - Daschle S.71

The main part of Daschle's bill is enhanced enforcement. This bill would amend the Equal Pay Act (EPA) to allow for compensatory and punitive damages. Currently, the EPA only allows for liquidated damages, which are essentially back pay awards. In addition, the bill includes a nonretaliation provision that amends the EPA to prohibit employers from penalizing employees for sharing information about their salaries with coworkers.

Daschle's bill also provides for the collection of pay information by the EEOC. Daschle's bill did not perform a cost analysis for the collection of this data, but merely requests that the EEOC appropriations be brought up to the level requested by the President in FY 1997 by adding \$36 million to the budget. (The President's FY 1999 budget requests \$279 million for the EEOC -- \$37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase (\$13 million) goes to expansion of the agency's ADR program.) A

more detailed cost analysis is provided below in the section of nonlegislative options; these numbers were estimated by the EEOC.

In addition, the Daschle bill provides for training, research, education, and outreach.

B. Fair Pay Act - Harkin S.232

The principal provision in Harkin's bill is for equal pay for equivalent jobs. The Fair Pay Act outlaws discrimination in wages paid to employees within a workplace in equivalent jobs solely on the basis of sex, race, or national origin. However, wage differences on the basis of seniority, a merit system, or an quality/quantity system would not be affected.

Harkin's bill also contains a non-retaliation provision, a provision to permit the awarding of expert fees, a section that provides for the collection of wage information by the EEOC. The bill also provides for research, education, and technical assistance.

III. NON-LEGISLATIVE OPTIONS (PROPOSED BY EEOC AND DOL)

A. Collect pay data by the EEOC.

Reason for collecting data: The EEOC currently collects annual data regarding the demographic breakdown of the workforces of private employers with 100 or more employees and of federal contractors with 50 or more employees. The EEOC does not currently collect salary data. The availability of salary data would be extremely useful. It would allow the actual jobs grouped into the broad EEO-1 occupational groups to be further defined. It would show the extent of differential pay by race/ethnic categories and gender for the same type of work. It would improve the assignment of employees into the proper EEO-1 categories. This data would assist enforcement of the Equal Pay Act and would assist the Department of Labor in monitoring affirmative action programs.

Currently the EEOC only collects demographic data. The EEOC has proposed two alternatives in order to collect pay data.

1. The most detailed way to collect the data would add eight salary intervals within each of the nine current EEO-1 occupational categories. This would cost \$5,599,800, increasing EEOC's cost from \$801,200 to \$6,401,000. It would also increase the public reporting compliance burden hours to 3,684,000 from the current 464,000. This burden hour increase translates conservatively into increased public cost of more than \$32 million annually.
2. A second way to do this is to create a supplement to the EEO-1 form. This would not change the EEO-1 form, but it also would not provide data by job category. Nonetheless, the matrix would have 20 salary intervals and would provide fairly detailed salary data by race/ethnic categories and gender. This method would cost

\$1,598,800, roughly tripling EEOC's current annual processing cost from \$801,200 to \$2,400,000. It would also triple the public respondent burden to 1.4 million hours, increasing the respondent burden cost about \$9.5 million over the current cost.

B. SWAT Team at DOL to provide technical assistance. DOL proposes \$2 million for a specialized technical assistance team to reach out to approximately 1000 companies. DOL's Women's Bureau technical assistance would include analysis of hiring, promotion, compensation, and evaluation data to ensure fairness and consistency for women at all levels within the company. Recommendations for correcting problem areas could be proposed.

C. The Department of Labor proposes that the President endorse the following legislative principles for pay equity:

1. Providing for the recognition and promotion of fair pay practices by employers;
2. Providing for research, education and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace;
3. Providing enhanced enforcement to deter violations of the Equal Pay Act and other laws;
4. Prohibiting retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers.

