

White House (118-128)  
December 1979 - January 1980



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MERIT SYSTEMS PROTECTION BOARD  
Washington, D.C.

1980 JAN 16 11:46

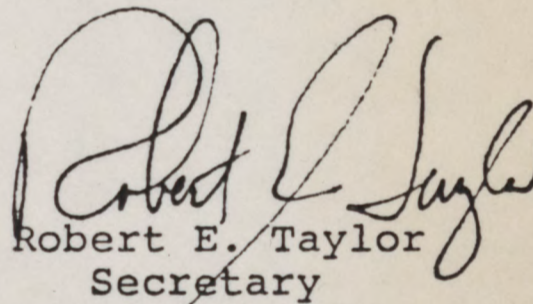
RE: WH-128

January 11, 1980

MEMORANDUM FOR: Heads of Executive Departments  
and Agencies

SUBJECT: Wells v. Harris

Enclosed please find an errata sheet for the  
Board's December 17, 1979 decision in Wells v. Harris  
(MSPB Order No. RR-80-3).

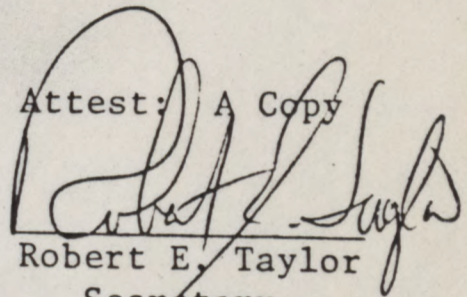
  
Robert E. Taylor  
Secretary

Enclosure



UNITED STATES OF AMERICA  
BEFORE THE MERIT SYSTEMS PROTECTION BOARD

THOMAS W. WELLS, ET AL.,        )  
  )  
  )  
  )  
  )  
  )  
PATRICIA R. HARRIS, ET AL.      )

Attest: A Copy  
  
Robert E. Taylor  
Secretary

ERRATA SHEET

- Page 2, footnote 4 --  
Change "July 31, 1978" to "July 31, 1979"
- Page 8, last paragraph, line 6 --  
Change "4303" to "4304"
- Page 13, footnote 3 --  
Change "at" to "44 Fed. Reg."
- Page 14, paragraph 2, line 5 --  
In the quotation change "had" to "have"
- Page 15, last paragraph, line 1 --  
Change "had" to "have"
- Page 15, footnote 5 --  
Change "pp. 2, 27, 73-72" to "pp. 2, 27, 72-73"
- Page 39, paragraph 2, line 5 --  
Change "\$4302(a)" to "\$4303(a)"
- Page 41, paragraph 3, lines 1 and 2 --  
Change "referring to "laws, rules, or regulations"  
to "referring to a "law, rule, or regulation"
- Page 46, indented material, line 1 --  
"Invalid" should be lower case
- Page 47, footnote 3, line 4 --  
"nothing" should be "noting"
- Page 50, paragraph 3, line 4 --  
Change "\$4303." to "section 4303."
- Page 2 of Vice Chair Poston's Dissent,  
paragraph 2, line 13 --  
"agecy" should be "agency"



December 6, 1979

The President  
The White House  
Washington, D. C. 20500

Dear Mr. President:

The Federal Reserve shares the objective expressed in your letter of November 16 of ensuring that Federal regulatory programs do not place unnecessary burdens on small business. In both our data collection and regulatory work, we have been placing increased emphasis on the need to recognize the difficulties faced by smaller institutions in complying with complex governmental requirements. To this end, for example, separate reporting requirements have been established for smaller banks, and model forms have been developed for use by small creditors in complying with several of the consumer laws administered by the Federal Reserve.

To be sure that we continue this work in ways that are consistent with the program you have established for executive agencies, I have asked our staff to redouble their efforts to find ways to reduce the burden of our actions on small businesses and organizations. I will be personally following this effort, and I am optimistic that we can find some creative new ways to help alleviate this national problem.

Sincerely,

(signed) Paul A. Volcker

bcc: Sandy Wolfe ✓  
WH-112

GLGarwood/TEA:nlf  
12/6/79



THE WHITE HOUSE  
WASHINGTON

November 16, 1979

WH-1122

Dear Mr. Chairman:

This Administration has made a firm commitment to strengthen the small business sector of our economy. Today I have directed the Heads of Executive Departments and Agencies to take a series of steps to ensure that federal regulatory programs do not place unnecessary burdens on small businesses and organizations. I believe it is essential that we minimize the regulatory burden on small businesses and organizations where it is possible to do so without undermining the goals of our social and economic programs.

With the cooperation of the independent regulatory commissions in this effort to bring relief to small businesses, we can effectively respond to public concerns by showing flexibility in our regulatory policy where it is warranted and possible. I, therefore, am asking you, as Chairman of your agency, to consider taking actions similar to those contained in my memorandum of November 16 on this subject to the Heads of Executive Departments and Agencies.

Sincerely,

*Jimmy Carter*



THE WHITE HOUSE

WASHINGTON

November 16, 1979

1979 NOV 21 11:08

WH-112

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS  
AND AGENCIES

The Administration has made a firm commitment to strengthen the small business sector of our economy. In furtherance of that commitment, I want you to make sure that Federal regulations will not place unnecessary burdens on small businesses and organizations. Regulatory programs are important to the safety and health of the Nation; their goals, however, can sometimes be achieved in ways that minimize the burden on small businesses and organizations.

I want you to take the following steps:

- o Ensure that any new rules and regulations issued by your agency will be applied whenever possible in a flexible manner, taking into account the size and nature of the regulated businesses and organizations while fulfilling the social and economic goals of the underlying statutes.
- o As you review existing regulatory and reporting requirements, take particular care to determine where, within statutory limits, it is possible to tailor those requirements to fit the size and nature of the businesses and organizations subject to them.
- o Identify those rules and regulations in the semiannual agenda required by Executive Order 12044, and in the Regulatory Council's Calendar of Federal Regulations, for which flexible alternatives and plans for implementation are being considered.
- o Assign responsibility for overseeing the examination and implementation process to the agency official you designated in accordance with my June 14, 1978 memorandum on the White House Conference on Small Business, and ensure that that official works closely with your agency's representative to the Regulatory Council.



- o Report the results of the above examination and plans for implementation by December 15 to the Office of Advocacy of the Small Business Administration. The Small Business Administration will work closely with the Regulatory Council and the Office of Management and Budget to ensure that agency-specific actions are consistent with and supportive of the government-wide regulatory reform program.

These measures will continue our progress toward achieving important regulatory goals without unnecessarily burdening the small businesses and organizations that are such a vital force in our Nation's life.

*Jimmy Carter*





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON, D.C. 20506

1980 JAN - 4 PM 9:29

January 2, 1980

RE: WH-123

MEMORANDUM

TO : Heads of All Federal Agencies

FROM : Alfredo Mathew, Jr. *A.M.J.*  
Director  
Office of Government Employment

SUBJECT: Exhibit G re Certification of Qualifications of  
Principal EEO Officials

Attached for your information is Exhibit G which was inadvertently left out of the memorandum dated December 12, 1979 regarding the Federal Affirmative Action Instructions pursuant to Section 717 of the Civil Rights Act of 1964.

We regret the temporary inconvenience and thank you for your time and patience.

Happy New Year!

Attachment



Exhibit G

Certification of Qualifications of Principal EEO Officials

I certify that the qualifications of all staff officials, full-time or part-time, concerned with administration of the EEO Program, including the Director of Equal Employment Opportunity; EEO Officer(s); Federal Women's Program Manager(s); and Hispanic Employment Programs Manager(s) have been reviewed by competent authority and the incumbents of these positions meet the standards outlined in Qualifications Standards Handbook X-118 under "Equal Opportunity Specialist GS-160" or "Qualifications Guide for Collateral Assignments Involving Equal Employment Opportunity Duties." Evidence that the review has been made and its findings are on file and available for review by EEOC officials.

I further certify that the provisions of FPM Letter 713-37, Documenting EEO Collateral Duties in Official Position Descriptions have been met.

\_\_\_\_\_  
Agency Head

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



WH-130

*Sandy*



BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM

Date: January 2, 1980

To: Division Directors

From: JOHN M. DENKLER

A handwritten signature in dark ink, appearing to be "J.M. Denkler", written over a horizontal line.

The attached is for your information to  
alert you to the upcoming 1980 Savings Bond Program.

Attachment



THE WHITE HOUSE  
WASHINGTON

December 26, 1979

1979 DEC 28 AM 8:51

OFFICE OF THE SECRETARY OF THE TREASURY

WH-130

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS  
AND AGENCIES

The U.S. Savings Bonds Program has played an important role in sound debt management and in our continuing efforts to help control inflation. Over \$80 billion in Savings Bonds are currently held by Americans.

In 1980, the Savings Bonds Program will assume an additional purpose. The new Series EE Savings Bonds, which will be introduced to payroll sales during the first six months of 1980, will be designated U.S. Energy Savings Bonds, Series EE.

While helping to finance the large Federal energy expenditure required in the coming years, U.S. Energy Savings Bonds will also help to focus the country's attention on the national goals of reducing energy consumption and increasing domestic supplies.

Series EE Savings Bonds not only offer increased benefits to the country as a whole but to each individual saver as well. The interest rate on these securities will be increased from 6.5 percent to 7 percent for Bonds held for the full 11 years to maturity.

I believe it is appropriate for employees of the Federal Government to take the leadership responsibility in furthering the sale of U.S. Energy Savings Bonds. We must set the example for all Americans to follow.

Consequently, I have appointed Secretary of Defense Harold Brown to serve as Chairman of the Interagency Savings Bonds Committee.

The introduction this year of the U.S. Energy Savings Bonds, Series EE not only presents new challenges, but also new opportunities for close cooperation at all levels of government.



Secretary Brown and the members of the Committee have a special duty to ensure that all Departments and Agencies complete the transition to U.S. Energy Savings Bonds, Series EE smoothly and effectively, maintaining a high record of employee participation in the Savings Bonds Program.

Secretary Brown has my full support in undertaking this new responsibility. In turn, I want him to be able to count on your full support through your active personal involvement in this year's payroll savings campaign in your agency.

*Jimmy Carter*



Weddington

October 12, 1979

The White House  
Attention: Ms. Barbara Haugen  
1600 Pennsylvania Avenue N. W.  
Washington, D. C. 20500

Dear Ms. Haugen:

This is an update of women at the Federal Reserve Board  
FR-16 or higher in rank. Governor Teeters is already included in  
the initial draft.

Hart, Janet O.  
Director  
Division of Consumer Affairs  
Federal Reserve System  
Room M4458  
20th and Constitution Avenue N. W.  
Washington, D. C. 20551

Geary, Anne J.  
Assistant Director  
Division of Consumer Affairs  
Federal Reserve System  
Room M4468  
20th and Constitution Avenue N. W.  
Washington, D. C. 20551

Stockwell, Eleanor J.  
Senior Research Division Officer  
Division of Research and Statistics  
Federal Reserve System  
Room B3016  
20th and Constitution Avenue N. W.  
Washington, D. C. 20551

Sincerely yours,

*signed*

Joseph W. Daniels  
Director of Equal Employment Opportunity

cc: Mallardi (2)

JWD:eh



THE WHITE HOUSE

WASHINGTON

September 21, 1979

To: *Gov Daniels*

Dear Colleague:

I am enclosing a copy of a new publication by my office entitled "Your Guide to Over 400 Women in the Federal Government." You are listed in the booklet.

The list was drafted in May, 1979 with some corrections and additions made during the summer. My goal was to include all women with a GS 16 or higher rating.

I plan to update the list periodically and would appreciate receiving appropriate additions and corrections. Please direct such information to Barbara Haugen of my office.

I hope you will find the booklet a useful and convenient reference.

Sincerely,

*Sarah Weddington*  
Sarah Weddington  
Assistant to the  
President

*We are really not included in this listing.  
Would you send Sarah a list of our women  
employees GS 16 or the equivalent and above.*





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

1979 NOV 11 AM 11:50  
RECEIVED  
OFFICE OF THE CHAIRMAN

WH-107

NOV 09 1979

MEMORANDUM FOR HEADS OF SELECTED EXECUTIVE DEPARTMENTS  
AND AGENCIES

SUBJECT: Recommendations of the Commission on Federal  
Paperwork

Congress established the Commission on Federal Paperwork to examine those agency policies and procedures that affect the paperwork burdens imposed on the public. Over a two-year period, the Commission recommended over 600 changes. More than 500 of these applied to the Executive Branch.

The law that established the Commission (P.L. 93-556) requires the Office of Management and Budget to act on these recommendations, in coordination with Executive agencies, report to the Congress on its progress twice a year, and submit a final report in two years.

This effort is an important part of the President's Paperwork Reduction Program. Our final report will be sent to Congress next March. One third of the Commission's recommendations have not yet been acted upon. Therefore, you should review those recommendations assigned to your agency to be sure that they can be carried out on schedule, and report to OMB by January 28, 1980.

You should also direct your staff to review the documentation for those actions you have already taken. We are now reviewing the quarterly reports you submitted to us and have found some documentation to be weak. We will be in contact with your staff for any needed clarification or further documentation.

I appreciate your prompt attention to helping us meet this statutory deadline.

*Jim McIntyre*  
James T. McIntyre, Jr.  
Director



# Memo

## Board of Governors of the Federal Reserve System

Date

Time

To

Sandy Wolfe

From

Jane

Tel. No./Ext.

Please call

Returned your call

Will call again

See (phone) me re attached

As per conversation

For your information/approval

Note and return

For comments and suggestions

Preparation of reply

Message

Mr. Segel will be handling response to attached. (We have copies of WH letter, you may have the orig.)

