AFFIRMATIVE ACTION IN EMPLOYMENT IN OKLAHOMA

A report of the Oklahoma Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission and the Commission will make public its reaction. In the meantime, the recommendations in this report should not be attributed to the Commission, but only to the Oklahoma Advisory Committee.

February, 1981

AFFIRMATIVE ACTION IN EMPLOYMENT IN OKLAHOMA

A report of the Oklahoma Advisory Committee to the United States Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Oklahoma Advisory Committee to the United States Commission on Civil Rights and as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission and will be considered by the Commission in formulating its recommendations to the President and the Congress.

RIGHTS OF RESPONSE

Prior to the publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended or otherwise reflected in the publication.

LETTER OF TRANSMITTAL

OKLAHOMA ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS

February, 1981

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Mary Frances Berry, Vice Chair
Stephen Horn
Blandina Cardenas Ramirez
Jill S. Ruckelshaus
Murray Saltzman

Louis Nunez, Staff Director

Sirs and Mesdames:

In March, 1980, the Oklahoma Advisory Committee conducted a two-day factfinding meeting at the State Capitol in Oklahoma City. The purpose of the meeting was to receive information on the process and procedures by which federally required affirmative action plans are developed, monitored and enforced, and on the perceptions of employers and interested groups and individuals on this enforcement process.

This report provides a summary of the major issues which emerged during the factfinding meeting and in the preliminary interviews conducted by Commission staff prior to the meeting. The main purpose of this report is to identify areas of major concern and to document the need for continuing attention and strengthening efforts on the part of the federal government in the area of affirmative action enforcement.

We are not making recommendations for specific action at this point. We believe that the issues in this report will be typical of those found in similar meetings in the other nine regions. If such findings are consistent, then we would expect that recommendations for action will be covered in the national report.

It is our sincere hope that the combined efforts of the various State Advisory Committees that participated in this project and the Commission will result in the realization of affirmative action goals throughout the nation.

Respectfully submitted,

Hannah Atkins, Chairperson
Oklahoma Advisory Committee

MEMBERSHIP

of the

OKLAHOMA ADVISORY COMMITTEE

to the

UNITED STATES COMMISSION ON CIVIL RIGHTS

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THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denial of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote, study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

ACKNOWLEDGEMENTS

The preparation of this report was directed by J. Richard Avena, Director of the Southwestern Regional Office.

This publication was written by Mary Davis Minter. The following staff members also participated in the preparation of the report: Gloria Cabrera, John F. Dulles, II, Ernest Gerlach, Norma Valle and Patty Welch.

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CHAPTER I

INTRODUCTION

According to the Federal Register,

> ...an affirmative action program is a set of specific and result-oriented procedures to which a contractor commits itself to apply every good faith effort. The objective of those procedures plus such efforts is equal employment opportunity. Procedures without effort to make them work are meaningless; and effort, undirected by specific and meaningful procedures is inadequate. An acceptable affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus, to achieve prompt and full utilization of minorities and women, at all levels and in all segments of its workforce where deficiencies exist.[1]

It has been slightly less than two decades since the United States committed itself to eliminating unfair discrimination of minorities and women in the job market. As recently as the early 1960's, the attitude of the Federal government toward discrimination in employment could have been characterized as either indifferent to or actively encouraging such practices. The passage of the Civil Rights Act of 1964 marked a change in national conscience. Embodied in the passage of the Civil Rights Act of 1964 were both the recognition that employment discrimination was wrong, and perhaps more importantly, the presence of a national commitment to equal employment opportunity.[2]

Almost two decades have now gone by since the enactment of that Civil Rights Act of 1964. Some progress has been made but clearly, neither the spirit nor the letter of the law has been fulfilled. In fact, as late as 1977, the U.S. Commission on Civil Rights found disturbing evidence "that members of groups historically victimized by discriminatory practices were still bearing the burden of such injustices."[3] In a statement issued during that year, the Commission noted that disparities in employment of whites and minorities had increased.[4] At least part of the increasing disparity in major indicators (such as employment rates, income levels and job categories) could be attributed to persistent discriminatory practices.[5]

Efforts on the part of Federal enforcement agencies to ensure compliance with the law have often met with resistance on the part of agencies and contractors. Consequently, negotiations toward conciliations and affirmative remedies often consumed so much time that only a relatively few cases were processed to completion.[6] Often, despite the fact that there was significant evidence that discriminatory practices existed, the cases had to be resolved in the courts.

In some instances, even when employers did take affirmative steps to end current discriminatory practices in employment and to remedy the effects of such past practices, these efforts were sometimes challenged in court (see e.g., United Steelworkers of America v. Weber).[7] There have been charges of "reverse discrimination" and preferential treatment to minorities at the cost of whites, usually white males. These charges often sprang from the fact that employers, agencies, universities, etc., indicated that they were setting aside a given number of slots for

Almost two decades have now gone by since the enactment of that Civil Rights Act of 1964. Some progress has been made but clearly, neither the spirit nor the letter of the law has been fulfilled. In fact, as late as 1977, the U.S. Commission on Civil Rights found disturbing evidence "that members of groups historically victimized by discriminatory practices were still bearing the burden of such injustices."[3] In a statement issued during that year, the Commission noted that disparities in employment of whites and minorities had increased.[4] At least part of the increasing disparity in major indicators (such as employment rates, income levels and job categories) could be attributed to persistent discriminatory practices.[5]

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In some instances, even when employers did take affirmative steps to end current discriminatory practices in employment and to remedy the effects of such past practices, these efforts were sometimes challenged in court (see e.g., United Steelworkers of America v. Weber).[7] There have been charges of "reverse discrimination" and preferential treatment to minorities at the cost of whites, usually white males. These charges often sprang from the fact that employers, agencies, universities, etc., indicated that they were setting aside a given number of slots for

minority applicants. While these slots may have represented an increase to the usual recruitment number, the act of setting these slots aside solely for minorities and/or women was interpreted differently by white males. To them there appeared to be a threat that minorities and women were taking away jobs, training slots, etc., that had been occupied by whites and probably males. Some such situations have also been challenged in court and the resulting cases represent some of the landmark decisions in establishing the continued need for affirmative action in employment and in shaping the form that affirmative action would take, at least in the early eighties.

Two of the more widely publicized cases challenging the constitutionality of affirmative action were decided by the U.S. Supreme Court. These were the case of Regents of the University of California v. Bakke,[8] often referred to as the Bakke case, and the case of the United Steelworkers of America v. Weber, also known as the Weber case.

In the Bakke case, the court ruled that the special admissions program being implemented by the University of California at Davis was illegal and ordered the institution to admit Alan Bakke (a white male alleging reverse discrimination) into the medical school where he was seeking admission. At the same time, however, the court also ruled that race may be one of a number of factors considered by the school in passing on applications. It was decided that while rigid, inflexible quotas could not be set aside solely for minorities or others, the use of affirmative, flexible goals were permissible. The ruling of the court in this case resulted in confusion and uncertainty in terms of directions for affirmative action programs. It appeared that semantic

differences over the use of words "goals" as opposed to "quotas" might well result in inactivity for fear of incurring litigation costs if affirmative action plans were challenged.

The next year, 1979, the court heard the Weber case. In Weber, the question of whether a company could voluntarily establish an affirmative action program in the absence of a prior determination of discrimination was tested. In this instance, Kaiser Aluminum at its Gramercy, Louisiana, plant, with the support of the union, tried to increase the number of blacks in skilled jobs by voluntarily establishing an affirmative action plan. The plan called for 50 percent of the training slots to be set aside for blacks. This action was challenged by Brian Weber, a white male who charged that the selection of blacks with less seniority than he, for the training program, was discriminatory against Weber. This time the court ruled the plan to be permissible. In explaining this decision, the court noted that "Title VII's prohibition...against racial discrimination does not condemn all private, voluntary, race-conscious affirmative action plans."[11] While Title VII prohibits any federally imposed requirements that employers give preferential treatment to minorities to redress an imbalance in their work forces,[12] the Kaiser-United Steelworkers of America plan falls within the permissible limits, according to the Court.[13]

The Weber case was important for still other reasons. As the U.S. Commission on Civil Rights noted:

> In arriving at this decision, the court conceded that a literal interpretation of Title VII's prohibition against discrimination in employment based on race

> would support the argument that this race-conscious plan discriminates against white employees, and therefore, arguably is unlawful. The court decided, however, that the purpose of the act and not its literal language determines the lawfulness of affirmative action plans.

Further,

> By focusing on the need to improve the opportunities of the victims of discrimination, the court interpreted Title VII to encourage voluntary or local remedies to employment discrimination.[14]

After the Bakke and Weber decisions, President Carter issued a memorandum to Federal agency heads reaffirming the United States' commitment to affirmative action. Although in the past, employers were encouraged to take actions that would effectively end current discriminatory practices and remediate effects of past actions, obviously stronger measures were necessary. Consequently, revisions in the enforcement mechanisms were set in motion to ensure compliance of affirmative action by Federal contractors and other recipients of Federal funds, as mandated by various legislative and administrative practices (see discussion below).