D. Other Initiatives Proposed by the Women's Office at Labor

- **10-step voluntary self-audit for businesses:** The Department of Labor would develop and make available a package that would give both small and large companies guidelines to determine whether they offer equal pay, hiring, and promotional opportunities. The Department would also develop a similar checklist for employees.
- **Increase funding for enforcement of the Equal Pay Act and the Civil Rights Act at EEOC.** DOL estimates that it would require approximately \$5 million to support additional training, travel, and staff to increase corporate management reviews.
- **Equal Pay Day on April 3 with Internet Chat Room.** The Department of Labor suggests that the President could participate in a special interactive dialogue on equal pay issues on April 3, the day on which women's earnings, when added to their previous year's earnings, finally equal what men earn in one calendar year. This online dialogue could pose a snapshot of the magnitude of the issue. For the past two years, the President has recognized this day by issuing a proclamation.
- **White House Conference on Equal Pay.**

- **Fair Pay Tour.** The President could join the Secretary of Labor during the Women's Bureau Fair Pay Tour, currently scheduled to begin in late March, to discuss equal pay concerns with women's leaders, business executives, labor union women, and working women. After the tour, the President could announce one of the above initiatives.

① Capped or uncapped
Commonwealth, LEA

→ ② Tracy Thacker →
③ Thursday

March 17, 1998

- SW
1. Data
 2. punishment - not 1 or 2
 3. \$5

Handwritten signature

DRAFT MEMORANDUM FOR THE DPC/NEC

③ Edna C. Clear Spelling

FROM: DPC/NEC STAFF

SUBJECT: Equal Pay Initiative

This memorandum outlines some options for a possible announcement on equal pay on April 3rd. Many organizations around the country hold events on April 3rd, which is "Equal Pay Day," the day designated as the date on which women's earnings, added to their previous year's earnings, are said to equal what men earn in one calendar year.

There are numerous studies attempting to determine the degree of wage differences between men and women. A recent brief review of existing studies in the area by the Council of Economic Advisors concludes that while wage differentials have narrowed steadily since the late 1970s, there is still a significant wage differential, even after controlling for education, experience, and occupation. The raw differential in terms of female and male wage ratios is 72.4. Taking into account education and experience, the differential becomes 80.5. The wage differential further narrows to 88.2, controlling for occupation, industry, and union status. A more popular figure, cited for instance by the Department of Labor, states women earn on average only 75 cents for each dollar a man earns.

The following summarizes existing legislation on equal pay, and describes policy options in four areas (1) data collection; (2) enforcement; (3) technical assistance; and (4) executive actions. The memorandum then describes four options for endorsing or modifying existing bills or endorsing legislative principles.

I. Existing Legislation

There are two main bills regarding fair pay that have been introduced, one by Senator Daschle (D-SD) and one by Senator Harkin (D-IA).

A. Paycheck Fairness Act - Daschle S.71

Enhanced Enforcement. Daschle's bill would amend the Equal Pay Act (EPA) to allow for compensatory and punitive damages. Currently, the EPA only allows for liquidated damages and back pay awards. Liquidated damages typically are awarded in an amount equal to back pay.

Typical recoveries are double back-pay awards.

An individual can file suit for wage discrimination under either Title VII or the Equal Pay Act (EPA). Title VII allows for compensatory and punitive damages, in addition to back pay, as a result of the Civil Rights Act of 1991. These damages are, however, capped. Compensatory and punitive damages under Title VII for wage discrimination are limited to no more than between \$50,000 and \$300,000, depending on the size of the employer -- not the severity of the offense (e.g., for firms with between 15 and 100 employees, combined damages are capped at \$50,000). Victims of racial or ethnic discrimination in employment can seek unlimited damages under a separate statute, leaving victims of discrimination based on sex, religion or disability limited in the relief they can receive.

The Daschle bill adds unlimited compensatory and punitive damages to the Equal Pay Act. A number of advocates believe that increasing the damages available under the EPA would encourage the private bar to bring more suits under the statute, encourage employers to devote more attention to their pay practices, and encourage victims to come forward.

Adding unrestricted damages to equal pay cases would not necessarily lead to a huge proliferation of frivolous actions or excessive awards. An examination of Title VII's section 1981, the statute that allows for unlimited damages in cases of racial or ethnic discrimination, found that between 1980 and 1990 plaintiffs won 121 cases -- eleven per year. There were no compensatory and punitive damages in 52 of the cases; in 42, damages were less than \$50,000. Total damages exceeded \$200,000 in only two cases during the eleven-year period. This study was limited to reported decisions, and did not include cases settled before trial.

Nonretaliation Provision. The bill includes a nonretaliation provision that amends the EPA to prohibit employers from penalizing employees for sharing information about their salaries with coworkers.