FR 468 (4/79)



December 6, 1979

The President  
The White House  
Washington, D. C. 20500

Dear Mr. President:

The Federal Reserve shares the objective expressed in your letter of November 16 of ensuring that Federal regulatory programs do not place unnecessary burdens on small business. In both our data collection and regulatory work, we have been placing increased emphasis on the need to recognize the difficulties faced by smaller institutions in complying with complex governmental requirements. To this end, for example, separate reporting requirements have been established for smaller banks, and model forms have been developed for use by small creditors in complying with several of the consumer laws administered by the Federal Reserve.

To be sure that we continue this work in ways that are consistent with the program you have established for executive agencies, I have asked our staff to redouble their efforts to find ways to reduce the burden of our actions on small businesses and organizations. I will be personally following this effort, and I am optimistic that we can find some creative new ways to help alleviate this national problem.

Sincerely,

(signed) Paul A. Volcker

bcc: Sandy Wolfe ✓  
WH-112

GLGarwood/TEA:nlf  
12/6/79



THE WHITE HOUSE  
WASHINGTON

November 16, 1979

1979 NOV 21 10:08

WH-112

Dear Mr. Chairman:

This Administration has made a firm commitment to strengthen the small business sector of our economy. Today I have directed the Heads of Executive Departments and Agencies to take a series of steps to ensure that federal regulatory programs do not place unnecessary burdens on small businesses and organizations. I believe it is essential that we minimize the regulatory burden on small businesses and organizations where it is possible to do so without undermining the goals of our social and economic programs.

With the cooperation of the independent regulatory commissions in this effort to bring relief to small businesses, we can effectively respond to public concerns by showing flexibility in our regulatory policy where it is warranted and possible. I, therefore, am asking you, as Chairman of your agency, to consider taking actions similar to those contained in my memorandum of November 16 on this subject to the Heads of Executive Departments and Agencies.

Sincerely,

*Jimmy Carter*



THE WHITE HOUSE  
WASHINGTON

November 16, 1979

1979 NOV 21 10:08

OFFICE

WH-112

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS  
AND AGENCIES

The Administration has made a firm commitment to strengthen the small business sector of our economy. In furtherance of that commitment, I want you to make sure that Federal regulations will not place unnecessary burdens on small businesses and organizations. Regulatory programs are important to the safety and health of the Nation; their goals, however, can sometimes be achieved in ways that minimize the burden on small businesses and organizations.

I want you to take the following steps:

- o Ensure that any new rules and regulations issued by your agency will be applied whenever possible in a flexible manner, taking into account the size and nature of the regulated businesses and organizations while fulfilling the social and economic goals of the underlying statutes.
- o As you review existing regulatory and reporting requirements, take particular care to determine where, within statutory limits, it is possible to tailor those requirements to fit the size and nature of the businesses and organizations subject to them.
- o Identify those rules and regulations in the semiannual agenda required by Executive Order 12044, and in the Regulatory Council's Calendar of Federal Regulations, for which flexible alternatives and plans for implementation are being considered.
- o Assign responsibility for overseeing the examination and implementation process to the agency official you designated in accordance with my June 14, 1978 memorandum on the White House Conference on Small Business, and ensure that that official works closely with your agency's representative to the Regulatory Council.



- o Report the results of the above examination and plans for implementation by December 15 to the Office of Advocacy of the Small Business Administration. The Small Business Administration will work closely with the Regulatory Council and the Office of Management and Budget to ensure that agency-specific actions are consistent with and supportive of the government-wide regulatory reform program.

These measures will continue our progress toward achieving important regulatory goals without unnecessarily burdening the small businesses and organizations that are such a vital force in our Nation's life.

*Jimmy Carter*



United States of America  
**Office of  
Personnel Management**

Washington, D.C. 20415

In Reply Refer To

DEC 28 1979

Your Reference

To: Agency Heads and Heads of  
Independent Establishments

From: Alan K. Campbell  
Director

Subject: Wells v. Harris

*Handwritten:* RE: WH-128  
*Signature:* Alan K. Campbell

The recent decision by MSPB in Wells v. Harris will have significant implications for the federal work force and the Civil Service Reform Act (CSRA). I believe that a careful reading of this decision makes it clear that, despite the way in which it has been reported, the substantive findings represent a significant victory over the long term for Government managers and for the reform effort.

In Wells, the Board made five holdings:

- (1) It adopted the argument urged by OPM and several other agencies and departments, that performance standards and critical elements must be job related and need not be identical for employees operating under the same position description. Moreover, the Board also agreed with OPM and the agencies that the CSRA did not require the development of elements and standards on a centralized basis. This holding means that agencies can establish critical elements and performance standards based on the actual work performed by each employee and may develop these standards and elements at any appropriate organizational level.
- (2) It also held that Congress did not intend to allow agencies to take actions under 5 U.S.C. 4303 until they had established appraisal systems under 5 U.S.C. 4302. This holding will temporarily delay agency use of the streamlined Chapter 43 procedures in taking actions against poor performers. This delay, however, should be minimal because the Board has provided that an agency has developed "a system" for purposes of taking Chapter 43 actions when there is OPM approval of that system. 5 CFR 430.204 and 430.206 set forth the information that agencies must supply in order to have their plan for implementing a performance appraisal system reviewed by OPM. A number of these system plans have already been approved by OPM. The decision indicated the system plans may cover either the entire agency or an appropriate unit. OPM will be providing guidance as to what constitutes an appropriate unit in a forthcoming OPM bulletin.
- (3) The Board also ruled that agencies can begin to use Chapter 43 to take actions against poor performers without showing that the agency has used the results of the appraisals for the other types of decisions such as promotions and training as specified in 5 U.S.C. 4302. The agency must only show that



its plan explains how these decisions will be linked to appraisals. Moreover, the Board provided that critical elements and performance standards could be developed at different times for employees doing different jobs in the same unit or employees doing the same job in different units as long as the overall plan was approved by OPM.

(4) The Board ruled that Chapter 75 could be used for "performance-based" actions provided the agency met the requirements of that Chapter. Thus, if agencies have not had their plan approved by OPM and developed critical elements and standards, they may use Chapter 75 to remove or demote poor performers.

(5) The Board determined that in order for employees to show that an action should be overturned because a prohibited personnel practice had occurred under 5 U.S.C. 2302(b)(11), it must be demonstrated that there is a violation of a law, rule or regulation which implements or directly concerns a merit system principle and that the violation was harmful. A mere technical violation does not constitute a prohibited personnel practice and cannot be used to reverse an agency action. The future effect of this holding is extremely significant because it reinforces the harmful error concept adopted by Congress.

Thus, the decision, as a whole, is favorable to the Government. OPM, however, believes that MSPB's conclusion delaying the use of streamlined procedures under CSRA is incorrect and plans to appeal that portion of the opinion to the Court of Appeals. However, because of the need to establish definitive procedures as soon as possible, OPM will not seek to stay the effect of this Order.

I have attached a memorandum from OPM's General Counsel interpreting the Wells decision. Additionally, guidance will be provided in an FPM bulletin that will be released shortly.

Attachment



United States Government  
**MEMORANDUM**

**Office of  
Personnel Management**

Subject: Wells v. Harris

Date: DEC 28  
In Reply Refer To:

From: Margery Waxman *MW*  
General Counsel

Your Reference:

To: Alan K. Campbell *(KAC)*  
Director

This memorandum discusses the effect of the Merit Systems Protection Board's (MSPB's) decision in Wells v. Harris on agency efforts to implement the provisions of Chapter 43 and the steps that agencies may follow in taking performance-based actions. It is intended to form the basis for a later FPM bulletin to assist agencies in conforming their actions to the decision.

Although there are some problem areas, I view the overall decision as an important victory for agency managers. The Board, stressing the need for managerial flexibility, held that performance standards and critical elements need not be identical for employees with the same position description. The Board also held that there was no requirement that standards or elements be developed by each agency on a centralized basis. Additionally, although the Board found that agencies must have a "system" under 5 U.S.C. 4302 before taking an action under 5 U.S.C. 4303, the effect of that holding is substantially limited by the definition the Board adopts for a "system" and the flexibility it gives management in designing these "systems." Perhaps most importantly, for the long-term development of personnel law, the Board ruled that to overturn an agency action because of a prohibited personnel practice, the employee must show actual harm. This ruling confirms the importance of the harmful error concept and ensures that agency actions will not be overturned because of minor technical violations.

These holdings, some potential issues, and options available to agencies are discussed in more detail below.

I. CRITICAL ELEMENTS AND PERFORMANCE STANDARDS

The Board held that critical elements and performance standards need not be identical for all employees having common position descriptions. Rather, the Board stated that it was clear that Congress intended agencies to have maximum flexibility in this respect. It required only that performance standards be based on objective criteria related to the job in question.

In adopting critical elements and performance standards, agencies must look to the work that an employee is actually doing and must ensure that the elements



and standards reflect that work. Although the elements and standards must be consistent with the employee's position description, they are not controlled by it.

The Board, however, does not specifically address what support, if any, must be available to justify differences in the standards and elements of employees doing similar tasks. I expect we will see challenges in the area and agencies would be in a better position if they would show how they arrived at different standards for similar jobs; e.g., use of model standards modified for individual employees, review by higher level officials, input from employees or differences between particular offices (such as physical location, clientele, etc.).

## II. DECENTRALIZED SYSTEMS

The Board's decision also held that agencies are not required to develop standards on a centralized basis. Instead, the Board recognizes that an agency may develop different "systems" for individual units at different times. Thus, an agency may take an action under 5 U.S.C. 4303 before it has developed systems for all agency components.

The decision, however, is silent as to what constitutes an appropriate unit. The only reference to this issue is in footnote 16 at page 37 of the decision. I expect OPM to provide guidance to agencies as quickly as possible on this crucial issue.

In addition, there may be some confusion as to the relationship between the size of the unit selected by the agency and the formulation of critical elements and performance standards. The decision clearly does not require that all employees with the same position description, even if within the same unit, have the same critical elements and performance standards. Rather, the decision plainly states that all that is required is that each employee's critical elements and performance standards be related to that employee's job. Nonetheless, the requirement that the agency have a system for an appropriate unit and the Board's explicit rejection of an ad hoc approach indicates that the agency must have adopted some procedures to ensure that everyone in the unit, or everyone with the same standards, receive them at the same time. Agencies may not single out particular employees to receive critical elements and performance standards while others performing the same job in the same units do not receive critical elements and performance standards.

## III. THE REQUIREMENT OF A 4302 SYSTEM BEFORE TAKING AN ACTION UNDER 5 U.S.C. 4303

MSPB concluded that Congress did not intend to allow agencies to use the streamlined procedures of 5 U.S.C. 4303 for demoting or removing employees whose performance had not been evaluated under 5 U.S.C. 4302. Thus, the Board held that an agency could not take an action under 5 U.S.C. 4303 until it established a performance appraisal system under 5 U.S.C. 4302. This holding is based on



the Board's view of the legislative intent, the use of the words "unacceptable performance" in more than one section of the Chapter, and the Board's belief that despite the fact that agencies are not required to communicate critical elements and performance standards to employees until October 1, 1981, Congress intended 5 U.S.C. 4302 to be effective immediately.

The Board also held that although Congress adopted detailed procedures to process actions based on unacceptable performance, in Chapter 43 it intended that Chapter 75 continue to be used for performance-based actions. Therefore, the Board made clear that it expected Chapter 75 procedures to be used for performance-based actions until an agency system plan or system plans were approved by OPM.

The Board's action presents a problem as to the procedures that must be followed to reduce in grade or remove a nonpreference eligible, excepted service employee before development of a 4302 system. Agencies would be in a better position if they would issue such employees a notice similar to that used in Chapter 75 actions and accord the employee an opportunity to respond orally and in writing. It would be wise to state that the notice is issued pursuant to Wells and that it is not intended by the agency to confer any right of appeal to MSPB or the courts.

#### IV. PENDING CASES

##### A. Cases Reopened by the Board or Currently Pending in MSPB Regional Offices

A number of cases have been reopened by the Board following regional office decisions or have been held at the regional office level. The reopened cases probably will be remanded to the regional offices for decision in light of Wells. Although MSPB has not yet issued instructions to its field offices, we believe that agencies will be given the opportunity by the Board to comment on individual cases.

Based on our reading of Wells, the avenues available to agencies to support prior actions will depend on whether agencies had or did not have performance appraisal plans at the time they took the actions: (1) if the agency had an OPM-approved performance appraisal plan at the time it took the action, we expect the review of those cases will proceed under Chapter 43 using the standard of substantial evidence on the record; (2) if the agency had a performance appraisal plan at the time it took the action, but that plan had not yet been reviewed and approved by OPM, we believe the opinion permits agencies to argue that the employee must show not having OPM approval affected that particular decision in a way that was harmful to the employee. (See Wells decision, page 43, footnote 13.) To the extent that agencies can get their plans into OPM and get them approved prior to a final decision by MSPB, this should strengthen their argument for Chapter 43 review; (3) if the agency had not established a performance appraisal system at the time it took the action, we believe it will have the option of trying to sustain its action under Chapter 75 by showing that it could meet the standard of preponderance of the evidence and show nexus to the efficiency of the service.



If, however, the agency believes that the action cannot meet the Chapter 75 standard of proof, the agency may want to cancel the action and, thus, maintain its ability to take the action at a later date.