In 1978, President Carter effected a reorganization.[15] At that time, some of the responsibilities for enforcement of affirmative action were shifted from one agency or department to another. This shift appeared to have been accompanied by widespread confusion and misunderstanding, both of the concept of affirmative action and the Federal guidelines for developing and reviewing affirmative action plans, and for monitoring the progress of federally-funded agencies toward planned agency goals. It seemed too early, however, to judge the effectiveness of the reorganization during the first year. The

agencies responsible for enforcement had been re-establishing both their roles and their enforcement procedures during this time.

In early 1980, the U.S. Commission on Civil Rights undertook a project to provide a clear description of affirmative action required by Federal mandates, a description of how and by whom such mandates are monitored and enforced, and a summary of how various groups, including contractors, civic and community groups, local government officials and others perceive the process for enforcing Federal mandates for affirmative action. State Advisory Committees to the U.S. Commission on Civil Rights conducted investigations and factfinding meetings in each of the ten regions throughout the United States. A report detailing these national findings will be published by the Commission and made available to the general public.

The Oklahoma Advisory Committee to the U.S. Commission on Civil Rights was one of the participants in this national project. On March 27 and 28, 1980, the Oklahoma Advisory Committee held its State factfinding meeting on affirmative action.

The national report on affirmative action, to be issued by the Commission, will include detailed information on the statutory authority, agency regulations and procedures used in the Federal enforcement effort. The following report highlights the more salient issues emerging from the two-day meeting in Oklahoma. It also provides a very brief summary of the responsibilities for enforcement of affirmative action by each of the major Federal enforcement agencies.

The Oklahoma Advisory Committee held its two-day factfinding meeting on affirmative action at the Sequoyah Underground Auditorium in

Oklahoma City. The Affirmative Action Subcommittee to the Advisory Committee conducted the meeting with staff assistance from the Southwestern Regional Office and the national office of the U.S. Commission on Civil Rights. The purpose of the meeting was fourfold: to provide a description of how affirmative action plans are developed within Oklahoma as a result of Federal requirements; to describe the process by which compliance with Federal requirements is reviewed, maintained and enforced; to identify and further contrast differences in the intended process and the actual process of monitoring and enforcing Federally required affirmative action; and to describe the perceptions that employers, special interest groups and individual citizens in the community have toward Federal enforcement of affirmative action.

Participants in the factfinding meeting included representatives of Federal enforcement agencies; public employers at the Federal, State and local government levels, and public universities; private employers from Tulsa, Lawton and Oklahoma City, who have Federal contracts; representatives from labor; civil rights groups, and other interested individuals from the communities in Oklahoma.

In addition to those groups who actually participated in the factfinding meeting, the State Advisory Committee invited officials from the cities of Tulsa and Oklahoma City and from the Oklahoma City Chamber of Commerce to participate. Although these groups initially accepted the invitation to participate, they did not send representatives. The Oklahoma City Chamber of Commerce declined the invitation and notified the State Advisory Committee immediately prior to the factfinding meet-

ing. Also, both of the cities submitted letters declining the invitation. The letters from the cities did not reach the Southwestern Regional Office staff until after the factfinding meeting was completed.

All of the individuals who did participate had been invited by the Oklahoma Advisory Committee and appeared on an entirely voluntary basis. Some made statements on their perceptions of how affirmative action requirements are being implemented in Oklahoma and all responded to directed questions from the Committee.

From the statements and responses of participants at the factfinding meeting, the Oklahoma Advisory Committee has identified some of the more salient issues that emerged. The issues identified and discussed in the following section are based on the public record of the proceedings from the factfinding meeting[16] and other documents related thereto.

OVERVIEW OF FEDERAL ENFORCEMENT AGENCIES

The responsibility for enforcing Federal affirmative action requirements rests with several Federal agencies. In 1978, the President reduced the number of agencies sharing this responsibility. Except for the grant-in-aid programs, in which affiramtive action is enforced by the individual Federal grantor agencies, enforcement authority for Federal affirmative action requirements rests with three Federal agencies: The U.S. Department of Labor's Office of Federal Contract Compliance Programs (for private employers having contracts with the

Federal government),[17] the Equal Employment Opportunity Commission (for Federal agencies[18] and for private companies in which the development of an affirmative action plan is required to remedy specific class or systemic discrimination within the company),[19] and the Office of Personnel Management (which is responsible primarily for monitoring the personnel systems of State and local agencies seeking Federal funds[20] and for overseeing the Federal recruitment efforts).[21] While the Office of Federal Contract Compliance Programs and the Equal Employment Opportunity Commission have specific statutory authority for enforcement, the Office of Personnel Management has enforcement authority only over grants awarded by its own agency.

This section provides only a thumbnail sketch of the roles of these major enforcement agencies to provide the reader a brief background of how Federal enforcement efforts are organized. A more complete report on the role and authority of the various Federal enforcement agencies will be available in the Commission's national report on affirmative action (see Introduction to this report).[23]

The Federal agencies which provide grants-in-aid to communities are not bound by a uniform set of enforcement efforts. These agencies and their respective roles in the Federal affirmative action effort are discussed only in terms of issues which emerged in the factfinding meeting (see Chapter II of this report).

Office of Federal Contract Compliance Programs (OFCCP)

Executive Order 12086[24] gives to the OFCCP, a division of the Employment Services Administration of the U.S. Department of Labor (DOL),

sole responsibility for enforcement of affirmative action requirements among Federal contractors as set forth in Executive Order 11246 as amended.[25]

The procedures to be used by the OFCCP in monitoring and enforcing affirmative action are set forth in the Federal Contract Compliance Manual.[26] This document was designed to ensure uniform implementation of procedures and regulations and to serve as a guide for the compliance officers (i.e., the persons responsible for conducting reviews and monitoring the efforts of the contractors).

Equal Employment Opportunity Commission (EEOC)

This is an independent Federal regulating agency with primary responsibility for enforcing Title VII of the Civil Rights Act (CRA). Executive Order 12067 establishes EEOC as the lead agency for coordinating all equal employment opportunity actions among Federal agencies. At the same time, EEOC has the responsibility for maintaining compliance with other aspects of Title VII of the Civil Rights Act, as amended.[27] A major part of EEOC's efforts in this area has been the resolution of complaints. It is noted that while resolution of most individual complaints does not involve a requirement for developing and maintaining an affirmative action plan, there are occasions in which such plans are required as part of an "affirmative remedy" to previous systemic or class discriminatory actions on the part of an employer.[28]

At the time of the Oklahoma factfinding meeting, most of EEOC's resources were directed at complaint resolution. The agency's role in Federal affirmative action was still emerging at that time. In fact, 1980 had been designated as a "transition year," in which the agency developed and disseminated policy regulations and procedures to other

Federal agencies under its jurisdiction, and in which staff would be recruited and trained for the new responsibilities.

Office of Personnel Management (OPM)

The Office of Personnel Management (OPM), formerly the U.S. Civil Service Commission, was given the responsibility for implementing the program known as the Federal Equal Opportunity Recruitment Program (FEORP), a minority recruitment program directed at eliminating underrepresentation of minorities in various categories of Federal civil service employment.[29]

EEOC is required to assist OPM by establishing guidelines for FEORP and to oversee and evaluate the efforts of other Federal agencies in determining minority underrepresentation in organization work forces.[30]

The only authority for enforcement of affirmative action plans by OPM is in conjunction with its responsibilities under the Intergovernmental Personnel Act (IPA)[31] covering grants awarded by OPM under this Act. At the same time, however, the same act authorizes OPM to conduct reviews and analyses of agency plans for complying with merit principles (discussed in a subsequent section of this report). Consequently, OPM oversees and evaluates the efforts of several State and local agencies which receive funds from other Federal agencies such as the Department of Agriculture (DOA), Department of Labor (DOL), and the Department of Health and Human Services (DHHS),[32] but in this role, OPM has no enforcement authority.

CHAPTER II

ISSUES EMERGING FORM OKLAHOMA FACTFINDING MEETING

(This section includes only the major issues that were discussed during the Oklahoma factfinding meeting. While other issues may have surfaced, they were not explored in depth.)

THERE ARE NO SYSTEMATIC MEANS FOR ROUTINELY MONITORING PROGRESS AND PERFORMANCE OF AFFIRMATIVE ACTION EFFORTS OF AGENCIES RECEIVING FEDERAL FUNDS.

Not all agencies that receive Federal funds are required to develop affirmative action plans as a condition for funding. Among the agencies that are required to develop such plans, the legal authority for imposing such requirements and the agency responsible for enforcing compliance vary. For example, Executive Order 11246 requires some Federal contractors to develop affirmative action plans. Enforcement of compliance among contractors has been assigned to the Office of Federal Contract Compliance Programs (OFCCP), which is a division of the Department of Labor. At the same time, Executive Order 11478 requires Federal agencies to develop written affirmative action programs and enforcement responsibility has been assigned to the Equal Employment Opportunity Commission (EEOC).[34] For Federal grant-in-aid recipients, any requirements for affirmative action are imposed by the respective Federal funding agency and are monitored and enforced by the Federal funding agency. If the grant recipient is a State or local government, it may be required to develop personnel regulations (merit systems) consistent with the merit principles identified in the Intergovernmental Personnel Act of 1970, as amended.[35] These merit system

standards are maintained by the Office of Personnel Management (OPM)[36] and the merit systems of State and local governments are reviewed and evaluated by OPM.