Data Collection. Daschle's bill also provides for the collection of pay information by the EEOC. Daschle's bill is somewhat vague on exactly how the wage data would be collected. It does not specify that the data needs to be collected on the EEO-1 form, which is the form used by the EEOC to collect employment data.

Daschle's bill did not perform a cost analysis for the collection of this data, but merely requests that the EEOC appropriations be brought up to the level requested by the President in FY 1997 by adding \$36 million to the budget. (The President's FY 1999 budget requests \$279 million for the EEOC -- \$37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase, \$13 million, goes to expansion of the agency's ADR program.)

In addition, the Daschle bill provides for training, research, education, and outreach. Finally, the bill establishes "The National Award for Pay Equity in the Workplace," to be

administered by the Women's Bureau of the Department of Labor, to recognize and promote the achievements of employers that have made strides to eliminate pay disparities.

B. Fair Pay Act - Harkin S.232

Comparable Worth. The principal provision in Harkin's bill is for equal pay for equivalent jobs. The Fair Pay Act outlaws discrimination in wages paid to employees within a workplace in equivalent jobs solely on the basis of sex, race, or national origin. However, wage differences on the basis of seniority, a merit system, or an quality/quantity system would not be affected.

Harkin's bill also contains a non-retaliation provision, a provision to permit the awarding of expert fees, and a section that provides for the collection of wage information by the EEOC. The bill also provides for research, education, and technical assistance.

II. Relevant Policy Issues

The following describes policy options in four areas: data collection; enforcement; technical assistance, and actions regarding the federal workforce.

A. Data

Data collection could improve pay equity in two ways. The first is by providing more information to enhance enforcement of anti-discrimination laws; the second is by increasing public awareness of pay inequities. Development of better data to improve enforcement could be accomplished with a directive to the agencies to determine how best to update the EEO-1 form in order to better serve the EEOC; public awareness of pay inequities could be made with an annual report on the pay gap by sex produced by the DOL using the (existing) *Current Population Survey*. ✓

1. Directive to the Agencies

The EEOC currently collects annual data regarding the demographic breakdown of the workforces of private employers with 100 or more employees and of federal contractors with 50 or more employees on the EEO-1 form. The EEOC does not currently collect salary data. The EEO-1 form, however, has remained virtually unchanged for the past 30 years. During that time, the occupation and racial categories have become outdated; they have not kept pace with the new information economy.

At the same time, the EEOC believes that collecting wage data on the

EEO-1 form would greatly improve their ability to target and prioritize discrimination cases. It also would assist the Department of Labor in targeting its enforcement efforts and monitoring affirmative action programs. However, collecting wage data through the EEO-1 form will be very controversial -- any attempts to add wage data to the form will draw significant fire from the Republicans and the business community.

In order to give complete consideration to competing arguments regarding changing the EEO-1 form or creating a supplement to the form, the best method would be to issue a directive to the EEOC, the Department of Labor, and the Department of Justice (in consultation with the Department of Commerce, Treasury, and OMB) to report back in 6 months on ways to improve the form to increase enforcement of our anti-discrimination laws. The agencies should be directed to streamline the data collection process and to pay particular attention to minimizing burdens on business.

Pros: The EEOC, the Dept. of Labor (OFCCP), and organized labor believe that wage data is critical to improving the enforcement ability of the EEOC and OFCCP. And, they are extremely eager for the administration to collect this data. Unfortunately, if the EEO-1 form were amended in its current form to include wage data, it would increase compliance costs by several hundred-fold. Other options, such as creating a supplement to the form, may mitigate some of these costs. At the same time, the form is quite out-of-date which further hinders enforcement.

Thus, we need a thorough and creative study (and policy process) in order to consider seriously changing the form, and to weigh the costs and benefits of revising the occupational and racial categories and collecting wage data. Issuing the directive will give us time to study the issue thoroughly while re-assuring interested parties that we understand their concerns.

Cons: Issuing a directive may be seen by organized labor and other groups as “weak” relative to stating that the administration will update the form and/or will collect wage data. Further, at the end of the 180-day period, we may be faced with a recommendation to change the form or collect wage data that comes at an unacceptably large public compliance burden. In other words, since the groups will expect us to include the wage data on the form (since we are announcing that we want to update the form on Equal Pay Day), we may be putting ourselves in a box that we will not be able to escape from.