B. Actions Currently Pending Before the Agency on a Proposed Notice of Action Under 5 U.S.C. 4303

Agencies may want to amend outstanding proposed notices of actions issued under Chapter 43 to conform with the requirements of Chapter 75. If agencies use amended notices, it would be helpful to specify that the action is taken under Chapter 75 and will be governed by these statutory provisions as well as the provisions of 5 CFR, Part 752. OPM believes employees should be given a reasonable amount of additional time to respond to the amended notice. Agencies also may use events that occurred more than a year ago because the provision in 5 U.S.C. 4303(e)(2) would not apply. However, if agencies add new reasons, such as events that occurred more than one year ago, Part 752 requires employees be given a minimum of 30 days to respond. If the employee has already made a written or oral response, the agency should inform the employee that his or her previous response will be considered and that he or she will have a reasonable amount of time to make a supplemental response.

V. CHAPTER 75 ACTIONS

In taking Chapter 75 actions prior to the establishment of a performance appraisal system, the Wells decision requires agencies to follow the same procedures that were used prior to the passage of the Reform Act. Although the order does not require identification of critical elements and performance standards, Chapter 75 requires agencies to identify the employee's deficiencies with enough particularity to enable the employee to prepare his defense. Additionally, Chapter 75, unlike Chapter 43, does not require that an agency must provide an employee with a reasonable time and opportunity to improve his or her performance. Moreover, there is no requirement under Chapter 75 that the events occur within one year of the notice.

Although the Wells decision leaves unclear use of Chapter 75 for performance-based actions after performance appraisal systems are established and approved by OPM, I strongly believe that once agencies have established systems, they should use Chapter 43 for all cases that are based on unacceptable performance. Moreover, OPM may want to regulate in this area. We think that this approach was clearly envisioned by Congress and that it is necessary to achieve the full benefits of the reform. Also, it is likely that MSPB will require that agencies use 5 U.S.C. 4303 after the system is in place and critical elements and performance standards are developed that cover the employee's performance.

VI. THE STEPS THAT MUST BE TAKEN BEFORE AN AGENCY CAN TAKE AN ACTION UNDER 5 U.S.C. 4303

The Board's opinion merely requires that an agency submit the material specified in 5 CFR 430.204 and 430.206 to OPM under 4303 and receive OPM



approval of their system or systems prior to taking an action. As stated in that section, the information, which is in the form of a plan to implement the system, either may be agency-wide or may be for such subordinate organizations as OPM will authorize in its FPM guidance. Where the system plan is agency-wide, the system plan is submitted detailing the requirements which subordinate systems must meet, there being no requirement that the subordinate systems themselves be submitted.

I expect OPM will provide expedited review of these systems. Once these systems are approved and critical elements and performance standards are developed and communicated to employees, the agency may begin to take actions under 5 U.S.C. 4303 and 5 CFR 432.

There is no requirement in the Wells decision that elements and standards be developed at the same time for employees doing different jobs within a particular unit or for employees doing the same job in different units. Therefore, to speed up the process, agencies may want to begin drafting critical elements and performance standards before formal approval of their plan by OPM. Of course, any standards and elements need to be communicated and discussed with employees before they are implemented. Finally, it is important to note that the decision does not discuss the extent of an agency's obligation to provide for employee participation, either directly or with union representation, in developing performance standards. This issue is currently in litigation before FLRA.



NO.	DATE REC'D	DATE INC.	ADDRESSEE AND SUBJECT	REFERRED TO	OUT
✓ WH-122	12/17		McINTYRE, James T., Director, OMB--Regulatory Management Conference for agency managers Jan. 8	Denkler <i>Pres. to handle m/s</i>	<i>m/s</i>
WH-123	12/17	12/12	NORTON, Eleanor H., Chair, EEO Commission-- Federal Affirmative Action Instructions Pursuant to Section 717 of the Civil Rights Act of 1964	Denkler	
WH-124	12/19	12/17	SUGARMAN, Jule M., Deputy Director, Personnel Management -- Second Annual Management Conference	Denkler	
✓ WH-125	12/20	12/12	CAMPBELL, Alan K., Director, Personnel Management -- Policy Statement and Definition on Sexual Harassment	Denkler <i>Cc Shannon m/s</i>	
✓ WH-126	12/20	12/17	SMITH, Ralph E., Deputy Director, National Commission for Employment Policy -- Temporary Admission of Foreign Workers: Dimensions and Policies	Denkler <i>WA ETM</i>	<i>m/s</i>
WH-127	12/26	12/21	NORTON, Eleanor H. -- Annual Report on Coordination of Federal Equal Employment Activities Mandated by Executive Order 12067	Denkler	
WH-128	12/26	12/18	TAYLOR, Robert E., Secretary, Merit Systems Protection Board -- encl. material on Wells v. Harris and In the Matter of Frazier	Denkler	
✓ WH-129	12/27	12/17	SPETH, Gus, Chairman, Exec. Office of the President, Council on Environmental Quality-- Earth Day '80	Denkler	<i>m/s</i>
WH-130	12/28	12/26	CARTER, Jimmy -- US. Savings Bonds Program	Denkler	



January 30, 1980

Mr. James T. McIntyre, Jr., Director  
Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503

Dear Mr. McIntyre:

This is the report of the Board of Governors of the Federal Reserve System regarding the recommendations of the Commission on Federal Paperwork. The Commission, in its July 29, 1977 Report, made four recommendations to the Board. Set forth below is each recommendation and the status of the Board's response.

Recommendation 2: The Federal Reserve Board should recommend to Congress necessary changes in law and modify its own regulations to simplify disclosures required under consumer leasing. When leased property is held as a security interest, its technical description should be omitted and replaced with a simple notion that there is a security interest in the property leased.

The Board had earlier felt that it would be premature to change procedures or recommend legislation until there was some experience under the Leasing Act, which came into effect only in March of 1976. There has now been sufficient experience under the Act to know where simplification is needed and how to attempt effective simplification. Board staff has begun revising the regulation to simplify the disclosures. Legislation is needed to make major changes and the Board is preparing recommendations for the Congress in the near future.

Recommendation 3: Except in cases where the Federal Reserve Board discovers an unfair or deceptive disclosure practice, creditor disclosure forms should be approved for a one-year period. Changes in regulations during the year should be reflected in the subsequent year's forms.

Recommendation 4: The Federal Reserve Board should issue model disclosure forms to be valid for a one year period as an alternative to submitting forms for approval.



Changes in disclosure forms are generally caused by court interpretations and legislative changes. The approval of forms by the Board or its staff will not prevent creditors from having to change their forms in response to court decisions and legislation. Furthermore, because of the number of creditors and the variety of credit terms offered, it would be impossible for the Board or its staff to approve each creditor's form or to issue model forms that would be generally appropriate in all circumstances. On the other hand, the Board agrees that model forms for certain common transactions will be of great assistance to creditors, and the Board has included such models in the Leasing and Equal Credit Opportunity regulations. For Regulation Z, Truth in Lending, the Board has neither revised regulations nor issued model forms because the passage of the Truth in Lending Simplification and Reform Act has appeared imminent since the Senate first passed the bill in May of 1978. The Board did not want to add to the regulatory and paperwork burden by changing the regulation and then after the statute was enacted changing it again. Once that Act is passed, the Board will issue model forms as appropriate.

Recommendation 6: The Commission recommends that the Federal Reserve Board, in early 1978, review the Equal Credit Opportunity laws and regulations and take such steps as may be necessary and appropriate to reduce record retention requirements.

The recordkeeping requirements under the Equal Credit Opportunity regulation is one month longer than the statute of limitations contained in the law. To reduce the requirement could jeopardize the consumer's ability to exercise rights under the Act. The Board therefore feels that implementation would be contrary to public policy as set forth in the statute and in legislative intent. Indeed, it should be noted that the Board will be considering recommendations made by the President's Interagency Task Force on Women Business Owners to extend the recordkeeping requirements to certain commercial transactions.

Sincerely,

Paul A. Volcker

NEB:pac  
WH-107





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

11:50

NOV 09 1979

WH-107

MEMORANDUM FOR HEADS OF SELECTED EXECUTIVE DEPARTMENTS  
AND AGENCIES

SUBJECT: Recommendations of the Commission on Federal  
Paperwork

Congress established the Commission on Federal Paperwork to examine those agency policies and procedures that affect the paperwork burdens imposed on the public. Over a two-year period, the Commission recommended over 600 changes. More than 500 of these applied to the Executive Branch.

The law that established the Commission (P.L. 93-556) requires the Office of Management and Budget to act on these recommendations, in coordination with Executive agencies, report to the Congress on its progress twice a year, and submit a final report in two years.

This effort is an important part of the President's Paperwork Reduction Program. Our final report will be sent to Congress next March. One third of the Commission's recommendations have not yet been acted upon. Therefore, you should review those recommendations assigned to your agency to be sure that they can be carried out on schedule, and report to OMB by January 28, 1980.

You should also direct your staff to review the documentation for those actions you have already taken. We are now reviewing the quarterly reports you submitted to us and have found some documentation to be weak. We will be in contact with your staff for any needed clarification or further documentation.

I appreciate your prompt attention to helping us meet this statutory deadline.

*Jim McIntyre*  
James T. McIntyre, Jr.  
Director





1980 JAN 28 10 14

JAN 28 1980

RE: 124

Assistant Secretaries for Administration  
and Heads of Independent Agencies

The agenda for the Second Annual Management Conference to be held in Cherry Hill, New Jersey calls for "agency caucuses" on the evening of February 12, 1980, from 5:30 p.m. to 7:00 p.m. We are asking that all conferees meet at that time with other attendees from their own agency. This letter requests that you arrange for someone who is attending the conference from your agency to serve as the leader for your agency caucus.

At the conference we will be discussing many Federal management issues and will be eliciting suggestions as to what can be done to improve productivity in the Government. Many of the discussions will involve actions that your agency or individual executives in your agency might take to resolve problems or improve operations.

The purpose of the agency caucuses is to provide agency personnel at the conference with an opportunity to meet together, discuss the issues as they relate to their agency, and come up with recommendations that will lead to improved productivity. These recommendations may be directed at the central management agencies (OMB, GSA, and OPM), the agency itself or its executives and managers.

For those agencies sponsoring only a small number of conferees (2-6), it may be appropriate for their group to get together informally during the allotted time, perhaps at dinner, to hold their caucus. For agencies with larger delegations, we will provide suitable meeting rooms. It may be possible to arrange for agency dinner meetings for the larger groups during the caucus period. If your agency is interested in a dinner meeting, have someone contact Joe Bean or Gary Gibson (telephone number 254-8431) of OPM as soon as possible and no later than January 30, 1980.

Please let us know who will serve as your agency's group leader for its caucus by calling Joe Bean's office by January 30, 1980. If you have questions please call him (202-254-8431).

*Jule Sugarman*  
Jule M. Sugarman  
Deputy Director  
Office of Personnel Management



Sandy

WH-129

No resp. neey.



1979 DEC 27 PM 8:53

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

December 17, 1979

WH-129

MEMORANDUM FOR HEADS OF AGENCIES

FROM: GUS SPETH  
Chairman

*Gus Speth*

SUBJECT: EARTH DAY '80

About two weeks from now, we will be entering the year which marks the 10th anniversary of the National Environmental Policy Act, the creation of the Council on Environmental Quality and the Environmental Protection Agency, and--one of the most significant symbols of citizen concern for the environment--the 10th anniversary of Earth Day.

Earth Day on April 22, 1970 was a watershed in our Nation's understanding of problems and opportunities in protecting and enhancing the world's environment. The decennial of Earth Day in 1980 offers a fitting opportunity to review the past decade and to look toward the next.

A broad-based coalition of citizens organizations is now organizing "Earth Day '80" for April 22, 1980. They are planning a community-oriented program of activities. They see the event as a way to improve understanding of environmental issues and to forge a new commitment to environmental goals for the next decade.

I encourage you and your agency to cooperate with this effort to help make Earth Day '80 a worthwhile event for all Americans. I urge you and your policy officials to check your travel and speaking schedules and to review your agency's research and educational activities, community-oriented programs, and environmental programs to see whether current projects could be timed to coincide with April 22 or whether special projects could be initiated to support the April 22 observances.

A committee is being formed of representatives from federal agencies who are interested in Earth Day '80. Please let me know if you, or a policy official in your agency, is interested in serving as a contact point and representing your agency on this committee.

Enclosed for your information is a copy of the description of the Earth Day '80 project written by the sponsoring organization, the Citizens Committee for the Second Environmental Decade. You may wish to contact them if you have any questions or suggestions.

Enclosure



## SUMMARY

Earth Day 1970 marked the beginning of a new national commitment to environmental quality. Next April 22, the tenth anniversary of Earth Day, will be used to celebrate the achievements already made and forge a new commitment to environmental goals for the 1980s.

The focus of Earth Day '80 will be at the community level where the strength of the environmental ethic is rooted. Earth Day '80 staff will work with citizens groups nationally and internationally to educate others to the benefits of sound environmental policy and citizen participation in the decisions that affect their lives. This focus will manifest itself through community-based events such as conferences, seminars, street fairs and other environmentally related activities. In addition, a major effort will be made to draw in constituencies that are too often neglected in environmental undertakings.

The tone of Earth Day '80 will be positive, not negative. It will be constructive, not obstructive. It will be creative, not cynical. It will recognize that the achievements and goals of the 1970s must be justified in light of the real and apparent conflicts of the new decade.

The Citizens Committee for the Second Environmental Decade will sponsor Earth Day '80. A six to ten person staff will organize, coordinate and promote Earth Day '80 activities. Shortly after Earth Day '80 the organization will be dissolved. IRS 501(c)(3) status has been applied for, which would make contributions to the Citizens Committee tax-deductible.