OFCCP/Federal Contractors

The OFCCP has established routine procedures for reviewing the plans, performance and progress of Federal contractors. This process is set forth in the Federal Contract Compliance Manual, published by the OFCCP.[37] The manual is designed for use by both the compliance officer within OFCCP and by Federal contractors. OFCCP attempted to provide a comprehensive step-by-step outline of the review process and the documentation, reporting requirements and procedures to be followed by contractors.[38] Nevertheless, contractors indicated that the manual falls short of their expectations[39] and often does not contain the details needed by the contractors to understand and fulfill the requirements, especially in the aggregation and analysis of labor force statistics.[40]

OFCCP may not be aware of all of the contracts that have been awarded in the region.[41] The services of Dun and Bradstreet, a consulting firm, were obtained by OFCCP to provide updated listings of Federal contracts that have been awarded throughout the nation.[42] With few exceptions, OFCCP reviews only a small number of Federal contractors annually.[43] Priorities for review are usually given to the largest Federal contractors, i.e., those having contracts of approximately $1 million or more[44] and those who have had severe deficiencies reported to OFCCP.[45]

OFCCP has been burdened by conflicting internal demands; i.e., the need to provide training to assure consistency in the procedures and interpretations of requirements on the part of all compliance officers and to respond to the need to conduct timely scheduled reviews, preaward reviews that often cannot be prescheduled, and investigations of complaints of discrimination against Federal contractors which by nature, cannot be prescheduled.[46] It has tried to offset conflicting needs by making some adjustments in the number of routine monitoring visits scheduled,[47] providing training seminars for compliance officers, contractors and interested persons/groups,[48] and, when the need arises, to conduct post-award reviews when pre-reviews cannot be completed in the prescribed time frame.[49] Contractors view the lack of OFCCP staff to conduct compliance reviews and provide technical assistance as a very real problem in enforcement by OFCCP.[50] Community groups also perceive that the enforcement agencies are understaffed.[51]

EEOC/Federal Agencies

EEOC has only recently begun to implement its responsibility in the Federal sector, and the recruitment function for Federal employment resides in OPM. Consequently, Federal agencies have not been held accountable for their affirmative action plans. The problem has been complicated by the fact that EEOC has been phasing-in its Federal agency requirements and the process is highly centralized.

Executive Order 11478 and Title VII of the Civil Rights Act as amended, require Federal agencies to develop and maintain affirmative action programs.[52] Responsibility for monitoring enforcement of affirmative action plans developed to comply with EEOC regulations has recently been assigned to Federal Affirmative Action Managers whose geographical jurisdictions correspond generally to that of the Federal regions. Within Region VI, which includes the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas, the Office of the Federal Affirmative Action Manager was established in November 1979.[53] Instructions for developing affirmative action plans by Federal agencies are still evolving. The plans are to be developed in stages (phases). Instructions for Phase I were mailed to the headquarters of each Federal agency in December 1979.[54] This phase calls for the respective agency to develop a work force profile showing numerical and percentage distributions of each racial/ethnic and gender groups within each occupation and grade level.[55] At the same time, each agency was to identify the six most popular occupations in which further analyses would be conducted during subsequent phases of EEOC's implementation process.[56] Of the six most popular occupations, two were to be targeted for analysis of underutilization of minorities and women during Phase I.[57] Another two occupations were to be targeted and underutilization analyses conducted in each for Phase II.[58] Agencies were to have submitted Phase I accomplishments to EEOC (national office) by February 1, 1980.[59] The deadline for Phase II was April 1, 1980.[60] Some Federal agencies made timely submissions to EEOC, however, the exact number or

proportion of agencies having met the deadline for Phase I could not be determined since the national office had not forwarded the materials to the office of the Federal Affirmative Action Manager as of March 27, 1980.[61]

Many of the problems addressed by the representatives of the Federal employers concerning the development of affirmative action plans dealt with the inherent delays incorporated into the system as a result of centralizing both the instruction process and the response process. EEOC mailed instructions for developing Phase I and Phase II to the headquarters of each agency.[62] The responding agency then distributed copies to the various local offices (e.g., divisions, regional offices, etc.). Each local office compiled relevant data and submitted them to their headquarters office to be aggregated into an agency-wide plan. The agency headquarters then submitted the plan to EEOC headquarters. The report then went to the respective field office for compliance review. The process is very time-consuming and leaves considerable room for misinterpretation and error.

Records from 95 Federal agencies for whom previous responsibility for compliance had rested with OPM, were transferred to EEOC in January 1979.[63] Of these agencies, EEOC targeted six for intensified technical assistance and compliance reviews during the transition year (FY-80).[64] No reviews had begun at the time of the Oklahoma factfinding meeting.[65]

EEOC/Affirmative Action Plans Resulting from a Conciliation Agreement or from Consent Decrees

EEOC assumes a very limited role in imposing Federal requirements for affirmative action on private employers. According to the District

Director of the Dallas District, EEOC has taken the position that the agency is not in the business of affirmative action but rather is responsible for assuring "affirmative remedies" for specified charges of discrimination in which a cause for the charge has been established (by EEOC).[66] In other words, EEOC responds to complaints of discrimination in employment. The agency investigates the complaint, determines whether there is support (good cause) for the complaint, and proceeds to negotiate with the responding party (the employer against whom the charge has been made) for an appropriate affirmative remedy.

An affirmative remedy may or may not require that an affirmative action plan be developed. Usually, complaints involving only one individual would not require the development of an affirmative action plan. If, however, there are numerous individual complaints against one employer that suggest systemic discrimination or if charges of systemic discrimination are made and supported, then the development of an affirmative action plan may be a part of the affirmative remedy suggested (emphasis added).

The affirmative remedy that is established may be the result of an agreement reached in conciliation efforts conducted by EEOC between the charging party and the responding employer (referred to as a conciliation agreement) or a decree imposed by the courts (consent decree) to which the employer agrees.

EEOC's jurisdiction over complaints against public jurisdictions, including State and local governments, ends at the point that conciliation with such bodies fail.[67] At that point, such unresolved cases are turned over to the U.S. Department of Justice.[68]

The position of EEOC, that affirmative action plans can only be required of private employers in remediating a specific violation is not consistent with the requirements of other Federal enforcement agencies whose authority for developing affirmative action plans is explicit in the Federal mandates. This has resulted in confusion among employers and among the general public.[69]

AMONG RECIPIENTS OF FEDERAL GRANTS-IN-AID THERE ARE NO UNIFORM REQUIREMENTS FOR AFFIRMATIVE ACTION EFFORTS IN EMPLOYMENT. WHERE AFFIRMATIVE ACTION PLANS ARE REQUIRED BY FEDERAL FUNDING AGENCIES, THERE ARE NO CONSISTENT STANDARDS FOR DEVELOPING AFFIRMATIVE ACTION PLANS AND THE RESPONSIBILITY FOR AFFIRMATIVE ACTION IS SO FRAGMENTED AND INCONSISTENTLY ENFORCED THAT MANY PUBLIC AGENCIES ARE ABLE TO EFFECTIVELY CIRCUMVENT THE REQUIREMENTS.[70]

Many of the recipients of Federal grants-in-aid are departments of a State, county or municipal government. With few exceptions, however, these entities are not required to develop and maintain affirmative action plans.[71] Federal funds to governmental entities may originate from one or more Federal funding sources; for example, a city may be receiving Comprehensive Employment and Training Assistance (CETA) funding from the U.S. Department of Labor, Community Development Block Grant funds from the U.S. Department of Housing and Urban Development, health service funds from the U.S. Department of Health and Human Services (formerly the U.S. Department of Health, Education and Welfare (DHEW), etc. Any one or all of these agencies may require that the municipality develop and implement an affirmative action plan in order to meet funding eligibility. On the other hand, it is possible that none of the funding agencies of a given governmental entity may require or request affirmative action plans. It

appears that only if there is a recent history of discrimination known to the funding agency that a requirement for an affirmative action plan may be imposed.[72]

It is quite possible that more than one funding agency may require affirmative action plans. It is also likely, should this be the case, that each of the funding agencies will have different requirements (guidelines) for the development and contents of such plans. Theoretically, this would force the public recipient to develop multiple plans which could result in inconsistent performances/goals even within the same department. Statements made during the Oklahoma factfinding meeting suggest, contrary to such theory, that very little attention is given to affirmative action performance of public bodies that receive Federal funding.