Also, the business community -- concerned that we may make the form more difficult to comply with -- may object to us even considering changing the EEO-1 form (much less considering collecting the wage data).

2. Annual Report Based on Bureau of Labor Statistics Data

The President could also improve data collection by requiring DOL to issue an annual report based on (existing) wage data by the Bureau of Labor Statistics. This option would be less politically charged because it would not impose additional burdens on business. In addition, because attitudes and awareness are keys to reducing wage disparities, highlighting the issue every year would likely have a powerful effect on public consciousness and be an effective way to achieve increased gender pay equity. However, this option would not enhance enforcement efforts. This option would not involve significant costs.

B. Enforcement

Enforcement of anti-discrimination laws by the EEOC and OFCCP have traditionally played an important role in easing discrimination in our labor market. Therefore, a key component to our equal pay initiative is to improve enforcement by both agencies. In particular, we propose:

1. Increase Funding for Enforcement

a. Increase OFCCP Funding by \$5 million

DOL estimates that it would require approximately \$5 million to support additional training, travel, and staff to increase corporate management reviews. These corporate management reviews, also known as “glass ceiling” reviews, are different from other compliance reviews conducted by OFCCP in that they begin with an interview with the chief executive officer. These reviews also include a perusal of promotional and compensation policies related to mid- and upper-level management positions, efforts to recruit diverse pools of applicants for senior level positions, and the developmental opportunities that exist for individuals to become senior executives. Since 1994, OFCCP has conducted approximately 100 Corporate Management Reviews of Fortune 1000 companies. With an additional \$5 million, OFCCP could increase its FTEs by 80, and conduct approximately 190 corporate reviews per year.

b. Increase EEOC funding by \$500,000

EEOC estimates that it would cost \$500,000 to increase training for its staff for enforcement of wage discrimination under both Title VII and the Equal Pay Act.

2. A Memorandum Of Understanding (MOU) between EEOC and DOL to Cross Train

The EEOC and the Department of Labor could enter into an agreement to train each other's staff to be sensitive to potential violations of the statutes they enforce, including the Equal Pay Act. The agencies would refer information concerning potential violations of the agency's statutes to the applicable EEOC or Labor Department office for appropriate action.

3. A MOU Between EEOC and DOL to Collect Damages

OFCCP would be designated to serve as the EEOC's agent for purposes of collecting damages that are not otherwise collectible under OFCCP's authority under its executive order. OFCCP then could obtain full relief for intentional discrimination. This change would not require any legislative action. There are no costs anticipated for this option.

4. A Presidential Directive to Emphasize Existing Obligations for Federal Contractors

The President could issue a directive ordering all of the contracting agencies to abide by already existing Equal Employment Opportunity clauses which are contained in most government contracts. OFCCP enforces the anti-discrimination provisions in employment laws that pertain to federal contractors, which constitute 22 percent of the civilian workforce. As the result of the EEO clause in their contracts, federal contractors and subcontractors are required to refrain from discriminating and to take pro-active steps to ensure an equal opportunity workplace. This government contract obligation includes a self-audit component that often recognizes and corrects patterns of discrimination and eliminates unnecessary barriers to employment. The EEO clause is a powerful lever that, if taken more seriously by the contracting officers, would help prevent discrimination.

C. Technical Assistance

1. Federal Contractor Best Practices

Currently, federal contractors must conduct self-audits as part of their federal contract obligations. OFCCP has begun to publicize successful programs through its best practices honor roll. The agency plans to place these Best Practices suggestions on its web site.

2. SWAT Team at DOL to provide technical assistance

DOL proposes \$2 million for a specialized technical assistance team to reach out to approximately 1000 companies. DOL's technical assistance would include analysis of hiring, promotion, compensation, and evaluation data to ensure fairness and consistency for women at all levels within the company. Recommendations for correcting problem areas could then be proposed.

3. 10-Step Voluntary Self-Audit for Businesses and Employees

The Department of Labor would develop and make available a 10-step package that would give companies guidelines to determine whether they offer equal pay, hiring, and promotional opportunities. The Department would also develop a similar checklist for employees. DOL would put these self-audits on the Internet. This would require no additional funding.