Executive Director, Mike McCabe, 1001 Connecticut Ave., N.W., 5th Floor, Washington, D.C. 20036, (202) 293-2550.



## OVERVIEW

Earth Day 1970 launched a powerful movement that has produced major improvements in the quality of life for all Americans and created a valuable legacy for this and future generations.

. . . Great rivers like the Hudson, the Potomac and the Detroit are being returned to economic and recreational productivity.

. . . The nation's air, a serious health problem in some of our major cities, is growing cleaner.

. . . Americans are now alerted to, and prepared to act on, previously unrecognized threats from products, by-products and refuse of our society.

. . . Recycling, energy conservation and the use of renewable resources are gaining ever-growing public acceptance.

. . . More thoughtful growth policies are bringing the conflicts between development and preservation more nearly into balance.

. . . Workplaces are becoming safer and healthier.

. . . And, as predicted, the movement has actually produced more jobs and stimulated economic activity.

Perhaps equally important, the environmental movement has helped to return to average Americans a greater degree of control over the decisions that vitally affect their lives. Out of the conflicts of the past decade have come not only new political tools to strengthen the role of the citizen, but also a new awareness of how and when to use these tools.

Nevertheless, many environmental problems remain. Manmade cancer-causing substances continue to threaten public health in the workplace and in the environment in general. The safe disposal of these and other toxic substances largely remains unsolved and the repeated discovery of abandoned chemical dumps has brought home the high costs of neglect. While the air is cleaner in some areas, Los Angeles recently experienced the worst smog in 25 years. Severe erosion and unchecked coastline development continues. And we still have no way to permanently dispose of radioactive wastes.

The achievements of the 1970s make the program for the 1980s all the more difficult and challenging - and this is not just because there is so much more to achieve. It is also because the decisions of the coming decade will be more complex and require recognizing, and reconciling, other social, economic and individual concerns that may involve real or apparent conflicts.

It is now time to recognize that the strength of the environmental movement is in those American communities where it has its roots.



## EARTH DAY '80

Next April 22nd will be the 10th anniversary of the first Earth Day. Now, Earth Day '80 is being organized as a celebration, both of the achievements already made in the quality of life on the planet, and of the spirit of hope with which we are entering the 1980s.

The overriding concern of Earth Day '80 will be to continue efforts to improve the quality of life on this planet and enhance its natural resources.

But it is also important that Earth Day '80 reach out to and develop ties with other movements striving to strengthen the political and social roles of the individual and the local community. To develop those ties, Earth Day '80 will show that sound environmental policy doesn't just improve the quality of individual and community life, it develops respect for the earth and its people.

Earth Day '80 will strengthen ties with labor and commercial and industrial interests: conservation of resources and the enhancement of the environment is not just a moral responsibility, it is also good economics and good business.

Finally, Earth Day '80 will strive to develop ties with all these publics as consumers: sound environmental policy doesn't just help us husband natural resources, it also significantly reduces social burdens and economic costs.

Scores of exciting efforts have already begun all across the country, and it will be the goal of Earth Day '80 to help bring to light those and other successes so they can be shared from community to community.

The people organizing Earth Day '80 are committed to learning all they can from people all across the country and putting people in touch with one another. Expanding a vast network of friends with shared goals and renewed hope will help start the drive in the right directions for the 1980s.

Through Earth Day '80 we will show that with each other's help we can regain control of our lives, we can improve the quality of our lives.

## THE CITIZENS COMMITTEE FOR THE SECOND ENVIRONMENTAL DECADE

The Citizens Committee is a non-profit, education corporation set up to organize the tenth anniversary celebration of Earth Day. It will be dissolved soon after it has accomplished its goals.

IRS 501c(3) status has been applied for, which would make all contributions to the Citizens Committee tax-deductible.



## BOARD OF DIRECTORS

A Board of Directors consisting of 9 individuals represents the Citizens Committee in actions taken to organize Earth Day '80. The board meets regularly and acts on general policy decisions. The Chairman of the Board is Byron Kennard, Environmental Consultant. A list of board members is available upon request.

## ADVISORY BOARD

An Advisory Board of over 70 prominent individuals of diverse backgrounds is being developed for the purpose of promoting Earth Day '80 activities. The individuals will be chosen to represent a broad range of support for environmental values. Advisory Board members will not have any direct authority over the operation of Earth Day '80 staff or policies, but are expected to endorse the goals of the celebration and commit themselves to making it a success.

## STAFF

Earth Day '80 staff will be selected for their experience with citizen organizing campaigns, the news media and environmental issues. The Executive Director will be Mike McCabe.

For the past three years McCabe has been director of the congressional Environmental Study Conference - a legislative research and analysis organization serving 245 House Members and 70 Senators. Prior to that McCabe was legislative assistant to Senator Gary Hart (D-Colo.) and served as issues director in Hart's Senate campaign in 1974.

Earth Day '80 currently has four full-time staff working on the project and will expand as funding is secured.

Specifically, Earth Day '80 staff will:

- Identify and promote the activities of community groups that have taken the initiative to solve environmental problems locally. They will be assisted in developing programs for April 22 which will increase public awareness of their efforts.
- Identify and promote the efforts of national environmental and conservation organizations to develop credible alternatives to environmentally harmful policies.
- Work with the international, national and local news media to accurately assess the costs and benefits of a decade of environmental action and the breadth and diversity of the movement today.
- Develop organizing materials which encourage participation by teachers and students, senior citizens, farmers, business people and a wide variety of interests.



- Encourage citizens to identify wasted resources, particularly energy, and measures being taken to stop waste.

- Publish a biweekly newsletter that cross-fertilizes Earth Day '80 activities as they develop.

- Serve as a clearinghouse for information on environmentally related community action. And catalog that information for use by citizens groups after Earth Day '80.

- Develop contacts and activities internationally to promote global awareness of environmental concerns.





MERIT SYSTEMS PROTECTION BOARD

Washington, D.C.

DEC 18 1979  
DEC 26 1979  
WH-128

MEMORANDUM FOR: Heads of Executive Departments and Agencies

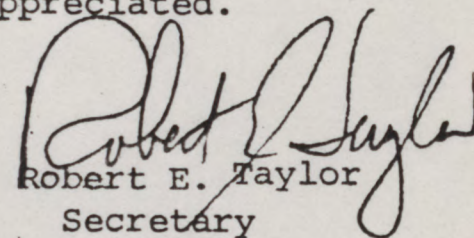
SUBJECT: Wells v. Harris and In the Matter of Frazier

On December 17, 1979, the Merit Systems Protection Board issued opinions and orders in Wells v. Harris and In the Matter of Frazier, copies of which are attached.

Your attention is invited to page fifty-two (52) of Wells decision, which contains an Order directing that all Federal agencies\* immediately cease taking personnel actions under OPM regulations 5 C.F.R. Section 432.205 (final) (1979) and Section 432.206 (interim) (1979).

It is our practice to send copies of significant decisions to agency personnel heads and General Counsels until such time as arrangements for publishing Board opinions are completed. Because of the length of these two opinions, and the resource and time constraints under which the Board is presently operating, we are unable to do so in this case. Therefore, we strongly urge that you give them the widest possible distribution within your agency. We suggest, at a minimum, that copies be sent to personnel heads, General Counsels, and EEO Officers.

Your cooperation in this matter will be greatly appreciated.

  
Robert E. Taylor  
Secretary

Attachments

\*As that term is defined in 5 U.S.C. Section 4301(1) which states:

- (A) An Executive Agency
- (B) The Administrative Office of the United States Courts
- (C) The Government Printing Office





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON, D. C. 20506

DEC 21 1979

*WH-127*

OFFICE OF THE CHAIR

1979 DEC 20 PM 9:13

MEMORANDUM

TO: All Agency Heads

FROM: Eleanor Holmes Norton *EHN*

SUBJECT: Annual Report on Coordination  
of Federal Equal Employment  
Activities Mandated by  
Executive Order 12067

I am pleased to send you a copy of the Commission's first annual report under Executive Order 12067. Your cooperation and assistance during the Commission's first year of implementing the Order has been most gratifying.

This year the Commission will implement several new systems to sharply curtail duplication and inconsistency in Federal equal employment compliance and enforcement programs. We are eager to complete our tasks and hope to have your continued cooperation.



WH-126 - No resp. nevy  
per etm



NATIONAL COMMISSION FOR EMPLOYMENT POLICY  
1522 K Street, NW, Suite 300  
Washington, D.C. 20005

1979 DEC 20 9:32

(202) 724-1545

December 17, 1979

WH-126

MEMORANDUM OF TRANSMITTAL

SUBJECT: Temporary Admission of Foreign Workers: Dimensions  
and Policies

Enclosed is the Commission Special Report No. 34, "Temporary Admission of Foreign Workers: Dimensions and Policies," by Dr. Edwin Reubens. This report lays out a set of broad policy options with respect to the temporary importation of foreign labor and evaluates these options. The paper is the result of a request by Secretary of Labor Ray Marshall to the Commission to review the H-2 Program (Temporary Admission of Foreign Workers) and to make recommendations to him as to the future of that program. The Commission held a day-long seminar on this topic and a summary is included in Chairman Eli Ginzberg's letter to Secretary Marshall; this appears as Appendix C.

If you wish additional copies, please contact Ms. Margaret Corsey, at 724-1553.

Ralph E. Smith

RALPH E. SMITH  
Deputy Director

Enclosure



United States of America  
**Office of  
Personnel Management**

Washington, D.C. 20415  
DEC 27 9:27  
DEC 27

In Reply, Refer To

DEC 12 1979

Your Reference

WH-125

MEMORANDUM TO HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

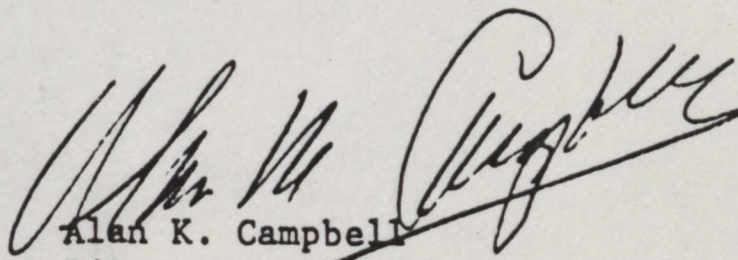
SUBJECT: Policy Statement and Definition on Sexual Harassment

This memorandum transmits the Office of Personnel Management's policy statement on sexual harassment which is applicable to each Federal agency and department. The policy statement also includes the specific definition of sexual harassment which should be utilized in addressing this issue.

The Subcommittee on Investigations of the Committee on Post Office and Civil Service has held hearings on the problem of sexual harassment within the Federal sector. The Office of Personnel Management was requested by Chairman James M. Hanley to assist in the effort to curtail sexual harassment by issuing a policy statement which made clear that sexual harassment undermines the integrity of the Federal Government and will not be condoned. Merit system principles require that all employees be allowed to work in an environment free from sexual harassment.

I am recommending that each of you take a leadership role by initiating the following actions:

1. Issue a very strong management statement clearly defining the policy of the Federal Government as an employer with regard to sexual harassment;
2. Emphasize this policy as part of new employee orientation covering the merit principles and the code of conduct; and
3. Make employees aware of the avenues for seeking redress, and the actions that will be taken against employees violating the policy.

  
Alan K. Campbell  
Director

Attachment



Sandy

WH - 125 - No resp nevy  
per etm  
cc Shannon



## POLICY STATEMENT AND DEFINITION ON SEXUAL HARASSMENT

Federal employees have a grave responsibility under the Federal code of conduct and ethics for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance of the Government's business and the maintenance of confidence of the American people. Any employee conduct which violates this code cannot be condoned.

Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes in the work productivity of its victims and co-workers.

Sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as the taking or refusal to take a personnel action, including promotion of employees who submit to sexual advances or refusal to promote employees who resist or protest sexual overtures.

Specifically, sexual harassment is deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome.

Within the Federal Government, a supervisor who uses implicit or explicit coercive sexual behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, an employee of an agency who behaves in this manner in the process of conducting agency business is engaging in sexual harassment.

Finally, any employee who participates in deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome and interfere in work productivity is also engaging in sexual harassment.

It is the policy of the Office of Personnel Management (OPM) that sexual harassment is unacceptable conduct in the workplace and will not be condoned. Personnel management within the Federal sector shall be implemented free from prohibited personnel practices and consistent with merit system principles, as outlined in the provisions of the Civil Service Reform Act of 1978. All Federal employees should avoid conduct which undermines these merit principles. At the same time, it is not the intent of OPM to regulate the social interaction or relationships freely entered into by Federal employees.



Complaints of harassment should be examined impartially and resolved promptly. The Equal Employment Opportunity Commission will be issuing a directive that will define sexual harassment prohibited by title VII of the Civil Rights Act and distinguish it from related behavior which does not violate title VII.



United States of America  
**Office of  
Personnel Management**

Washington, D.C. 20415

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
1979 DEC 19 AM 11:56

In Reply Refer To:

RECEIVED  
OFFICE OF THE CHAIRMAN  
DEC 17 1979  
Your Reference:

ASSISTANT SECRETARIES FOR ADMINISTRATION AND  
HEADS OF INDEPENDENT AGENCIES

WH-124

As you know, the Office of Personnel Management, the Office of Management and Budget and the General Services Administration are sponsoring the Second Annual Management Conference on February 10-13, 1980, in Cherry Hill, New Jersey.

The theme of the conference is "Toward a More Productive Government." We will be dealing with a variety of management issues and concerns of interest to the approximately 500 high level Federal managers who will participate. The program will be designed so that these managers will have ample opportunity to identify problems, express their views and make recommendations for improving productivity in Government.