Five State agencies were invited to participate in the factfinding meeting. All five participated. These were the Oklahoma Department of Education, Department of Corrections, Department of Health, Department of Transportation and the Employment Security Commission. Three of these five agencies are required by Federal funding sources to have affirmative action plans. Each of the three agencies has a separate plan. The Oklahoma Department of Corrections developed its initial plan in response to a Law Enforcment Assistance Administration (LEAA) mandate.[73] That plan has been in effect since 1975, and as a result of its implementation, reports that representation of minorities has increased from 6.6 percent in 1975 to 30 percent in 1980.[74] This plan is reviewed and approved annually,[75] although there is some confusion as to which enforcement agency conducted the annual review.[76]

The Oklahoma Department of Transportation received more than $80 million in funds from the Federal Highway Administration for the fiscal year (FY-80).[77] These funds are used for maintenance and construction of highways throughout the State. Beginning in 1978, the Oklahoma Department of Transportation began development of an affirmative action plan.[78] The Affirmative Action Officer for the State Department of Transportation indicated that while it was not required to do so, the Oklahoma Department of Transportation developed its affirmative action plan consistent with Executive Order 11246, as amended by Executive Order 11478 (which requires specific contractors to develop affirmative action programs) although the agency is monitored by the Federal Highway Administration rather than by OFCCP.[79] Despite the fact that the Oklahoma Department of Transportation receives Federal funds for construction of highways, it is (as most State agencies are) exempt from the affirmative action requirements[80] of Executive Order 11246 as enforced by OFCCP. Some of the Federal funding agencies, however, such as the U.S. Department of Transportation, incorporate these requirements into the conditions for awarding its funds. The Federal funding agency itself then monitors compliance with the conditions of the award.

The U.S. Department of Labor requires the Oklahoma Employment Security Commission to have an affirmative action plan.[81] The Employment and Training Administration of the Department of Labor reviews the plan annually.[82] Upon completion of the annual review, the Department of Labor then notifies the Employment Security Commission as to whether the plan has been approved.[83]

Two State agencies which participated in the factfinding meeting, the Oklahoma Department of Education and the Oklahoma Department of Health, were not required by the Federal funding sources to maintain an affirmative action plan as a condition for funding.[84] However, because the State Health Department is subject to merit principle standards, it is required to develop and maintain a written affirmative action plan,[85] but not as a precondition for funding. Both agencies are recipients of large grants-in-aid from the former U.S. Department of Health, Education and Welfare (now the U.S. Department of Health and Human Services and the U.S. Department of Education).

Aside from Federal requirements, however, both of these State agencies are also covered by State requirements (Oklahoma Executive Order No. 79-14)[86] to develop affirmative action plans. Compliance with the State executive order depends on the negotiation ability of the governor and his staff since no mechanism for employment enforcement procedures or initiating sanctions for failure to comply were included in the order. There is also no assurance of continuity of requirements or of enforcement beyond the tenure of the incumbent governor.

The Oklahoma Department of Health is one of several agencies monitored by OPM.[87] The Affirmative Action Officer for that agency, however, alleged that there had been documented instances of violations of merit principles by the agency.[88] During the officer's tenure, however, there had been no monitoring visits by OPM or any other Federal agency,[89] despite her efforts to obtain assistance. This

charge has been denied by OPM, however, which reports that a visit was conducted by OPM on August 6, 1979,[90] but that specific instances of merit principle violations were not provided. The OPM respondent did not indicate whether a complete monitoring review of the agency was conducted at that time, nor did he indicate the findings or results of the meeting.[91]

Generally, OPM does not handle individual complaints of discrimination in employment.[92] These would be referred to EEOC. However, if numerous complaints had been received suggesting a pattern of violations or if a complaint documents specific instances of violations of the merit principle(s), the OPM may use the complaint(s), in determining which agencies are to be reviewed during the year.[93]

Given staffing and monetary limitations, OPM does not routinely monitor each of the grant-in-aid agencies covered in its jurisdiction. The agency tries to review each of the programs in its jurisdiction at least once every four years.[94]

The Civil Service Reform Act of 1978 authorized all Federal grantor agencies to require of State and local governments seeking Federal funds, personnel requirements consistent with six merit principles, as a condition for funding.[95] OPM representatives were asked whether the State Merit System had been reviewed and whether it was found to satisfy OPM's merit principles. It was noted that the Oklahoma Merit System had been reviewed.[96] The OPM could not definitively state that the merit principles are satisfactorily being met by the State Merit System.[97]

The Oklahoma Advisory Committee to the U.S. Commission on Civil Rights tried to determine which agency(ies) were assigned responsibility

for affirmative action among grant-in-aid agencies not covered by OPM. It found that although there are very few State programs that are not receiving some type of Federal funds, only about one-fourth are covered by the OPM requirements.[98] In the other 75 percent, any requirements for affirmative action are imposed and monitored by the respective funding agency.[99]

The Oklahoma Department of Education (DOEd) is one of the agencies not covered by OPM. The Oklahoma Department of Education is not required by its primary Federal funding source to develop an affirmative action plan. On the other hand, however, the funding agency did review the voluntary plan of the agency to determine whether Oklahoma DOEd is in compliance with Title IX of the Educational Amendments of 1972 which prohibit sex discrimination, and Section 504 of the Rehabilitation Act, which prohibits discrimination of handicapped persons.[100] These requirements were reviewed by personnel from Washington, D.C., rather than staff from the Regional Office for Civil Rights (OCR) of the U.S. Department of Education.[101]

None of the statutes under which the U.S. Department of Education (ED)* operates require affirmative action plans as a precondition for funding.[102] Nonetheless, if, as a result of a routine compliance review or an investigation of a discrimination complaint, it is found that the grantee has engaged or is engaged in discriminatory practices, then the U.S. Department of Education (hereafter referred to as ED) has the option of requiring an affirmative action plan to rectify the specific violation.[103]

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*At the time of the Oklahoma factfinding meeting this department was a division of the U.S. Department of Health, Education and Welfare (DHEW).

Like OPM, there are limited resources within OCR/ED for conducting routine compliance reviews.[104] Consequently, OCR will identify ("target") several agencies for review during the next fiscal year. In addition, OCR will monitor those agencies having a history of discrimination or against which there have been numerous complaints.[105]

THERE ARE PROCEDURAL DIFFERENCES AND REPORTING DIFFERENCES AMONG FEDERAL AGENCIES HAVING OVERLAPPING ENFORCEMENT RESPONSIBILITIES WHICH RESULT IN DUPLICATION OF EFFORTS ON THE PART OF ENFORCEMENT AGENCIES AND ON THE PART OF REPORTING RECIPIENTS OF FEDERAL MONIES.

Among the Federal enforcement agencies, there are still some areas in which responsibilities and authority overlap. One such example is that of the public universities covered by the Adams case[106] (requiring desegregation of the higher education system in Oklahoma) and, as a result, they may be required to develop affirmative action compliance plans[107] that are subject to review and monitoring by OCR. Those universities which are also Federal contractors are, therefore, subject to OFCCP requirements as well.[108]

One of the problems created by this joint status is that both enforcement agencies have a responsibility for ensuring compliance with its requirements. The enforcement agencies do not have formal letters of inter-agency agreement.[109] They do, however, check with each other on an informal basis when either agency is aware that its jurisdictional authority is shared by another agency.[110] The informal nature of this coordination effort may reduce the likelihood of a duplication of on-site monitoring efforts by the two or more enforcement agencies, but there are no built-in assurances of this.

In the special case of public universities in Oklahoma which are also Federal contractors, there is built-in duplication of review by enforcement agencies as a result of inconsistent data sources and incomparability of reported data.[111] This inconsistency in reporting content and format among agencies causes duplication of recipient staff effort in collecting, analyzing and reporting statistics.

Walter Mason, Affirmative Action Officer for the University of Oklahoma at Norman, very clearly addressed this issue during the Oklahoma factfinding meeting:

> Any higher education institution in the State of Oklahoma, public or private, that is a shuttle contractor that is holding a Federal contract of fifty thousand dollars or more, or employing 50 or more persons should have in place four separate Affirmative Action Programs.
>
> If [that] institution...is a public institution...it should have in place a fifth Affirmative Action Compliance Program in compliance with the State plan under Title VI...
>
> It has been my observation that higher education institutions experience some difficulty with these mandates for Affirmative Action Program planning and implementation.
>
> Some of the difficulties that I may cite are: One, the array of regulations...require institutions to report to five different Federal agencies for compliance. Each agency has its own regulations for compliance, reporting and monitoring, although often requiring the same data for the same activity by the same participants.
>
> The compliance agencies are often -- often changed, bringing a new set of regulations, requiring institutions to establish new and costly computer data banks that are required for reporting purposes.

> Many of the agencies with which higher education must deal have orientations from the industrial model.
>
> It is often difficult for the personnel from these agencies to understand and accept the established structure and procedures in higher education institutions.[112]

Employers have expressed serious doubts about the need or the utility of the volume of data generated,[113] the ability of the agency requesting the data to utilize such data (particularly in light of the community perceptions of understaffing within Federal enforcement agencies),[114] and the ability of enforcement agency staff to understand, interpret and respond to the reported information.[115] One agency reportedly rejected the submission of an EEO-1 data report from an employer even though all required information was included, because it was not in the desired reporting format.[116]

MONITORING AND ENFORCEMENT EFFORTS ARE PERCEIVED TO BE FOCUSED ON RECRUITMENT AND HIRING RATHER THAN RETENTION, TRAINING AND PROMOTION OF MINORITIES AND WOMEN.