4. Awards

The Department of Labor has an Exemplary Voluntary Efforts (EVE) and Secretary's Opportunity 2000 Awards program that recognizes best corporate practices. This year's event will be held on September 17. This existing vehicle could be used to highlight the best practices in furthering pay equity. There is also an award proposed in the Daschle bill.

D. Federal Government

Another way in which the Federal government can provide for the recognition and promotion of fair pay practices by employers is to become a role model for other employers. The following four initiatives are designed to address discrimination within the Federal government:

1. Guide to Recruitment and Retention of Women

The Office of Personnel Management (OPM) is producing a new Guide on Recruitment and Retention of Women in the federal government that would contain information to make agency managers aware of career opportunities for women and to provide guidance on recruitment and career development for women. This could be prepared by April 3rd.

2. Outreach

OPM, in conjunction with other agencies, could expand outreach efforts, including working with professional groups, participating in women's conferences, and visiting college campuses so that talented women may be recruited for jobs in the Federal government.

3. Best Practices

OPM could work with the other Federal departments and agencies to develop best practices, from both the public and private sectors, for recruiting and retaining women.

4. Career Development Programs

OPM could explore extension of career development programs and activities, such as the Women's Executive Leadership Program and Federally Employed Women workshops, to increase employment of women in the federal workforce and to identify new initiatives that support the enhancement of career skills for women at all levels.

III. Options

Option 1: Endorse Daschle

Pros: The bill addresses the legislative principles described in Option 4, below.

Cons: The bill may go further than we are willing to with regard to punitive and compensatory damages and with regard to adding wage data to the EEO-1 form (see the data discussion, above).

Option 2: Work with Daschle's Staff to Modify his Bill

Amend the provision to provide for the addition of capped compensatory and punitive damages, which would put the Equal Pay Act on par with the damages currently available for wage discrimination under Title VII, and issue a directive to *consider* changing the EEO-1 form (rather than determining that before a proper process has occurred). Announce an annual report on wage differentials.

Pros: Again, the bill addresses many of the proposed legislative principles. However, the President does not want to encourage unnecessary litigation and unlimited punitive damages that result in large legal settlements. Capping damages would both limit potential settlements and would make the Equal Pay Act consistent with Title VII. The annual report would be a valuable informational guide to wage differentials. The advantages of issuing a directive to study the EEO-1 form are discussed in the Data section, above.

Cons: The Administration would be endorsing an enforcement provision stronger than what some businesses would likely prefer, and weaker than the bill originally sponsored by Senator Daschle.

Option 3. Support or Endorse Harkin

Pros: Economists agree that most of the (remaining) pay disparity between men and women results because traditionally female jobs pay less than traditionally male jobs. Therefore, that it will be difficult to achieve true pay equity without overhauling prevailing pay practices, such as through comparable worth.

Cons: While a policy akin to comparable worth may be required to achieve true pay equity, it has several drawbacks, including: a) interfering with the labor market's ability to set wages and strong opposition from business, b) possibility of causing women to lose jobs (since imposed pay equity would most likely be achieved by increasing female salaries rather than lowering male salaries), and c) no one really knows how wages are determined so it is difficult to implement.

Option 4: Endorse Legislative Principles

The President could simply endorse legislative themes for pay equity that should be in legislation, such as:

1. Providing for the recognition and promotion of fair pay practices by employers;
2. Providing for research, education and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace;
3. Providing enhanced enforcement to deter violations of the Equal Pay Act and other laws;
4. Prohibiting retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers.

Pros: We avoid committing to a particular policy before we have completed a thorough policy process while still emphasizing the administration's policy principles.

Cons: It does not respond specifically with solutions and would be criticized as ineffective and rhetorical.

Recommendation:

We recommend Option 2 as a specific action to reduce unequal pay with common sense legislation that improves enforcement, data collection, and technical assistance. In addition, we recommend the agencies sign the MOU's and develop guidelines for federal employers to improve federal coordination and practices.

S. g. Pay

Wage Discrimination InitiativeEnforcement Activities:

\$1.8 m Training. Fund EEOC's full request of \$1.8 m for training. Fund contractors to provide the training. Training would be Commission-wide and include 850 investigators, 250 litigation attorneys and 150 supervisors and managers.