The conference will include an Exhibit Room where we will have displays depicting programs and accomplishments in the area of productivity. If your agency is interested in having one or more exhibits at the conference, please have someone contact John J. Bean or M. Gene Bennett of OPM at 254-8431 as soon as possible, and no later than December 28, 1979. Exhibit spaces are limited, so the earlier we hear from your agency, the more likely we'll be able to accommodate your exhibit.

*Jule*  
Jule M. Sugarman  
Deputy Director

*P.S. - What we would like is exhibits showing productivity improvement projects that have worked and may be useful to other agencies*





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON, D. C. 20506

OFFICE OF THE CHAIR

WH-123

MEMORANDUM

TO: Heads of All Federal Agencies

FROM: Eleanor Holmes Norton *EHN*  
Chair, Equal Employment Opportunity  
Commission

SUBJECT: Federal Affirmative Action Instructions Pursuant to  
Section 717 of the Civil Rights Act of 1964

Attached are instructions to Federal agencies for the development of FY 1980 Affirmative Actions Plans. These instructions were approved by the Commission following several months of consultation with federal agencies. The final document incorporates revisions made as a result of comments from Federal agencies during formal and informal comment periods.

Affirmative action planning was transferred to EEOC from the Civil Service Commission (now the Office of Personnel Management) and for the next several years will undergo substantial change. To accommodate such large scale change in affirmative action planning for such a large workforce, the Commission has designated FY 1980 a transition year for the Federal affirmative action process. It is designed to allow agencies to develop the mechanisms and resources necessary for effective affirmative action planning and implementation. In undertaking this effort, agencies and the EEOC will focus on result-oriented actions and the elimination of unnecessary paperwork. During the transition year emphasis will be on the following activities:

- Systematic Planning for Affirmative Action: Agencies are required to engage in a comprehensive process of analysis which involves management, budget and personnel considerations as well as EEO principles.
- Goal Setting and Timetables: An integral part of the affirmative action process is the setting of agency and agency component hiring goals for targeted occupations accompanied by timetables designed to reduce and eliminate underrepresentation.
- Technical Guidance from EEOC to Federal Agencies: In addition to vigorously enforcing its responsibilities EEOC will provide technical assistance, training and guidance to agencies engaged in planning and implementing affirmative action programs in their headquarters and field offices.



You will note that the responsibility for implementing a successful affirmative action program rests with the head of each agency. The recognition that this responsibility lies directly with the agency head represents a significant change in the Federal affirmative action process. As the responsible official, I know that you will take as seriously as I do, our obligation to make the Federal government a model equal employment opportunity employer. Your strong support of the affirmative action program is a prerequisite to the development of a model program in your agency.



6. **APPLICABILITY AND SCOPE:** These instructions apply to all executive agencies (except the General Accounting Office), to military departments insofar as covered employees are concerned (definition in 5 USC 102), the U.S. Postal Service, the Postal Rate Commission, and those units of the legislative and judicial branches of the Federal Government and of the Government of the District of Columbia having positions in the competitive service, as specified in Section 717 (a) of Title VII of the Civil Rights Act of 1964, as amended.
7. **RESPONSIBILITIES:**
  - a. The head of each agency specified in Section 6 above shall be responsible for agency compliance with these instructions.
  - b. EEOC will approve or disapprove agency plans and communicate results of its evaluations to the agency, with instructions for submission of revised plans if required.
  - c. EEOC will report to the President (pursuant to 29 CFR 1613.205) and and to the Congress on accomplishments of each agency, based on agency reports of FY 1980 accomplishments and on-site and other reviews conducted by EEOC.
8. **POLICIES AND PROCEDURES:** The attached instructions contain revised requirements for agency affirmative action program planning. Plan elements will be submitted to EEOC in two phases for review and approval during the year. Concurrently, EEOC will consult with agencies and with OPM. EEOC also will provide technical assistance and training necessary to accomplish FY 1980 goals and to integrate these elements into comprehensive multi-year programs that will start in FY 1981. Plan elements, timetables, procedures for submission and approval, and other requirements for FY 1980 are described below.

In its evaluation of agency plan submissions and reports of FY 1980 accomplishments, EEOC will use the evaluation criteria set forth in the attached instructions and will focus on the progress of the individual agency (or designated component) in relation to its own previous record in hiring and promoting minorities and women and otherwise improving employment opportunities for these protected classes.
9. **REPORTING REQUIREMENTS:** Federal agencies and designated major operating components are required to make the following submissions to the Office of Government Employment, EEOC, on or before the dates specified below.



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY

MANAGEMENT DIRECTIVE

EEO-MD 702

DATE: December 11, 1979

TO THE HEADS OF FEDERAL AGENCIES

1. SUBJECT: INSTRUCTIONS FOR AFFIRMATIVE ACTION (EQUAL EMPLOYMENT OPPORTUNITY) PROGRAM PLANS FOR MINORITIES AND WOMEN FOR FISCAL YEAR 1980
2. PURPOSE: This directive transmits instructions to Federal agencies for development, implementation, and submission of equal employment opportunity plans and programs of affirmative action required by Section 717 of Title VII of the Civil Rights Act of 1964, as amended, for FY 1980. The plans and programs required under these instructions are designated "affirmative action program plans."
3. EFFECTIVE DATE: December 1, 1979
4. SUPERSESSION: These instructions supersede guidelines issued by the U.S. Civil Service Commission, now the Office of Personnel Management (OPM), in FPM Letter 713-40 and FPM Bulletin 713-50, which describe preparation of agency plans for FY 1980 to be submitted to the Equal Employment Opportunity Commission (EEOC) for review and approval.

Requirements of FPM Letter 713-40 for FY 1979 accomplishment reports were superseded by EEOC Management Directive 701 (August 8, 1979); requirements for FY 1979 reporting on discrimination complaint activity will be superseded by future EEOC directives.

5. AUTHORITY: These instructions are prepared pursuant to EEOC's authority under Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 USC 2000e-16; Reorganization Plan No. 1 of 1978, issued pursuant to 5 USC 901 et seq.; Executive Order 11478 (34 FR 12985, August 10, 1969), as amended by Executive Order 12106 (44 FR 1053, January 5, 1979); and 29 CFR part 1613 (formerly 5 CFR part 713, 43 FR 60901). In addition, the instructions outline agency obligations for submission to EEOC of plans developed under 5 USC 7201, pursuant to agreement between EEOC and OPM.



PHASE I - By February 1, 1980, submit the following:

- a. Selection of six most populous occupations for agency affirmative action program planning.
- b. An affirmative action program plan covering two targeted occupations.
- c. An affirmative recruitment program plan including a plan for the Federal Equal Opportunity Recruitment Program (FEORP).

Phase II - By April 1, 1980, submit the following:

- a. Affirmative action program plan for two additional targeted occupations.
  - b. A design for an internal monitoring and evaluation system.
10. ATTACHMENTS: The attached "Instructions for Affirmative Action (Equal Employment Opportunity) Program Plans for Minorities and Women for Fiscal Year 1980" are included as part of this directive.
11. INQUIRIES: Further information concerning this directive may be obtained by contacting:

Office of Government Employment  
Equal Employment Opportunity Commission  
2401 E Street, N.W., Room 4208  
Washington, D.C. 20506

Telephone: (202) 634-6915

Interagency Report Control Number

This report has been cleared in accordance with FPMR 110-11.11 and assigned interagency report control number 0229-EEO-XX.

*Preston David*

\_\_\_\_\_  
Preston David  
Executive Director  
Equal Employment Opportunity Commission

NOTE: OPM in its FPM Letter 720-2, (1979) requires that agencies complete the development of FEORP plans by October 1, 1979. Agency submission of FEORP to the EEOC will be governed by these Instructions.



Attachment to EEOC Management  
Directive 702

INSTRUCTIONS FOR AFFIRMATIVE ACTION (EQUAL EMPLOYMENT OPPORTUNITY)  
PROGRAM PLAN FOR MINORITIES AND WOMEN FOR FISCAL YEAR 1980

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national origin groups. If adverse impact is found, the agency should determine which selection procedure(s) is the source of the adverse impact. Once the agency has made this determination, it must:

1. modify the overall selection process to eliminate adverse impact;
2. substitute an alternative selection process(es);
3. validate the selection process(es); or
4. otherwise justify the use of the procedure(s) under law.

OPM has informed agencies that it will assure that all procedures used or required by OPM satisfy UGESP requirements. OPM has also directed each agency to review all employee selection criteria and procedures it establishes or uses to assure compliance with the UGESP. (See FPM Letter 300-25, December 19, 1978.)

Reorganization Plan No. 1 of 1978 and Executive Order 12067--These Presidential directives gave EEOC lead coordinating responsibility for all Federal equal employment opportunity programs and activities. Pursuant to this authority, EEOC and OPM will continue regular consultation on Federal equal employment opportunity policy.

The Civil Service Reform Act of 1978--This legislation directed EEOC to develop guidelines and OPM to develop regulations for a special recruitment program. This program, designated the Federal Equal Opportunity Recruitment Program (FEORP), requires that agencies conduct affirmative recruitment for those occupations and grades within their work forces in which there is underrepresentation of minorities and women. Agency FEORPs should result in more representative applicant pools from which to select Federal employees.

Section 717--Federal agencies are obligated to undertake affirmative action under Section 717 of Title VII of the Civil Rights Act of 1964, as amended. Other public employers and many employers in the private sector may choose to undertake affirmative action voluntarily. Federal agency affirmative action, however, was mandated by Congress after specific findings of pervasive discrimination in Federal employment.

Affirmative Action Guidelines--These instructions are consistent with the Affirmative Action Guidelines issued by EEOC in January 1979. The guidelines encourage voluntary affirmative action and set forth a process by which employers should craft affirmative action program plans.

#### Essential Elements of Affirmative Action

Federal affirmative action programs, in conformity with EEOC Affirmative Action Guidelines, require action to overcome the effects of past and present discriminatory practices and policies and other barriers to equal



INSTRUCTIONS FOR AFFIRMATIVE ACTION (EQUAL EMPLOYMENT OPPORTUNITY) PROGRAM  
PLANS FOR MINORITIES AND WOMEN FOR FISCAL YEAR 1980

SECTION I

INTRODUCTION

Fiscal Year 1980 will be a Transition Year. The Equal Employment Opportunity Commission (EEOC) will introduce a systematic approach to affirmative action planning and program development. This is a results-oriented process with emphasis on quantifiable measures. The Transition Year will consist of two phases leading to development of comprehensive multi-year affirmative action plans and programs beginning FY 1981.

These instructions are divided into three sections:

- I. Introduction
- II. Reporting Requirements and Evaluation of Plans and Programs
- III. The Planning Process

In FY 1980, each agency must meet the reporting requirements and implement the planning process described. EEOC will provide appropriate technical assistance and training to agencies throughout this Transition Year.

Legal Authorities

Executive Order 11478 and Title VII--Requirements for Federal agency affirmative action programs were first established by Executive Order 11478 in 1969. In the 1972 amendments of Title VII of the Civil Rights Act (Section 717, 42 USC 2000e-16), the Congress required agencies to maintain affirmative action programs to ensure enforcement of Federal equal employment opportunity policy; to apply the same legal standards of prohibited discrimination established for private employers to the Federal government; and to eliminate discrimination that Congress found existed throughout the Federal employment system.

In enacting these requirements, Congress cited the need to eliminate discrimination in Federal employment. This discrimination was evidenced (1) by serious underrepresentation and exclusion of minorities and women in specific areas, agencies, regions, and grade levels; and (2) by systemic, institutional barriers operating through various civil service rules and procedures, particularly non-job related selection and promotion techniques.

Uniform Guidelines--The Uniform Guidelines on Employee Selection Procedures (UGESP) became effective on September 25, 1978. They require agencies to examine employee selection procedures for each job to determine if they have adverse impact on the employment opportunities of members of race, sex, or



employment opportunity. In addition, agencies must eliminate present practices that treat individuals or groups of individuals differently because of their race, color, religion, sex, or national origin.

#### EEOC Assessment of the Transition Year

During the FY 1980 Transition Year EEOC will be actively involved in ensuring successful implementation of the affirmative action planning process described in these instructions. It is fully recognized that many areas involving affirmative action need further refinement. In the future, EEOC will focus particularly on the following areas:

1. development of systematic multi-year affirmative action program plans that incorporate realistic goals designed to overcome the effects of past discrimination;
2. development in consultation with OPM of methodology for determining underrepresentation that utilizes more complete data including the 1980 census;
3. development of a more comprehensive work force analysis; and
4. development of a more systematic process for conducting and reporting analyses of impediments to equal employment opportunity consistent with the UGESP.

EEOC will consider existing affirmative action models in the private and public sectors to arrive at the most effective system. An integral part of this review will be comments received from Federal agencies. These comments and studies conducted by EEOC will form the basis for further modification of the planning process.

Agencies should note that the FY 1980 Transition Year is preparatory to future development of multi-year plans for affirmative action programs. During the transition year, EEOC will consult with each agency to determine if a three- or five-year planning cycle is appropriate. Multi-year plans should be incorporated in budget decisions made in the Spring of 1980.



Modified Plans--Agencies or MOC's which employ a total of 500 or fewer employees are to prepare modified affirmative action program plans as described below. One consolidated plan is to be submitted by the agency directly to EEOC headquarters for review and evaluation.

#### SUBMISSION SCHEDULE

Full-length Plans--Agencies with 500 or more employees are to prepare and submit full length affirmative action program plans as indicated above.

Phase I - Submission Date - February 1, 1980: Agencies are to submit documentation required for Steps A through H as outlined in Figure 2 and described in Section III. At least two populous occupations are to be targeted for Phase I.