The testimony of Federal enforcement officials reflects that in the private sector, affected Federal contractors are required to take positive steps to remediate effects of past discrimination in all aspects of employment and personnel practices. According to Jose Montoya, Assistant Regional Administrator for OFCCP, Region VI:

> Covered contractors are required to take special positive measures to make up for the effects of past discrimination and to take affirmative action to attempt to hire, promote, qualifiable minority groups, minority persons, women, who have traditionally

> been excluded from many of the more desirable, better paying jobs in the nation's work force.
>
> These measures cover a full range of employment and personnel practices, including systematic recruitment, hiring, rates of pay, upgrading, promotions, selection and training.
>
> Contractors are required to identify and correct the problem of systematic discrimination, to evaluate their utilization of minorities and women and to establish goals and timetables in order to attempt to achieve prompt and full employment to those found to be underutilized and to implement employment procedures which prevent future discrimination.
>
> Other affirmative action measures may include provisions of training opportunities, targeted outreach efforts, cooperative activities with local interest groups, job restructuring, and other special steps to bring underrepresentation groups into the contractor's work force.[117]

The EEOC is responsible for the monitoring of compliance with affirmative action requirements among Federal agencies, except for the recruitment plans which are monitored by OPM.[118] No monitoring has taken place since Federal agencies were required only to have completed the development of Phase I (analysis of work force)[119] by February 1, 1980, and had until April 1, 1980, to determine the underrepresentation in the six most popular occupations.[120]

OCR monitors public institutions of higher education covered by the Adams case. In such cases, individual institutions are monitored but only in terms of how each fits into the Statewide plan.[121] OCR does not hold the individual institutions accountable.[122]

Although progress reports are submitted annually by the Oklahoma Regents for Higher Education, full compliance with the Statewide plan is not required until 1982-83.[123] The OCR review of the most recently submitted reports (August 1979), had not been released at the time of the factfinding meeting.[124]

Within the community sector there is a perceived need for monitoring and enforcement at all levels.[125] Evelyn Stephens, Director of the Indian CETA program in Tulsa noted that:

> Many industries -- most industries have entry level jobs and training situations, but most of the larger ones will tell us that 'we promote from within; we do not have room for entry level.' Well, where do the people come from to fill the bottom line? They have to come from somewhere before they can (be promoted) up...
>
> So, they cannot promote all from within. Those are the jobs that we would like to have for many of our applicants. Not all of them, because there are many of them who are qualified for good jobs.
>
> We do need to have the openings and we need to have the employer willing to give them that opportunity.[126]

Others also echoed the sentiment that moving minorities into mid- and upper-level positions should receive increased emphasis, as should training programs that will increase the available minority work force for areas which are currently underrepresented by minorities and/or women.

Among community organizations, there was also concern expressed that efforts at enforcing compliance with affirmative action requirements fail to assure opportunities for upward mobility and for elim-

inating salary differences among whites and minority or female employees in the same job category.[127] The participating interest groups also expressed concern that more subtle forms of discrimination are occurring at the worksite (e.g., ostracism of employees who file complaints of discrimination, hiring of underqualified workers for positions in which they will experience failure, employers trying to control the number of minorities and women referred for employment, and other forms of harassment, etc.).[128] Some of these actions appear to be designed to systematically assure that the minority and/or female workers will be sufficiently discouraged from remaining on the job.

Also, there was expressed need for enforcement agencies to deal with the problem of "last hired, first fired."[129] This problem has major implications (of unemployment) for minorities and women who lack seniority as a result of the general history of discrimination in employment, and who will be even less likely of finding new jobs in times of a growing recession in the nation.

Some employers felt proud of their own record in retaining and promoting minorities and women but expressed the need for consistent monitoring of those aspects in affirmative action other than recruitment and hiring. It was perceived that other companies were admitting minorities and women in through the front door and out through the back door.[130] Such companies did not have any real commitment to affirmative action[131] -- only to obtaining Federal contracts.

DATA USED FOR COMPUTING AVAILABILITY STATISTICS ARE OFTEN OUTDATED AND ARE INADEQUATE TO DEVELOP REALISTIC, EQUITABLE GOALS FOR AFFIRMATIVE ACTION.

According to the Oklahoma Employment Security Commission, there were 2,559,229 persons in Oklahoma in 1970,[132] of which 55.2 percent were participants in the labor force. The makeup of the 1970 population by race and ethnic group is shown in the following table.

Table 1

1970 Population of Oklahoma
by Race/Ethnicity[133]

	Number	Percent
TOTAL	2,559,229	100.0%
White	2,244,355	87.7%
Black	171,892	6.7%
American Indian	98,468	3.8%
Hispanic	36,007	1.4%
Asian American	3,721	0.1%
Other	4,786	0.2%

The Oklahoma Employment Security Commission pointed out some of the problems that one must consider when reporting labor force and population statistics. Some of the problems include:

- undetermined changes which may have occurred since the 1970 Census report, in terms of total population, distribution of population by racial and ethnic group, distribution among occupational categories, and discrepancies in

total employed in a category as compared to the total available labor force for the category.

- changes in economic conditions in an area since 1970 may have a significant impact on the labor market; for example, the closing of a plant or the expansion of a major plant/agency which might be reflected in statistics of the population migration and labor market entrants.[134]

Aside from the problems inherent in the use of outdated population statistics is the problem of usability and adaptability of existing data sources approved by the various Federal enforcement agencies.

Also, the employers have noted that availability data which they must use can be misleading.[135] One example is the broad use of the category of "technicians." This does not identify the type of technician available. Another hypothetical example would be that of engineers. Since chemical, mechanical, civil and other engineers are grouped together, it is impossible to detect a surplus in one specific group (such as petroleum engineers and a corresponding dearth of mechanical engineers.)[136]

Lack of "usable availability data" appears to be especially critical to institutions of higher education. These employers are required to collect and analyze data differently to meet requirements of the various enforcement agencies.[137] Different sources of availability data are required. For example, OCR/ED suggests that institutions of higher education,

> ...use data available from the National Register of Scientific and Technical Personnel prepared by the National Science Foundation, and the U.S. Office of Education's annual reports on earned degrees. Another source is the National Resource Council of the National Academy of Science...
>
> For academic employees, the basic national data on earned doctoral degrees will provide the basis for a utilization analysis of a contractor's work force unless the contractor can otherwise demonstrate that the labor market upon which it draws is significantly different from this base. For example, some institutions appoint a large number of new faculty from a particular group of graduate schools; such institutions may use data obtained from these schools to determine the availability of women and minorities. If the annual output of women and minorities from the primary feeder schools exceeds the national average, the contractor will be expected to use the higher figures to determine availability. If the output from the feeder schools is less than the national average, the institution will be expected to justify its use of such recruitment sources, or use the higher figures to determine eligibility.[138]

Even within an agency there may be inconsistency in the source(s) of data used to determine availability. OCR requires each of the States covered by the Adams case to identify incremental goals identifying the significant progress to be made in the first two years. These goals are based on employment and availability data from the official "Sources of Available Data" approved by OCR/DOEd. In determining availability, institutions must use highest source of availability, e.g., if national availability is higher than State data, they must national data. They must also follow historical recruitment

sources if they have been meeting their goals. At the master's level, the State of Oklahoma maintains that the availability rate it uses is higher than that on the national level.[139]

Related to the problem of different data sources is that of incomparability of data used in reports to enforcement agencies. The existence of this problem emerged in interviews with staff from OCR. According to Tom Smith, Equal Opportunity Specialist, OCR/ED requires employment reports to be geared to actual "fulltime equivalent (FTE) positions."[140] This means, in instances in which a person holds a joint appointment, such appointment cannot be counted as two positions; instead, each is reported as a part-time position in terms of percentage of an FTE. There is no duplication in the count of actual persons.[141] This duplicated count was not the same reporting system used by the other enforcement agencies.

THE GENERAL PUBLIC HAS ONLY A LIMITED UNDERSTANDING OF AFFIRMATIVE ACTION AND THE PROCESS BY WHICH COMPLIANCE WITH FEDERAL MANDATES FOR AFFIRMATIVE ACTION PLANS IS ENFORCED.

Generally, the enforcement agencies have had little contact with members of civil rights, labor and other special interest groups represented in the general community when conducting compliance reviews and when monitoring the progress of a federally-funded or federally-assisted employer/contractor.[142] As a result of this lack of contact, there is a need to clarify the role(s) and interrelationships of the various enforcement agencies and to make the public aware of how the various

aspects of affirmative action (such as complaints of discrimination) fit into a comprehensive plan for rectifying general or specific histories of discrimination.[143]

With limited visibility of Federal enforcement officers in the community and technical jargon used by Federal agencies in the directives and other instructions/publications used, even Federal contractors have had difficulty in understanding the affirmative action requirements.[144] It is also thought that the negative media publicity which affirmative action has received locally[145] has resulted in confusion, misunderstanding, and, to a large extent, only minimal knowledge about the concepts and processes related to affirmative action in employment.

ENFORCEMENT AGENCIES APPEAR TO BE RELUCTANT TO UTILIZE SANCTIONS AS PENALTIES FOR NONCOMPLIANCE.