\$0.0 m 24 FTE for enforcement. Do not fund EEOC's requested \$3 m for additional enforcement staff. On-board staff would be better trained with the training funds to identify wage discrimination cases. No specialist staff is necessary.

Outreach, education, and technical assistance:

\$3.0 m Fund contractors (maybe through EEOC's revolving fund) to provide specialist technical assistance, education, and outreach activities to employers, unions, and advocacy groups. Do not hire 24 permanent FTE to provide this service.

Up to

\$4.5 m Public Service Announcements (psa's). Hire a public relations firm to develop psa's to educate employers, unions, advocacy groups, and the public on the importance of this issue. At \$350,000 each, up to 12 psa's could be developed to target audiences in different regions. (This would be the first area that would be reduced to fund an initiative at less than \$10 m.)

Staffing and Technology (these are the only permanent costs to EEOC):

\$0.4 m Fund 4 full-time FTE at \$100,000 to manage the program, hire the contracting staff, respond to audience requests for pamphlets and brochures, etc.

\$0.3 m Fund \$300,00 for associated technology needs.

Research:

\$0.0 m Do not fund the \$8 m request for research.

\$10.0 m

49-3846



UNITED STATES DEPARTMENT OF COMMERCE
Office of the Secretary
Washington, D.C. 20230

MAR 19 1998

MEMORANDUM FOR MARY SMITH

FROM: Jim Doyle *JD*
Senior Policy Advisor, Department of Commerce

SUBJECT: Equal Pay Act/Daschle Bill -- S.71

Commerce staff object to two provisions in Senator Daschle's bill to amend the Equal Pay Act. These provisions would (i) provide for uncapped compensatory and punitive damages, and (ii) direct the EEOC to collect additional wage data.

Uncapped Damages

The Daschle bill would allow uncapped compensatory and punitive damages under the Equal Pay Act. Section VII of the Civil Rights Act of 1991 provides for capped compensatory and punitive damages with the actual cap depending on firm size. An individual can file suit for wage discrimination under either Act and usually does so. Providing symmetry between the two Act on penalties is reasonable and Commerce could support amending the Equal Pay Act to include capped damages that are equal to that provided by Section VII of the Civil Rights Act. We see no reason, therefore, to support uncapped penalties. In addition, the business community would undoubtedly object to increased penalties beyond those currently in the companion Civil Rights Act on the grounds that they would increase litigation and could lead to significantly higher awards.

Data Collection

The Daschle bill also calls for the EEOC to require (by regulation) each employer with over 100 or more employees to maintain payroll records and submit reports to the EEOC on pay by race, sex and national origin. We would like to know more about (i) how the EEOC plans to use this wage information, and (ii) how much it will cost to collect it before we support the bill. While the Daschle provision is somewhat vague on how such information would be collected, we believe supporting the bill as written would limit the Administration's ability to promote a less burdensome approach.



MAR 19 1998

MEMORANDUM FOR MARY SMITH

FROM: Jim Doyle *JD*
Senior Policy Advisor, Department of Commerce

SUBJECT: Equal Pay Act/Daschle Bill -- S.71

Commerce staff object to two provisions in Senator Daschle's bill to amend the Equal Pay Act. These provisions would (i) provide for uncapped compensatory and punitive damages, and (ii) direct the EEOC to collect additional wage data.

Uncapped Damages

The Daschle bill would allow uncapped compensatory and punitive damages under the Equal Pay Act. Section VII of the Civil Rights Act of 1991 provides for capped compensatory and punitive damages with the actual cap depending on firm size. An individual can file suit for wage discrimination under either Act and usually does so. Providing symmetry between the two Act on penalties is reasonable and Commerce could support amending the Equal Pay Act to include capped damages that are equal to that provided by Section VII of the Civil Rights Act. We see no reason, therefore, to support uncapped penalties. In addition, the business community would undoubtedly object to increased penalties beyond those currently in the companion Civil Rights Act on the grounds that they would increase litigation and could lead to significantly higher awards.