Phase II - Submission Date - April 1, 1980: Agencies are to submit documentation required for Steps A through I as outlined in Figure 2 and described in Section III. At least two additional populous occupations are to be targeted for Phase II.

#### Modified Plans

Agencies with a total number of 500 or fewer employees are to submit modified affirmative action program plans including, at a minimum, the items indicated below.

Phase I - Submission Date - February 1, 1980: Agencies are to submit affirmative action goals for two targeted occupations and describe specific staffing and recruitment strategies. (Compare Steps A through H as described in Section III.)

Phase II - Submission Date - April 1, 1980: Agencies are to submit a design for an internal monitoring and evaluation system. (Compare Step I as described in Section III.)

EEOC encourages agencies submitting modified affirmative action program plans to introduce the systems and procedures described in Section III, even though they are not required to formally implement the full length planning process.



SECTION IIREPORTING REQUIREMENTS AND EVALUATION OF PLANS AND PROGRAMS

Throughout these instructions the word "agency" is used generally to refer to all entities required to comply with EEOC Management Directive 702 (December 1, 1979).

PREPARATION AND SUBMISSION OF PLANS

Agency Responsibility--Agency headquarters shall review and consolidate the data and/or plans of organizational sub-units into one plan for direct submission to EEOC headquarters in Washington, D.C. For the Transition Year, departments and agencies must submit headquarters affirmative action program plans directly to EEOC. Major operating components (MOC) concurrently will submit plans to EEOC and to Department or agency headquarters offices. (See Appendix A for (MOC) that are required to submit plans) The dual submission for MOCs is to facilitate rapid EEOC review and evaluation. The Office of Government Employment (EEOC) will contact agency headquarters to coordinate this review.

Entities, Within an Agency or MOC with More than 500 Employees

Field installations with more than 500 employees are to prepare plans, including FEORP plans, and submit them to agency regional offices for summary and consolidation into one regional plan. (See Figure 1.) These regional plans are to be submitted to agency headquarters. Summaries of these plans shall be appended to the headquarters affirmative action plan and submitted to EEOC.

Regional Structure--Field installation or component plans developed in agencies that have no regional structure should be submitted directly to designated agency or MOC headquarters. (See Figure 1, Alternate Step 1.) Such plans must be grouped geographically along Federal regional lines; summarized, appended to the headquarters plan, and submitted to EEOC.

Agencies with regional structures that do not conform to traditional Federal regions should contact the EEOC to determine a method for developing consolidated regional plans consistent with their organizational structure.

Entities, Within an Agency or MOC, with 500 or Fewer Employees

Field installations with 500 or fewer employees are to prepare data for inclusion in the agency plan. If the number of employees is considerably less than 500, agencies have the option of consolidating data for several facilities into one plan rather than developing a separate plan for each facility. Agencies are not required to submit plans for field installations with 500 or fewer employees to EEOC. However, the plans must be retained on-site for EEOC review and evaluation.



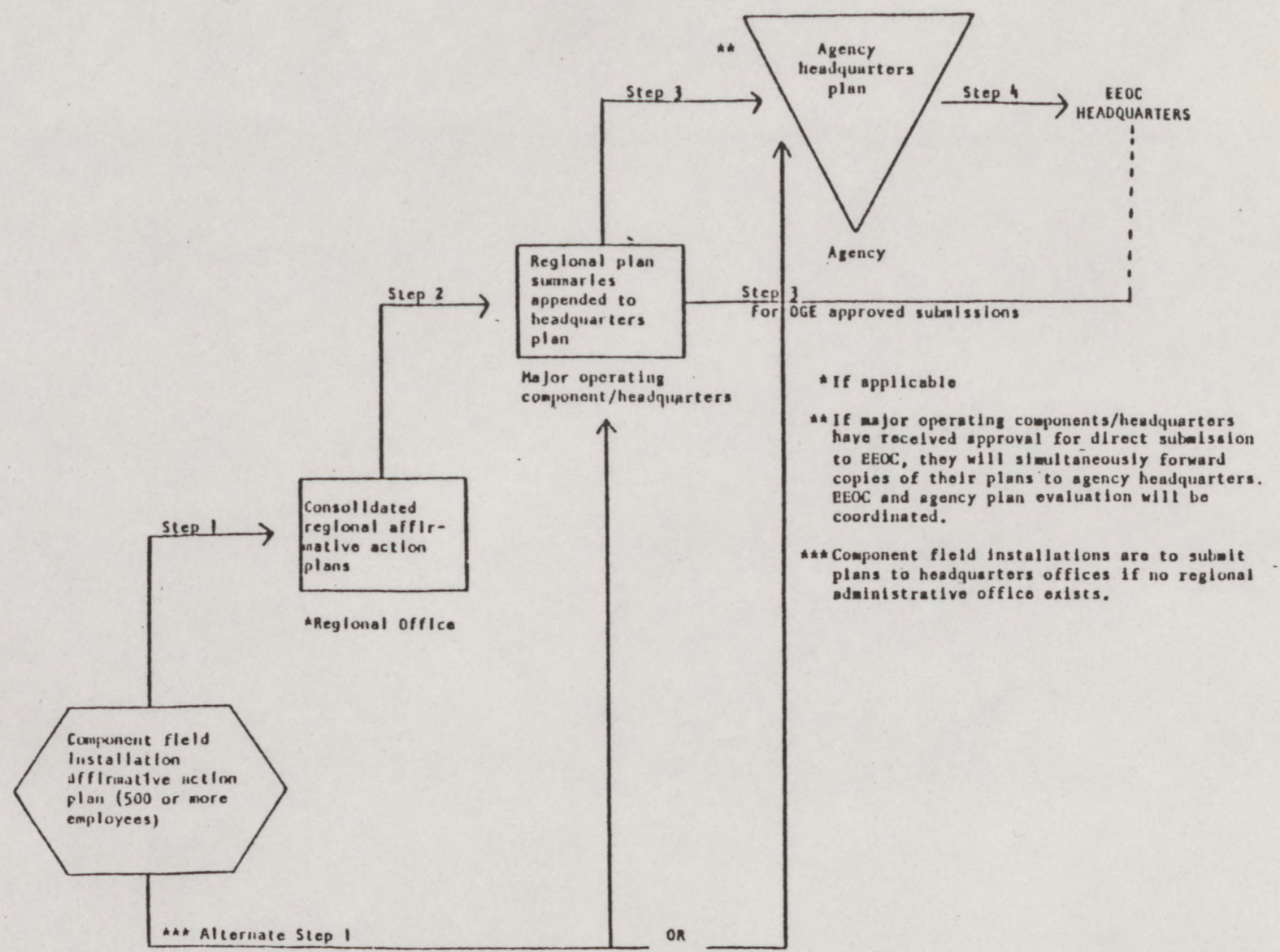
FIGURE 2: SECTION III - Flow Diagram for Affirmative Action Planning Process

	<u>PROCESS</u>	<u>REQUIREMENTS</u>
STEP A	Work Force Profile	The work force profile illustrates the number and percentage of each race, national origin and sex group in all occupations and grade levels within the agency work force.
STEP B	Determine Underrepresentation	Determinations of underrepresentation are to be conducted for the six (6) most populous occupations utilizing the process required for FEORP (as defined in FPM 720-2). These determinations are based on a comparison between the percentage of the subject groups in the civilian labor force.
STEP C	Targeting two Occupations	Two occupations are to be targeted for Transition Year hiring goals. The selection of the occupations is to be based on (a) degree of underrepresentation (b) widest grade range and (c) vacancies.
STEP D	Conduct Analysis of Expediments	An in-depth analysis of those employment policies and procedures which adversely affect employment opportunities of underrepresented.
STEP E	Identify Available Applicant Sources	The identification of available applicant pools involves an analysis of internal (qualified/qualifiable) agency work force and external (federal government, CLF, educational institutions) sources.
STEP F	Establish Hiring Goals	Hiring goals are to be established for each of the underrepresented groups in the two targeted occupations.
STEP G	Determine Specific Staffing and Recruitment Strategies	Structured staffing/recruitment strategies are designed to provide alternatives to procedures with adverse affect identified in the barrier analysis, and are specifically directed to facilitate goal achievement.
STEP H	Develop Affirmative Action Plan	Include all preceding steps in the process and a statement of objectives (based on the staffing/recruitment strategies), specific action steps with compatible milestones.
STEP I	Design/Implement Internal Agency Monitoring System	An internal agency system designed to monitor actions taken to achieve the AA goals.

NOTE: The letters correspond to the paragraphs in Section III.



FIGURE I: PROCESS FOR SUBMISSION OF AFFIRMATIVE ACTION PROGRAM PLANS FROM THE FIELD LEVEL TO EEOC HEADQUARTERS



II-3

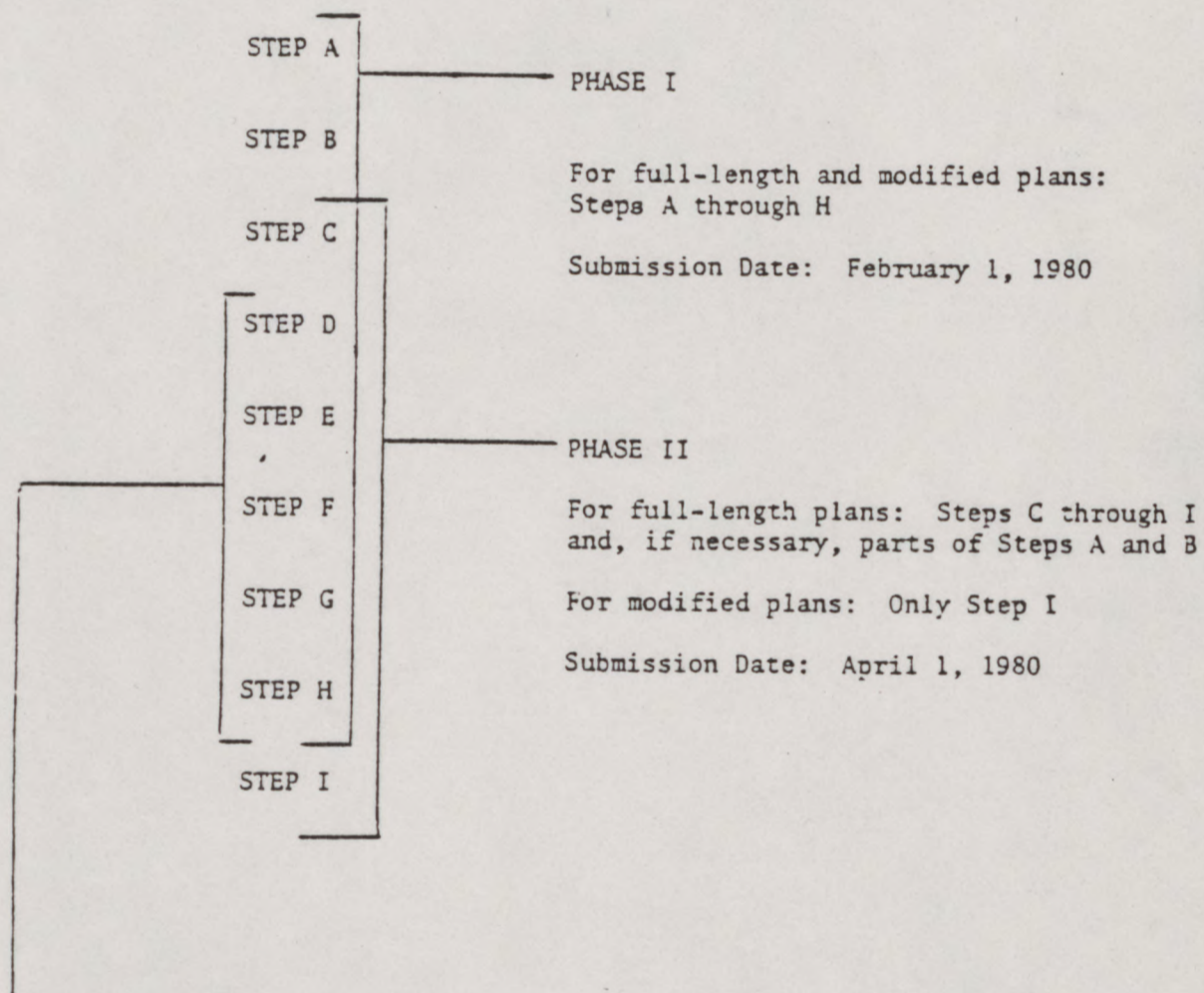






FIGURE 3: PHASES I AND II OF THE AFFIRMATIVE ACTION PLANNING PROCESS

The activities required of agencies during the transition year have been divided into two phases. What must be done depends upon whether the agency is filing a full-length or modified plan. Reporting requirements are discussed in Section II, and each step of the planning process is explained in Section III. Agencies filing modified plans are not required to implement the planning process formally but should consider and be guided by the steps indicated.



Steps D through H are to be completed for the occupations targeted in Phase I and also, unless the agency is filing a modified plan, for the additional occupations targeted in Phase II.