Within the Code of Federal Regulations, there are provisions for sanctions to be administered by the OFCCP.[146] When a contractor is found to be in noncompliance, OFCCP does not hesitate to issue a "show cause" letter (which in effect requires the contractor to provide evidence that administrative proceedings to stop the contract and possibly to debar the contractor from future contracts with the Federal Government, should not be initiated).[147] However, negotiations toward conciliation may continue even after the "show cause" letter has been issued.[148] The OFCCP prefers to conciliate and resolve the problems rather than initiate enforcement proceedings.[149]

Although the representative from EEOC indicated that except for not being able to "jail" private corporation officers found in non-compliance, EEOC can employ almost any other sanction; the most frequently used sanction is a monetary penalty.[150] He later pointed out, however, that EEOC's jurisdiction with public employers ends with failure to reach conciliation.[151] At this point, EEOC refers the case to the U.S. Department of Justice.[152]

In terms of Federal affirmative action, the senior staff (supervisory) person within the Federal agency is responsible for compliance within that respective unit. In order to ensure compliance with affirmative action requirements, an element of critical importance has been included in the criteria for evaluation of supervisory staff.[153] Since the deadline for compliance had not yet passed, the effectiveness of this sanction has not been tested.

For those State agencies monitored by OPM, the authority to issue sanctions depends on the funding agency rather than OPM.[154] OPM is only authorized to issue sanctions[155] when a governmental agency is the recipient of an Intergovernmental Personnel Act grant award by OPM, in which case the grant can be withdrawn.[156]

OPM is authorized to review the personnel policies of State and local agencies seeking Federal assistance.[157] In this function, OPM is authorized to make recommendations to the Federal funding agency that will ensure that the personnel system of the grantee is consistent with OPM's merit principles.[158] The Federal grantor agency, in turn, has the authority to invoke necessary sanctions.[159]

There is no effective mechanism at the State level for enforcement of affirmative action requirements among State agencies. Although an executive order was issued by the Governor requiring State agencies having 15 or more employees to develop affirmative action plans,[160] there were no penalties established for failure to comply with the order. The deadline for the submission of copies of the plans to the Office of the Governor was set for June 1, 1980.[161] Consequently, the Oklahoma Advisory Committee was unable to determine the extent of compliance among the State agencies.

The State Affirmative Action Office is presently a function within the Office of the Governor.[162] It was pointed out, however, that this arrangement does not lend itself to continuity of personnel, practices or commitment since it is subject to change with every change of administration.[163]

SUMMARY

Most of the participating Federal officials from the various enforcement agencies were knowledgeable about the source and scope of statutory authority delegated to their respective agencies. Most of them were also aware of the need for training of agency personnel in order to consistently carry out the agency's mandate to review and enforce compliance of federally-imposed requirements for affirmative action in employment. What appears to be lacking, however is consistency across agencies in their understanding of the basic concept of affirmative action. Differences in agency interpretation of affirmative action may be the result of differences found in statutory authorities.

These Federal enforcement agencies employ different standards of performance by which they judge compliance. They also differ in both the methods and willingness to employ sanctions when a recipient of Federal funds is found to be in noncompliance. The OFCCP, which has jurisdiction of Federal contractors, has the most stringent standards and the OPM, which reviews compliance among certain State and local governments, has the least stringent standards. There are still serious gaps in the coverage of recipients of Federal funds who are required to develop and maintain affirmative action plans, primarily the grant-in-aid recipients. Some of these recipients have funds totalling millions of dollars and extensive employment capacities. Many have the internal capability for training and providing oppor-

tunities for upward mobility within their own agency, but do not do so voluntarily and are not required to commit the agency to affirmative action efforts.

The general public has little knowledge about which agencies are responsible for enforcement of affirmative action requirements. There is the same lack of knowledge about the process by which the affirmative action plans of a recipient of Federal funds is reviewed and approved (or rejected). It is not clear which Federal recipients in a community are required to have an affirmative action plan and which are not. Likewise, the general public is not aware of what the criteria are for judging compliance. In the same vein, there has been little effort made by enforcement agencies to inform either the general public or various interest groups within the community (many of whom have a direct interest in and conduct activities related to affirmative action) about affirmative action compliance.

Recipients of Federal funds who are required to develop and maintain affirmative action plans often need technical assistance in understanding the requirements. The internal needs of enforcement agencies during the reorganization virtually excluded the direction of resources toward providing routine technical assistance to recipients of Federal funds. While enforcement agencies have tried to respond to individual requests for technical assistance, these efforts are clearly inadequate to meet the needs of their constituents.

The requirements for data collection and analysis, particularly for recipients of multi-source Federal funds, are complex and cumbersome. Since requirements vary according to enforcement agency,

recipients argue that they spend more time on turning out paper than on recruiting, training, and other aspects of affirmative action. This problem provides recipients with an unnecessary excuse for not meeting their goals. Also, the data requirements of the enforcement agency sometimes differ from the data needs of the recipient, thus resulting in duplication of effort in data collection and analysis.

The absence of formal coordination mechanisms among enforcement agencies further weakens the enforcement efforts. In addition to generating confusion on the part of the public regarding Federal funding requirements, this could also provide an excuse for not fulfilling the affirmative action requirements. The recipient agency(ies) may claim ignorance of which requirements to follow. At the same time, enforcement agencies may assume that responsibility for enforcement rests with or is delegated to another agency.

Staffing limitations within the enforcement agencies often preclude reviews of key recipients. The scheduling of routine reviews of an agency may occur only after several years. The recipient, by that time, may have a history of noncompliance. Enforcement agencies, like grant recipients, are not consistently held accountable for their performance.

Presently, there are no requirements for demonstrations of preaward commitment to affirmative action by recipients of Federal funds, except in the case of the very large Federal contractors. Consequently, even if an agency agrees to develop the required plan, its track record might be indicative of a lack of commitment to affirmative action in employment.

Finally, because of the evolving nature of the reorganization, particularly with respect to EEOC, the only measurable progress in their enforcement efforts with respect to affirmative action plans (as reflected in statements from the factfinding meeting) has been with the OFCCP. There were not enough Federal grant-in-aid funding agencies represented to determine progress among these agencies. It was evident, however, that these funding agencies also vary in their methods, standards, and accomplishments in encouraging and enforcing compliance of affirmative action requirements in employment among their grantees.

FOOTNOTES

1. 43 F.R. 49250.

2. U.S. Commission on Civil Rights, Statement on Affirmative Action, Clearinghouse Publication 54, Washington, D.C.: Government Printing Office, October, 1977, p.1.

3. Ibid.

4. Ibid, p.2.

5. Ibid.

6. Law and Business, Inc., The Office of Federal Contract Compliance Speaks: Revised Affirmative Action Requirements and Compliance for Federal Contractors. New York: Harcourt Brace Jovanovich, Publishers, 1980, pp. 131-137, hereafter referred to as OFCCP Speaks.

7. 99 S. Ct. 2721 (1979).

8. 98 S. Ct. 2733 (1978).

9. 99 S. Ct. 2721 (1979).

10. 98 S. Ct. 2733 (1978) at 2762-2763.

11. 99 S. Ct. 2721 (1979) at 2730.

12. 42 U.S.C. §2000e-2(j) (1972).

13. 99 S. Ct. 2721 (1979) at 2730.

14. U.S. Commission on Civil Rights, The State of Civil Rights: 1979. A report of the U.S. Commission on Civil Rights, (January, 1980) at 22; See generally 99 S. Ct. 2721 (1979) at 2728.

15. Reorganization Plan Number 1 of 1978, 43 F.R. 19807; Executive Order No. 12086, 43 F.R. 46501; and Executive Order No. 12067, 3 C.F.R. 206 (1978 Compilation).

16. Unpublished transcript of the Factfinding Meeting on Affirmative Action, Sequoyah Underground Auditorium, March 27-28, 1980, conducted by the Oklahoma Advisory Committee to the U.S. Commission on Civil Rights. Hereafter this document will be referred to as the Oklahoma Transcript.

17. Executive Order No. 12086, 43 F.R. 46501, amending Executive Order 11246.

18. Reorganization Plan No. 1 of 1978, 43 F.R. 19807.

19. 42 U.S.C. 2000e-2000e(15).

20. Executive Order No. 12067, 3 C.F.R. 206 (1978 Compilation); Reorganization Plan No. 2 of 1978, 43 F.R. 20996.

21. 44 F.R. 8520 (1979).

22. 44 F.R. 22029 (1979).

23. U.S. Commission on Civil Rights. Promises and Perceptions: Federal Efforts to Eliminate Employment Discrimination Through Affirmative Action. Unpublished draft.

24. Executive Order 12086 consolidates contract compliance functions from 11 agencies to one agency which does not have a competing responsibility for awarding such contracts.

25. Executive Order 11246, as amended by Executive Order 11375, 32 F.R. 14303, to encompass prohibition of discrimination by sex.

26. Office of Federal Contract Compliance, The Federal Contract Compliance Manual, Washington, D.C.: Government Printing Office, n.d. hereafter referred to as the OFCC Manual.

27. 42 U.S.C. §2000e-4 et seq.

28. Oklahoma Transcript, Lorenzo Ramirez, p. 86.

29. 5 U.S.C. §7201(c).

30. 5 U.S.C. §7201(d).

31. 42 U.S.C. §4701 (1971).

32. 42 U.S.C. §4728(b)(2).

33. Executive Order No. 12086, 43 F.R. 46501.

34. Reorganization Plan No. 1 of 1978, 43 F.R. 19807.

35. 42 U.S.C. §4701 et. seq.

36. 44 F.R. 22029 (1979).

37. OFCC Manual.

38. Oklahoma Transcript, Jose Montoya, pp. 17, 18 and 65.

39. Ibid., (see e.g. Jay Van Allen, pp. 525-526).

40. Ibid., Imogene Carter, pp. 561-562; also, Don Frazier, p. 566; and, in general, Jay Van Allen, Rebecca Shelton and Peggy O'Neal, pp. 499-519.