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Opinions on Daschle Bill

1. Uncapped punitive and compensatory damages

In favor of uncapped (no caps): Department of Labor, Department of Justice (with the exception that punitives not be available against the Government); EEOC (only view of Commissioner Igasaki)

Against uncapped: CEA, Commerce

2. Data collection

Problems with current Daschle bill: OMB, Commerce

MEMORANDUM

To: Mary Smith,
Democratic Policy Council

From: Richard Jerome
Deputy Associate Attorney General

Re: S. 71, Amendments to the Equal Pay Act, introduced by Senator Daschle

Date: March 19, 1998

You have asked for the Department of Justice's views regarding S. 71, a bill to amend the Equal Pay Act, especially as to the issue of whether there should be a cap on compensatory damages. We have distributed the Daschle bill to the relevant components in the Department and have the following comments:

1. We believe that punitive damages should not be recoverable against the United States. Under Title VII and other fair employment statutes, punitive damages are not available in actions against the United States (see, for example, 42 U.S.C. 1981a(b)(1)). Thus, subsection of (b)(1) of Section 3 of the bill should be revised to clarify that punitive damages are not available against the United States.
2. The Department of Justice has no objection to compensatory damages under the Equal Pay Act that are not subject to a monetary cap.
3. We suggest that the Findings section be revised to add specific reference to the 14th Amendment.

Equal Pay
EW

Notes on Gender Wage Differentials

1. Women continue to have differential access to the labor market
 - * Much of this is due to different family/work choices
 - * But clear evidence that female applicants are less likely to be hired into certain jobs than "equivalent" male applicants.
2. Biggest female/male difference is in occupational choice. Again, much of this appears to be based on preference differences between men and women, but may also reflect some discrimination (particularly in historically male occupations) as well as differential treatment in the earlier socialization and education process.
3. Wage differentials have narrowed steadily since the late 1970s, but are still significant. Controlling for education and experience differences eliminates about 1/3 of the differential. Further controls for occupation and industry eliminate about another 1/3 of the remaining differential (but these are controversial if occupation and industry choice reflects discrimination.) Even after these adjustments, a significant unexplained differential between female/male wages remains.

Blau and Kahn

Journal of Labor Economics

January 1997

Female/Male Wage Ratios

1979

1988

Raw differential

62.2

72.4

Controlling for educ and experience

71.5

80.5

+ controls for occ, ind, and union status

77.6

88.2

4. It is not clear whether this remaining differential reflects ongoing discrimination or additional unobserved differences between male and female workers. Most of the difference is due to differences in the returns to characteristics for women versus men.
5. These unexplained differences are smallest among highly educated workers. Indeed, a number of studies indicate that male and female college graduates with similar backgrounds receive identical wages on their entry jobs. The greatest unexplained differences are among the least educated workers.
6. Even among the more educated, however, a male/female differential opens up as work experience increases. Among more educated workers, this seems to relate to differences in turnover and job advancement over time.

- Biggest is differences in jobs types
- But this emphasis on fair enforcement might lead to

M

EQUAL PAY MEETING AGENDA
March 18, 1998

I. Legislation

A. Daschle Bill

1. Increased penalties under Equal Pay Act
2. Data collection
3. Nonretaliation provision
4. Training, research, education, and outreach
5. Award

B. Endorse Legislative Principles

1. Provide for the recognition and promotion of fair pay practices by employers
2. Provide for research, education, and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace
3. Provide enhanced enforcement to deter violations of the Equal Pay Act and other laws
4. Prohibit retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers

II. Data Collection

- A. Directive to agencies to report back in 180 days to consider ways to how best to update the EEO-1 form to improve enforcement of wage discrimination
- B. Annual report based on Bureau of Labor Statistics Data

III. Enforcement

- A. Increase funding for enforcement at EEOC and DOL
- B. Memorandum of Understanding (MOU) between EEOC and DOL to Cross Train
- C. MOU between EEOC and DOL to Collect Damages
- D. A Presidential Directive to Emphasize Existing Obligations for Federal Contractors

IV. Technical Assistance

- A. Federal Contractor Best Practices
- B. SWAT Team at DOL to Provide Technical Assistance
- C. 10-Step Voluntary Self-Audit for Businesses and Employees
- D. Awards

V. Federal Government

- A. Guide to Recruitment and Retention of Women
- B. Outreach
- C. Best Practices
- D. Career Development Programs