FIGURE 6: Current Work Force Dispersion for Populous Occupations By Grade or Pay Level

Occupation: \_\_\_\_\_

Targeted for Phase I?  Yes  No

Targeted for Phase II?  Yes  No

Grade or Pay Level	Total		White		Black		Hispanic		Asian American/Pacific Islander		American Indian/Alaska Native		Total Number In Grade or Pay Level
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Total													

8-II







FIGURE 8: Determinations of Underrepresentation

POPULOUS OCCUPATIONS	% GROUP IN OCCUPATION (a)	% GROUP IN THE CLP (b)	UNDERREPRESENTATION INDEX (UI) $\frac{(a)}{(b)} \times 100 = UI$	UNDERREPRESENTATION (UR) $100 - UI = UR$

II-10



FIGURE 7: Current Work Force Dispersion for Populous Occupations by Level of Authority

Occupation: \_\_\_\_\_

Targeted for Phase I?  Yes  No

Targeted for Phase II?  Yes

II-9

Levels of Authority	Total				White				Black				Hispanic				Asian American/ Pacific Islander		American Indian/ Alaska Native		TOTAL NUMBER		
	Male		Female		Male		Female		Male		Female		Male		Female		Male		Female				
	I	II	I	II	I	II	I	II	I	II	I	II	I	II	I	II	I	II	I	II			

Specify what the levels of authority are:  
Manager, Supervisor, and other







FIGURE 9: Vacancy Projections for Populous Occupations

Populous Occupations	Occupational Level (O.L.)	Projected Promotions out of O.L.	Projected Requirements out of O.L.	Projected Reassignments out of O.L.	Projected Separations out of O.L.	Projected Other Factors	Number of Vancany Pro-jections for O.L.

II-11

\*entry, mid and senior level



FIGURE 12: AFFIRMATIVE RECRUITMENT PLAN (FEORP)

Targeted Occupation: \_\_\_\_\_  
 Race or National Origin Group: \_\_\_\_\_  
 Sex: \_\_\_\_\_

UNDERREPRESENTED GROUP	Occupational Levels IN WHICH THERE IS UNDERREPRESENTATION	* TARGETED RECRUITMENT PRIORITIES			RECRUITING STRATEGIES TO BE UTILIZED
		AGENCY WORK FORCE	FEDERAL WORK FORCE	CIVILIAN LABOR FORCE	

\*Indicate the order of priority: first, second, third

II-14



FIGURE 11: Barrier Analysis for Targeted Occupations

Race OR National Origin Group: \_\_\_\_\_  
Sex: \_\_\_\_\_

TARGETED OCCUPATION	OCCUPATIONAL LEVEL	PRESENT SELECTION PROCEDURES THAT ARE BARRIERS TO GOAL ACHIEVEMENT	ALTERNATIVE SELECTION PROCEDURES THAT WILL BE UTILIZED

II-13



FIGURE 14: Summary of Affirmative Action Program Plan

TARGETED OCCUPATIONS	TRANSITION YEAR GOAL	OBJECTIVES	SPECIFIC ACTIONS	QUARTERLY MILESTONES			
				1st QTR	2nd QTR	3rd QTR	4th QTR

II-16



FIGURE 13: Transition Year Goals

Targeted Occupations	Occupational Level	Percentage of group in CLF	Total # Estimated Vacancies	Computation of Goals (a) x (b) = (c)	Goals

II-15



action program plan. Agencies are referred to Appendix D for examples of data that may be required for multi-year plans. The EEOC will consult with agencies in developing the format for full work force analyses. Accordingly, these data do not represent final work force analysis requirement.

Criteria for Evaluation of Step A

Plan Evaluation - Submissions will be reviewed to see that Figures 4 through 7 have been completed in accordance with these instructions. During the Transition Year, the EEOC will monitor agencies/components/installations to determine if:

- a. the work force profile is complete;
- b. plans and procedures are being developed to implement the full work force analysis for FY '81 multi-year planning.

Program Evaluation - The overall agency work force profile at the beginning and the end of the Transition Year will be regarded as a key indicator of the success or failure of the affirmative action program. Activities must result in a net increase in representation of minorities and women. Targeted occupations will be emphasized, but all occupations will be considered.



SECTION IIITHE PLANNING PROCESS

STEP A. EACH AGENCY IS TO DEVELOP A WORK FORCE PROFILE INDICATING THE NUMBERS AND PERCENTAGES OF EMPLOYEES IN EACH RACE, SEX AND NATIONAL ORIGIN GROUP IN ALL OCCUPATIONS AND GRADE/PAY LEVELS. POPULOUS OCCUPATIONS ARE TO BE IDENTIFIED; WORK FORCE DISPERSION IS TO BE ANALYZED.

Agencies are to develop a transition year profile showing the degree to which minorities and women are represented at (1) all levels and (2) in all occupations in the agency work force. This profile and subsequent determinations of underrepresentation are prerequisites for targeting occupations for affirmative action during the transition year. The following actions are required.

Identification of Populous Occupations

In Phase I, each agency is required to identify the three most populous professional and the three most populous administrative occupations, unless the majority of occupations in the work force are in the wage system. In that case the agency must identify the three most populous occupations in the wage system and the three most populous occupations in the combined professional/administrative category.

The most populous occupations are those in which the agency has the largest number of authorized positions, either present or projected.

Analysis of Work Force Dispersion

Each agency is to analyze the dispersion of race, sex, and national origin groups in its work force. The following data are to be compiled:

- ° The numbers and percentages of individuals from each group by grade/pay level and occupation throughout the work force. (Figures 4 and 5)
- ° For each of the six occupations identified, the numbers and percentages of each group in each grade/pay level for each of the following levels of authority: manager (defined as supervisor of supervisors), supervisor, and others. (Figures 6 and 7)

Multi-Year Work Force Analyses

Agencies will be required to do extensive work force analyses in the FY '81 multi-year affirmative action planning process. Agencies with present capability to conduct such analyses are encouraged to do so now, even though full analyses will not be required for the transition year affirmative



Separate computations by race, sex, and national origin group must be submitted for each of the populous occupations being analyzed. (See Figure 8).

#### Applying Civilian Labor Force Data

If an agency/or agency component is located in an SMSA with higher concentrations of minorities or women than are found in the national civilian labor force, the agency must use the higher SMSA figures to determine underrepresentation. If the agency or component is located in an SMSA with lower concentrations of minorities or women than are found in the national civilian labor force:

- o The agency must use the higher national civilian labor force figures for all positions for which nationwide recruiting is actually conducted or is feasible.
- o In limited circumstances, the agency may use the lower SMSA figure for positions that are filled by local recruiting, but only after consultation with EEOC (see also OPM Letter 720-2 and the attachments thereto).

Agency installations or units located outside an SMSA may use other local data, provided that these local data are submitted as part of the agency affirmative action program plan. However, in determining underrepresentation, installations are required to use local figures, or national civilian labor force figures--whichever is higher--as described above.

#### Vacancy Projections

Agencies generally project vacancies on a three- or five-year basis, depending on budget cycles. Factors considered include attrition, retirement, and anticipated changes in mission. Vacancy projections are available from agency offices charged with budget preparation.

Vacancy projections are a prerequisite for determining transition year affirmative action goals in Step F. (See Figure 9).

#### Plan Evaluation for Step B

Submissions will be reviewed to see that Figures 8 and 9 have been completed in accordance with these instructions.



STEP B. IN PHASE I EACH AGENCY IS TO DETERMINE UNDERREPRESENTATION IN THE SIX POPULOUS OCCUPATIONS IDENTIFIED IN STEP A. VACANCY PROJECTIONS ARE TO BE UTILIZED FOR EACH OCCUPATION ANALYZED.

In Phase I, each agency is required to make determination of underrepresentation for each of the six populous occupations identified in Step A. The determination to be used is the same as that required by OPM for the FEORP program. (See FPM Letter 720-2.) This determination is required of all agencies whether they are covered by FEORP (5 U.S.C. 7201) and Section 717 of the Civil Rights Act of 1964, as amended, or only by Section 717. The determination of underrepresentation will be a factor in selecting target occupations for affirmative action planning. (See Step C below.)

#### Required Calculations

In determining underrepresentation agencies must use the following data:

- a. the percentage of each race/national origin/sex group in each of the six most populous occupations; and
- b. the percentage of each group in the overall national or SMSA civilian labor force, as appropriate.

NOTE: For professional occupations, as specified in PATCO, an additional determination is calculated by using the percentage of each group in the professional category of the national or SMSA civilian labor force (see Appendix B; for a listing of PATCO occupations, see FPM Letter 720-2.)

Agencies then must calculate underrepresentation as follows:

#### Step 1.

In making determinations of underrepresentation, agencies must compute:

$$\frac{a}{b} \times 100 = \text{underrepresentation index (UI)}$$

NOTE: Where the UI is 100 or more, no further calculation is required; there is no underrepresentation in this occupation and/or grade or pay system for the particular race/ethnic/sex group. Therefore, no affirmative action goal will be established.

#### Step 2.

Agencies must then compute underrepresentation as follows:

$$100 - \text{UI} = \text{underrepresentation for setting affirmative action goals}$$



STEP D. ANALYZE IMPEDIMENTS TO THE ELIMINATION OF UNDERREPRESENTATION

All references to occupations relate only to the targeted occupations and the achievement of Transition Year goals.

Analysis of Recruitment Process Used for Filling Two Targeted Occupations:

Recruitment sources - All agencies (or agency components) must perform a barrier analysis to determine whether present recruitment activities impede efforts to eliminate underrepresentation. This analysis is not a determination of adverse impact under the UGESP, which do not apply to recruitment. The following analysis will determine the effectiveness of an agency's recruitment process and identify those recruitment sources which have failed to produce minority and female applicants.

- ° Identify all recruitment sources which the agency/component presently uses to attract applicants to fill the two targeted occupations.
- ° Determine the number of minorities and females who applied for each occupation as a result of each recruitment source.
- ° Rank each recruitment source in order of effectiveness (i.e., the source which generated the most minority and female applicants would be ranked first; the source which generated the fewest applicants would be ranked last).

If this analysis reveals that any recruitment source fails to produce a significant number of minority and female applicants, the agency/component must redirect its recruitment activities to include alternative sources designed to increase the numbers of minorities and females in the applicant pool.

The development of a recruitment program, including alternative recruitment strategies, is addressed in Section III G below and OPM's FPM Letter 720-2, and the attachments thereto.

Analysis of Selection Processes Under the UGESP:

The UGESP requires agencies to examine the employee selection process for each job to determine if it has adverse impact on employment opportunities of members of a race, sex, or national origin group.\* Adverse impact, as defined in Section 16B of the UGESP, is a substantially different rate of selection in hiring, promotion, or other employment decisions which work to the disadvantage of members of a race, sex or national origin group. In order to determine adverse impact under the UGESP it is necessary to main-

\*UGESP requires analysis of race or sex data. Under these Instructions, it is required that analyses be completed for each race, national origin group by sex.



STEP C. TARGETING OCCUPATIONS FOR TRANSITION-YEAR AFFIRMATIVE ACTION GOALS

Agencies are required to select, at a minimum, two occupations for the establishment of affirmative action goals. These occupations are to be selected from the six most populous occupations for which determinations of underrepresentation have been made. For those agencies whose most populous occupations are in the prevailing wage systems, at least one of the two occupations for Phase I must be a prevailing wage system occupation.

Criteria for Selection of Targeted Occupations

Agencies may target more than two occupations, if desired. The following criteria must be used by agencies in selecting target occupations:

- ° select occupations where the highest degree of underrepresentation for more than one group exists, as demonstrated by the determinations of underrepresentation.
- ° occupations with the widest grade range ("mainstream occupations");
- ° occupations where substantial vacancies are anticipated.

The Commission is requiring that agencies target for Phase II two additional occupations from the six most populous identified in Phase I. One occupation should be professional or administrative and the other should be clerical or blue collar. Agencies shall identify the most populous clerical or wage system occupations as appropriate. These occupational groupings were selected to ensure that jobs with maximum promotion potential are utilized for setting affirmative action goals.



NOTE: EEOC and OPM are consulting on appropriate guidance to agencies on the use of alternatives where examinations are implicated.

Once the agency identifies a selection procedure(s) that is causing adverse impact, it must take one of the following steps:

- ° discontinue the use of the procedure
- ° modify or substitute the selection process to eliminate the adverse impact;
- ° complete a validation study which meets the requirements of the UGESP (Section 3A, 3B, 16X); or
- ° meet the requirements for interim use of a procedure (Section 5J); or
- ° otherwise justify the use of the procedure under Federal law (Section 6B).

Alternative Selection Procedures - A Validation study demonstrates that the use of a selection procedure to measure a job applicant's skills, knowledge, or abilities indicates the likelihood of the applicant's successful performance on the job. Validation studies are not required by the UGESP. In lieu of validation, the UGESP specifically permits the development of alternatives. Under the UGESP as well as under Merit System principles, the goal is to select people who can perform the job. OPM's letter 300-25, specified that review of selection procedures for adverse impact applies to qualification requirements, and to all procedures affecting in-service placement, merit promotion systems interview, ranking determinations made by individuals or panels, performance appraisals, etc.

#### Examples of Alternative Selection Procedures

Use of Alternative Entry Routes as a Means of Eliminating Adverse Impact - Selection processes for a job may include several different entry routes: for example, hiring from the register combined with hiring pursuant to an upward mobility program. The impact of the selection process is determined by looking at the combined results of the various entry routes. Agencies should consider use of alternative entry routes as a means of eliminating adverse impact.

Use of Technical Series Which Do Not Require Specialized Experience or Other Preparation as Bridges to Administrative Series Which Offer an Opportunity for Greater Career Advancement - This provides employees on-the-job training while improving other qualifications. For example, Agency T has developed management assistance positions. Satisfactory performance in these positions for a period of time will provide an individual with the skills required to perform in a management analyst position. Once an individual acquires these skills, he/she can be transferred to a management analyst position.



tain applicant data which includes the race, sex and national origin of all applicants for each job. OPM published a systems notice in the October 13, 1979, Federal Register, authorizing the collection of race, sex and national origin data from applicants for Federal employment. The notice covers both OPM and individual agency systems. Subsequent guidance will be provided by OPM.