41. Ibid., Jose Montoya, p. 57.

42. Ibid.

43. Ibid.

44. Pre-award reviews are required for all agencies receiving Federal contracts of $1 million or more. (See OFCC Manual, Chapter 5).

45. Oklahoma Transcript, Jose Montoya, pp. 56-58.

46. Ibid., pp. 54-76.

47. OFCCP Speaks at 138; Oklahoma Transcript, Jose Montoya, pp. 54-60.

48. Oklahoma Transcript, Jose Montoya, pp. 60-61.

49. Interview with Walter Mason, Affirmative Action Officer, University of Oklahoma at Norman, Oklahoma, Feb. 28, 1980.

50. Oklahoma Transcript, (see e.g., Peggy O'Neal, p. 509; Don Frazier, p. 553).

51. Ibid., Jim Rowe, p. 267.

52. Interview with Robert Hester, Federal Affirmative Action Manager, Dallas, Texas, Jan. 31, 1980; Executive Order 11478, 34 F.R. 12985 (1969).

53. Ibid.

54. Oklahoma Transcript, Robert Hester, p. 111.

55. Ibid., pp. 111-112.

56. Ibid.

57. Ibid., p. 114.

58. Ibid.

59. Ibid.

60. Ibid.

61. Ibid., pp. 108-118.

62. The description of the process by which EEOC instructions were disseminated are included in the statements of Herb Seay, Bob Simmons and Joe Garza, Oklahoma Transcript, pp. 222-256.

63. Oklahoma Transcript, Robert Hester, p. 117.

64. Ibid., p. 116.

65. Ibid., p. 127.

66. Ibid., Lorenzo Ramirez, p. 86.

67. Ibid.

68. Ibid.

69. See generally, Oklahoma Transcript, Lorenzo Ramirez, pp. 83-87; Jim Rowe, pp. 264-270; Evelyn Stephens, pp. 274-275; Wilbur Williams, pp. 277-279; and Rudolph Hutton, pp. 288-293.

70. Oklahoma Transcript, Statements from affirmative action officers of 5 State agencies, pp. 384-435.

71. Interview with Taylor August, Regional Director, DOEd/OCR, March 14, 1980, hereafter referred to as the August Interview.

72. Ibid.

73. Oklahoma Transcript, Gary Gardner, pp. 389 & 406.

74. Ibid., p. 390.

75. Ibid., p. 410.

76. Ibid., p. 410. Mr. Gardner stated that the plan was reviewed by the office for civil rights, but did not specify which agency.

77. Oklahoma Transcript, Charles Gillespie, pp. 403-404.

78. Ibid.

79. Ibid.

80. OFCCP Speaks, p. 19.

81. Oklahoma Transcript, Herman Stevenson, p. 410.

82. Ibid.

83. Ibid.

84. August Interview.

85. Letter from Ernest B. Wright, Associate Regional Director for Agency Relations Division, OPM, dated November 21, 1980, included in Appendix of this report.

86. Issued by Governor Nigh on September 14, 1979. It requires all State agencies having 15 or more employees to develop an affirmative action plan.

87. Listing provided by the Office of Personnel Management during interview with Earl Ziegler and Jim Wilson of OPM and U.S. Commission on Civil Rights staff, March 6, 1980.

88. Oklahoma Transcript, Leona Jackson, pp. 400-402 and 415-418.

89. Ibid., p. 411.

90. See letter from Ernest B. Wright, OPM.

91. Ibid.

92. Oklahoma Transcript, Earl Ziegler, pp. 165-166; Jim Wilson, pp. 166-167.

93. Follow-up telephone interview with Earl Ziegler, July 31, 1980.

94. Interview with Earl Ziegler, March 6, 1980.

95. 42 U.S.C. §4728(b) (1978).

96. Oklahoma Transcript, Earl Ziegler, pp. 168-169.

97. Ibid.

98. Ibid., p. 172.

99. Oklahoma Transcript, Dickerson, pp. 172-173.

100. Oklahoma Transcript, Violet Keef, pp. 408-409.

101. Ibid.

102. Oklahoma Transcript, Thurman Johnican, pp. 178-180.

103. Ibid., p. 180.

104. August Interview.

105. Ibid.

106. Adams v. Califano, 430 F. Supp. 118 (1977).

107. Oklahoma Transcript, Sandra Stephens, pp. 200-201.

108. Ibid., pp. 202-203.

109. Ibid., (see e.g., Jose Montoya, pp. 70-71; also Lorenzo Ramirez, p. 107).

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90. See letter from Ernest B. Wright, OPM.

91. Ibid.

92. Oklahoma Transcript, Earl Ziegler, pp. 165-166; Jim Wilson, pp. 166-167.

93. Follow-up telephone interview with Earl Ziegler, July 31, 1980.

94. Interview with Earl Ziegler, March 6, 1980.

95. 42 U.S.C. §4728(b) (1978).

96. Oklahoma Transcript, Earl Ziegler, pp. 168-169.

97. Ibid.

98. Ibid., p. 172.

99. Oklahoma Transcript, Dickerson, pp. 172-173.

100. Oklahoma Transcript, Violet Keef, pp. 408-409.

101. Ibid.

102. Oklahoma Transcript, Thurman Johnican, pp. 178-180.

103. Ibid., p. 180.

104. August Interview.

105. Ibid.

106. Adams v. Califano, 430 F. Supp. 118 (1977).

107. Oklahoma Transcript, Sandra Stephens, pp. 200-201.

108. Ibid., pp. 202-203.

109. Ibid., (see e.g., Jose Montoya, pp. 70-71; also Lorenzo Ramirez, p. 107).

110. Ibid.

111. Ibid., (see e.g. Walter Mason, pp. 456-458; also Becky Shelton, pp. 508-509).

112. Ibid., Walter Mason, p. 456-458.

113. Ibid., (see e.g., Roosevelt Camp, pp. 547-548, Peggy O'Neal, pp. 509-510; also Don Frazier, p. 574).

114. Ibid., (see e.g., Becky Shelton, pp. 506-507, 508, 519; Walter Mason, pp. 485-486; Don Frazier, pp. 553; and, Peggy O'Neal, pp. 503-506).

115. Ibid., (see e.g., Don Frazier, pp. 553-556).

116. Ibid., Becky Shelton, pp. 508-509.

117. Ibid., Jose Montoya, pp. 17-18.

118. Ibid., Robert Hester, pp. 107-108, 110; and Jim Wilson, pp. 137-141.

119. Ibid., pp. 111-112.

120. Ibid., pp. 112-115.

121. Ibid., Sandra Stephens, Acting Director of Post-Secondary Division, OCR, Region VI, pp. 197-198.

122. Ibid., p. 199.

123. Ibid., p. 200.

124. Ibid., p. 205.

125. Ibid., Casey Childs, II, Vice President for Programs, Urban League of Greater Oklahoma City, pp. 259-260; 266-267. Jim Rowe, Employment Director, Tulsa Urban League, pp. 267-268; 270.

126. Ibid., Evelyn Stephens, p. 284.

127. Ibid., Peggy O'Neal, Personnel Manager, Telex Computer Products, pp. 505-506; 514-515; Becky Shelton, p. 515.

128. Ibid., (see e.g., Casey Childs, pp. 260-261; James Rowe, p. 270; Miguel Milanes, p. 301).

129. Ibid., Don Frazier, p. 555-556.

130. Ibid., Peggy O'Neal, pp. 505-506, 515; and Becky Shelton, p. 516.

131. Ibid., (see e.g., Casey Childs, p. 262; James Rowe, pp. 268-270; Rudolph Hutton, p. 292; Karen Rose, pp. 326-327; Mary McQuay, p. 332).

132. Oklahoma Employment Security Commission, Manpower Information for Affirmative Action Programs, 1980, Statewide, Oklahoma. Table 1, Oklahoma State Employment Service, Oklahoma City, Oklahoma.

133. Ibid., Table 2.

134. Ibid., p. 1.

135. See e.g., interviews with Leo Harris and Becky Shelton on January 23 and February 29, 1980, and based on informal discussions with employers about availability data.

136. Ibid.

137. Oklahoma Transcript, Walter Mason, p. 464.

138. U.S. Department of Health, Education and Welfare, Higher Education Guidelines, Executive Order 11246, 1972, pp. J3-J4.

139. Tom Smith, EOS, OCR/HEW, in interview with Mary Minter, U.S. Commission on Civil Rights, Southwestern Regional Office, Mar. 6, 1980.

140. Tom Smith and Miles Schulze interview with Mary Minter, Mar. 6, 1980.

141. Ibid.

142. Oklahoma Transcript, (see e.g., Rudolph Hutton, p. 299; also, Mary Harshbarger, p. 594).

143. Oklahoma Transcript, (based on the general statements of community participants, there is confusion as to the roles of the various enforcement agencies and as to how the complaint process relates to the development of an affirmative action plan and the subsequent monitoring of it).

144. Ibid., (see e.g., Becky Shelton, p. 519; Imogene Carter, p. 562).

145. Ibid., (see e.g., Rudolph Hutton, pp. 288, 291-293).

146. 41 C.F.R. 60-250.28 through 60-250.33 (1978).

147. OFCC Manual, Chapter 8.

148. Ibid.

149. Oklahoma Transcript, Jose Montoya, p. 78.

150. Ibid., Lorenzo Ramirez, p. 93.

151. Ibid., p. 95.

152. Ibid.

153. Ibid., Robert Hester, p. 131.

154. Ibid., James Wilson, p. 144.

155. Ibid., p. 144-145.

156. 42 U.S.C. §4767 and 42 U.S.C. §4728(b)(2).

157. 42 U.S.C. §4728(b)(Supp. 1980).

158. Oklahoma Transcript, James Wilson, p. 144.

159. Ibid.

160. Oklahoma Executive Order No. 79-14 (1979).

161. Minutes from the State Affirmative Action Advisory Council Meeting, Oklahoma City, Okla., Feb. 6, 1980.

162. Oklahoma Transcript, Governor Nigh, pp. 22-26; 41-43; also Jim Echols, pp. 361-362.

163. Ibid.

APPENDIX

STATE OF OKLAHOMA
DEPARTMENT OF
TRANSPORTATION

200 N. E. 21st Street
Oklahoma City, Oklahoma 73105

NOV 17 1980

November 13, 1980

Mr. J. Richard Avena
Regional Director
Southwestern Regional Office
Heritage Plaza
418 South Main
San Antonio, Texas 78204

Dear Mr. Avena:

We have reviewed the report and the parts that pertain to the Department of Transportation and we are in complete agreement with you. However, the Department Affirmative Action Plan was started in 1972.

Sincerely,

Charles F. Gillespie

Charles F. Gillespie
Division Administrator

cc: file

United States
Office of Personnel Management

Southwest Region
1100 Commerce Street
Dallas, Texas 75242

NOV 24

In Reply Refer To: AR/IPP

Your Reference

J. Richard Avena, Regional Director
Southwestern Regional Office
U. S. Commission on Civil Rights
Heritage Plaza
418 South Main
San Antonio, Texas 78204

Dear Mr. Avena:

Thank you for the draft copy of the Commission on Civil Rights' review of affirmative action programs in Oklahoma. We do have a few suggestions which we feel will clarify statements or correct what may be misinformation concerning our responsibilities or actions in the EEO area.

Chapter I, page 10, 2nd full paragraph - EEOC does not make determinations of minority underrepresentations in organization workforces. Agencies are required to make their own determinations.

Chapter II, page 11, 1st paragraph - The last sentence in this paragraph mentions that merit systems are maintained by the Office of Personnel Management. State and local merit systems are reviewed, not maintained, by the Office of Personnel Management.

Page 12, last paragraph - The second half of the first sentence is misleading. Under the Civil Service Reform Act, Federal agencies are responsible for conducting their own recruitment programs to address their own underrepresentation problems. OPM does have technical assistance and oversight responsibility for Federal Equal Opportunity Recruitment Programs, but to interpose such a fact immediately before the sentence which states: "Consequently, Federal agencies have not been held accountable for their affirmative action plans" causes a strong inference that OPM is responsible for that situation. This OPM region has an active program to carry out our FEORP responsibilities, but we simply no longer have any jurisdiction with respect to enforcement of affirmative action plans.

Page 15, last paragraph - Agencies subject to the Standards for a Merit System of Personnel Administration (Standards) are required to take affirmative action. OPM interprets this to require an affirmative

action plan with workforce analysis. There is an affirmative action requirement for the Oklahoma City CETA program and a plan has been developed.

Page 17, last paragraph - The Oklahoma Department of Health is required to have, and does have, an affirmative action plan for those programs which are covered by the Standards.

Page 18, 2nd full paragraph - This may be an accurate statement of what the Affirmative Action Officer for the Department of Health said; however, the statement is incorrect. This office reviewed the Oklahoma State Department of Health in August 1977 and submitted a written report to the agency. In addition, on August 6, 1979, our representative met with Ms. Johnson and Kim Jones, then Affirmative Action Coordinator for the Oklahoma State Personnel Board, for the purpose of discussing affirmative action in the agency. At that time Ms. Johnson did not give us any specific information regarding violations of merit principles.

Page 18, 3rd full paragraph - This paragraph states that OPM does not handle individual complaints of discrimination in employment but refers these to EEOC. This is partially correct in that we inform individuals of their right to appeal to EEOC; however, we normally recommend that these individuals exhaust the jurisdiction's complaint procedures prior to appealing to EEOC.

Page 19, 1st paragraph - This paragraph states that OPM could not definitely state that merit principles are satisfactorily being met by the State merit system. Each State program may not meet the Standards requirement in all areas. It is a matter of judgment as to whether the program is in substantial conformity with the Standards. Few if any systems fully meet each and every requirement. The State of Oklahoma has not been found out of conformity with the Standards.

Pages 18 through 28 - In the information presented here, it is often difficult to discern whether the conclusions are those of CCR or of those who have presented testimony.

Again we thank you for the opportunity to comment. We look forward to receiving a copy of the final report. If we can be of any service, please call on us.

Sincerely yours,

Ernest B. Wright
Associate Regional Director
for Agency Relations Division

UNITED STATES DEPARTMENT OF EDUCATION
REGIONAL OFFICE
1200 MAIN TOWER BUILDING
DALLAS, TEXAS 75202

NOV 28 19

Office for Civil Rights

November 25, 1980

Mr. J. Richard Avena
Regional Director
United States Commission on Civil Rights
Heritage Plaza
418 South Main
San Antonio, Texas 78204

Dear Mr. Avena:

In reply to your October 30, 1980 letter, we submit the following corrections to your fact-finding document which relates specifically to the Department of Education, Office for Civil Rights.

- Page 19, paragraph 3, sentence 2 should be corrected to read "...is in compliance with Title IX of the Education Amendments of 1972 which..."

- Page 20, paragraph 3, sentence 2 should be corrected to read "...and, as a result, may be required to develop affirmative action compliance plans..."

We apologize for the delay in response to your letter and if you have any questions regarding the statements above please do not hesitate to call Mr. Johnican at 214/767-3951.

Sincerely,

Taylor D. August
Director, Region VI

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
DALLAS DISTRICT OFFICE
1900 PACIFIC BUILDING, 13TH FLOOR
DALLAS, TEXAS 75201

AREA CODE 214
COMMERCIAL 767-4607
FTS 729-4607

November 19, 1980

NOV 24 1980

Mr. J. Richard Avena
Regional Director
U.S. Commission on Civil Rights
418 South Main
San Antonio, Texas 78204

Dear Mr. Avena:

I appreciate the opportunity to comment on the draft report of the Oklahoma Advisory Committee to the U.S. Commission on Civil Rights concerning Affirmative Action in Employment in Oklahoma.

The EEOC has the responsibility for the development, implementation, and monitoring of Affirmative Action Program Plans with respect to Federal Agencies; as directed by Section 717 of Title VII of the Civil Rights Act of 1964, as amended; Section 501 of the Rehabilitation Act of 1973; and Section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

I welcome your timely report and generally agree with its findings. Although most of the findings and recommendations are directed to private employers, and recipients of Federal Grants-In-Aid, the Federal Affirmative Action Unit Southwest Region stands ready to assist in any way possible to assure prompt acceptance and implementation.

Sincerely,

Robert H. Hester
Federal Affirmative Action Manager
Southwest Region

UNITED STATES DEPARTMENT OF EDUCATION
REGIONAL OFFICE
1200 MAIN TOWER BUILDING
DALLAS, TEXAS 75202

NOV 28

Office for Civil Rights

November 25, 1980

Mr. J. Richard Avena
Regional Director
United States Commission on Civil Rights
Heritage Plaza
418 South Main
San Antonio, Texas 78204

Dear Mr. Avena:

In reply to your October 30, 1980 letter, we submit the following corrections to your fact-finding document which relates specifically to the Department of Education, Office for Civil Rights.

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We apologize for the delay in response to your letter and if you have any questions regarding the statements above please do not hesitate to call Mr. Johnican at 214/767-3951.

Sincerely,

Taylor D. August
Director, Region VI

JOB SERVICE

NOV 6 1980

Oklahoma Employment Security Commission
Oklahoma State Employment Service

Will Rogers Memorial Office Building
Oklahoma City, Oklahoma 73105

November 4, 1980

Mr. Richard J. Avena
Regional Director
Southwestern Regional Office
Heritage Plaza
418 South Main
San Antonio, Texas 78204

Dear Mr. Avena:

Thank you very much for furnishing me a copy of excerpts from the Oklahoma Advisory Committee to the U. S. Commission on Civil Rights Survey concerning Affirmative Action in Employment in Oklahoma.

I noticed that pages 1 thru 10 and 12 thru 14 were not included in the draft; therefore, the only section I can allude to would be paragraph 2 on page 17. In reference to the Department of Labor's procedures relating to the Oklahoma Employment Security Commission's Affirmative Action Plan, it is accurate and conclusive.

If comments are needed further, will you please provide me copies of the missing pages. Again thank you for the consideration given our agency in this survey.

Sincerely,

Herman D. Stevenson

Herman D. Stevenson, Chief
Equal Employment Opportunity

HDS/mss

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