#### Analysis of Promotion Trends for Each Group

Agencies must analyze promotional data for the targeted occupations. This analysis should be done for each grade and level of authority within the targeted occupations. Promotion activity can be identified from the nature of action code (NOA) 702 on Standard Form 50. This category does not include merit promotion of members who are added to the activity workforce. Such promotion data should be recorded in the format supplied as Figure 10 and should be done for the last five years (or for the period that such data are available, whichever is longer). (See Figure 10)

Such promotion data is useful in identifying barriers to equal opportunity and may be useful to agencies in determining where innovative training and other programs should be developed to increase representation in middle and upper management.

#### Agency Finding of Adverse Impact

If an agency's adverse impact determination (all above) indicates that adverse impact does exist in the overall selection process for the targeted job, it should then determine which component selection procedure(s) is the source of this impact. Selection procedures may include: the requirements of Federal status, examinations, ranking, certification, interviews, educational requirements, success in training requirements, probationary periods of work, recommendations for selection, hiring, promotion, etc. Appointment authorities, such as, those cited in FPM 291 are also selection procedures and should be examined. The following example illustrates this process:

For Position B, Agency Z uses the following five procedures in its overall selection process:

- 1) Federal status
- 2) A college degree in the Social Sciences
- 3) The entry examination
- 4) Certification list standing
- 5) Interviews conducted by a supervisor.

The Agency has determined that this overall selection process for position B has adverse impact. The agency must now determine which of the five individual component selection procedures is the source of the adverse impact. The individual impact of each selection procedure should be analyzed. Agency Z determines that its second and third selection procedures are the source of the adverse impact.



formal training or specific prior work experience can operate to exclude qualified women and minorities.

- Have panel ratings and instructions been reviewed to see if sufficient recognition is given to prior experience or training which, while not identical to that of the job in question, has provided an applicant the needed skills?
- Has volunteer experience been given sufficient recognition by raters and selecting officials?
- Have final selections been reviewed to determine whether people with formal education or training have been hired in preference to people who have gained knowledge and skills on-the-job?
- Is validation underway?
- Have the interim use procedures of the UGESP been met?
- Is the procedure otherwise justified under law?

Criteria for Evaluation of Step D

1. Agencies are required to submit a narrative showing:
  - a. exact selection procedure(s) where adverse impact is found;
  - b. specific agency actions to eliminate the adverse impact;  
and
  - c. the number of employees and/or applicants affected by these procedures.
2. Completion and submission of figure 10 and figure 11.



Vague and subjective elements in existing processes of screening and rating panels and interviewing procedures may operate to exclude minorities and women; developing more objective measures and including minorities and women as members of these panels will enhance the fairness of these evaluations. The following example illustrates this alternative:

Agency Q requires that an applicant undergo an interview by the prospective supervisor who then makes the final determination on whether to hire that individual. This procedure might be changed so that applicants are interviewed by a number of supervisors, including minorities and women. The supervisors could sit on a panel to conduct the interview or each could conduct a separate interview. Each supervisor should have uniform objective criteria to use in evaluating and rating an applicant's ability to perform a job.

The following are some questions which might be addressed as part of the review of the selection procedures for each job:

- Do requirements for "status" (i.e. current or prior Federal employment) constitute an artificial barrier to employment? Are such requirements necessary for effective job performance?
- Has the job been analyzed to determine which are important and critical work behaviors? Are qualifications and rating factors tailored to these behaviors?
- Has the job been examined to determine which knowledge and skills can be learned on the job in a short period of time? (What can be learned in a short time can seldom, if ever, be a requisite for hire if it has adverse impact.)

For example, Agency Z has a secretarial vacancy. The incumbent in this position operates "mag" card and other word processing equipment regularly. These skills are listed as prerequisites for hire in the position announcement. An examination of the position indicates that these skills can be learned on the job in a short period of time by someone who possesses good secretarial skills, and that many of the individuals occupying this position did not possess these skills when they were hired. If this prerequisite for hire has adverse impact it should be eliminated.

- Did all incumbents or prior occupants of the job have all the "qualifications" now required of applicants at the time they were first hired? (If not, current requirements are not "necessary" and may be discriminatory under UGESP.)
- Are minimum requirements, set by the agency or OPM, really necessary to do the job? Requirements for formal education,



After identifying potential applicant sources, agencies should develop recruitment techniques to be used in attracting applicants from underrepresented groups. These techniques include:

- ° placing job announcements/advertisements in newspapers
- ° on-site visits at minority and women's colleges
- ° contact with minority and women's professional organizations
- ° sending job announcements to civil rights organizations
- ° attendance at special career programs at local high schools and colleges
- ° announcing employment opportunities on paid radio/TV spots.

#### Criteria for Evaluation of Step E

The EEOC fully endorses the FEORP evaluation criteria outlined in FPM 720-2 (2-8c), and will consider those criteria in evaluating agency progress in addition to the criteria listed below:

- a. The number of qualified and qualifiable employees identified through the skills utilization survey who represent potential applicants for the two targeted occupations
- b. The specific agency actions taken to identify applicant pools within the federal government and the civilian labor force for the two targeted occupations.
- c. The type of focused recruitment strategies developed including:
  - (1) the number of personal contacts (i.e. on-site visitations) with colleges having a substantial minority and female enrollment.
  - (2) the number of personal contacts with minority and women's professional organizations.
  - (3) the resources committed to recruitment activities (i.e. designation of a recruitment specialist for affirmative employment)
  - (4) the actual number of applicants recruited from among the underrepresented groups for the two targeted occupations.
  - (5) completion and submission of figure 12.



STEP E. IDENTIFICATION OF QUALIFIED/QUALIFIABLE APPLICANTSInstructions

Identification of available qualified/qualifiable applicants is dependent on assessment of three applicant sources: (a) the internal agency/component workforce; (b) the federal workforce, and (c) the civilian labor force. This assessment already is required by Federal agencies covered by FEORP. The EEOC is requiring the same basic affirmative recruitment analysis and effort from agencies not covered by FEORP. All agencies are referred to OPM's guidance on FPM 720-2 program. A reporting format for all agency recruitment submissions is provided in Figure 12.

Internal Agency Work Force

To determine and to develop internal pools from underrepresented groups, agencies shall establish a skills inventory system. Through a skills survey, agencies can determine the number of currently qualified and qualifiable employees, from these groups.

Qualified employees are identified. After this determination, the Agency can assess the number and type of positions to be targeted and filled at appropriate levels, consistent with affirmative action goals. Accelerated training programs (upward mobility concepts at all grade levels); in-service placement, and competitive reassignments are examples of agency actions that develop qualifiable candidates. Ongoing career counseling programs also may assist such employees.

Federal Work Force Population

The Central Personnel Data File (CPDF), maintained at OPM, may give agencies, through provision of gross statistical data, an indication of potential applicant sources within other agencies. In addition, agencies are encouraged to utilize the interagency clearinghouses recommended by OPM's FEORP guidance (FPM Letter 720-2) to identify candidates from underrepresented groups currently employed by the Federal government.

Civilian Labor Force

Identification of applicant sources in the civilian labor force is an essential element of FEORP, particularly where certain minority groups are significantly underrepresented throughout the Federal system. Personnel resources organizations can provide data on current and potential applicant sources (e.g. graduating classes, identification of geographic areas having a high density of an underrepresented group, etc.). An analysis of possible sources is essential in focusing agency recruitment efforts. Additionally, minority and women's organizations and colleges and colleges with a significant proportion of minority and women students may provide recruitment information to agencies.



For professional occupations:Step 1(a):

(% of underrepresented group in professional category in CLF) x (Projected vacancies) = GOAL

NOTE: Where the computations yield goals of .5 or below, it is appropriate to combine male and female goals for the underrepresented group, thus setting one goal for the group.

Thus, the rate of hiring must be commensurate with the presence of underrepresented groups in the appropriate labor force. This constitutes a minimum goal for agency hiring efforts. Annual assessments of agency progress based on the application of this required rate to actual hiring activity will take into account changes in agency workforce.

NOTE: Agency hiring activity must result in a net increase in the number of minorities and women employed in the agency workforce.

Reassessment of Goals

After barrier analysis and identification of qualified and qualifiable applicants from all sources, agencies may determine that there should be readjustments in the goals. It is mandatory that agencies conduct such reassessment. Where the agency has severe underrepresentation (i.e. more than 50%) in a targeted occupation, the agency should double the rate of hiring for the severely underrepresented group.\*

In this context, it should be noted that the situation of Hispanics in the Federal work force is a special case because underrepresentation is especially severe and exists across the board, even in the most unskilled categories, where minorities and women are most often found. Therefore, in order to avoid unduly long periods of redress, special attention should be given to increasing hiring rates in regards to Hispanic goals beyond those ordinarily used to make up for underrepresentation.

This is singularly important because agencies will be obligated to develop multi-year plans that address the total elimination of underrepresentation. This objective may require even higher goals for severely underrepresented groups, and may increase the requirement on agencies. A vigorous agency effort during this Transition Year will ensure that this ultimate goal can be more readily achieved. We are relying here on court cases that require an increased rate of hiring in instances of severe underrepresentation while holding to the same underlying available pool. Thus, in the FTC consent decree (Baufman v. Pertschuk, Civil Action No. 76-0079 DDC, 1978) the

\* black males 5.2 CLF underrepresented by more than 50% rate of hiring becomes 10.4 x estimated hires.



STEP F. ESTABLISHMENT OF TRANSITION YEAR AFFIRMATIVE ACTION GOALS

Agencies are required to set Transition Year affirmative action goals in the two targeted occupations. Factors to be used by agencies in computing these goals are:

- the percentage of each race, national origin group within each grade and level of authority of the two targeted occupations.
- the percentage of each group in the total national or SMSA civilian labor force. For professional occupations, the percentage of each group in the "professional occupations" in the aggregated national or SMSA civilian labor force.
- the actual number of hires or recruitment actions projected by the agency to be filled in the Transition Year.

NOTE: Concepts of strict occupation-by-occupation availability have not been used for the purpose of setting agency goals (appendix B). The EEOC, using its coordination authority under Executive Order 12067, is currently consulting with the Office of Federal Contract Compliance Programs on issues affecting the definitions of availability, relevant labor market and other statistical concepts of importance to Title VII and Executive Order 11246 enforcement. These concepts will result in government-wide standards for both public and private sector employers. However, since these standards will not be available for at least a year, agencies are bound by these procedures until further guidance is promulgated. It should be stressed that most federal employment except professional occupations with stringent certification requirements may be adequately filled by candidates with vastly different preparation and experience. Agencies are encouraged to seek the most appropriate number of candidates, and to use the most flexible selection and qualification criteria in filling the majority of positions that do not have job-related technical or specific certification requirements.

Computing Transition Year Affirmative Action Goals for all occupations except professional:

Step 1:

Multiply the percentage of the underrepresented group in the appropriate civilian labor force (national or SMSA) times the projected number of

$$\begin{array}{r} (\% \text{ of underrepresented} \\ \text{group in CLF}) \end{array} \quad \times \quad \begin{array}{r} (\text{Projected vacancies}) \\ \end{array} = \text{GOAL}$$



STEP G. STAFFING AND RECRUITMENT STRATEGIES

Where underrepresentation is found, agencies are required to develop and implement innovative staffing strategies to increase available pools of qualified candidates. Chief among these strategies are those involving training and education.

Section 717 requires that each agency establish:

"...training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential;..."

Development of effective staffing and recruitment strategies including those cited by The Congress, is key to the affirmative action planning process. Agencies through use of these strategies will adopt a more focused and flexible approach to employment practices used to staff vacancies, and include, as an integral factor, agency affirmative action goals. These strategies should take into account:

- ° the barriers to goal achievement identified in Section III-D;
- ° the goals for occupations that have been established; and
- ° the persons identified in both internal and external applicant pools.

Agencies must indicate the innovative staffing strategies used to increase opportunities for underrepresented groups. Appendix C contains a list of suggested strategies; this list is not exhaustive. (See also OPM's FPM Letter 720-2, and the attachments thereto.) Agencies will be evaluated on the use of these strategies, and the number of persons from underrepresented groups who are trained and/or selected because of agency use.

Criteria for Evaluation of Step G

In evaluating agency use of innovative staffing strategies, the EEOC will consider:

1. Any type of specific external staffing strategies used to fill positions by level (entry level and above):
  - (a) the relationship to the identified employment barriers for the targeted occupations;
  - (b) the relationship to the achievement of goals.
2. Any type of specific internal staffing strategies used to fill positions by level (entry level and above):



court compelled the agency to hire minority attorneys annually at a rate equal to 165% of each year's minority graduates of law schools until underrepresentation is eliminated.

Goals established in this fashion bear a close relationship to probable available candidates. Therefore, agency adjustment of these goals must be based on the results of a rigorous search for the largest possible available pools. The burden of demonstrating why goals cannot be met rest with the agency. The EEOC will consider several factors in evaluating agency efforts to achieve these goals. These factors include, but are not limited to:

- ° demonstrated applicant flow below the stated goal;
- ° changes in mission;
- ° effective use of promotions;
- ° reallocation of vacancies;
- ° results of barrier analyses;
- ° results of FEORP;
- ° results of innovative staffing strategies designed to increase available pools.

#### Criteria for Evaluation of Step F

In assessing agencies' Transition Year affirmative action goals the EEOC will consider the following:

- (a) the extent to which goals are actually achieved for targeted occupations;
- (b) the accuracy with which agencies complete the process outlined in this section;
- (c) the adherence to time frames established for goal achievement;
- (d) Completion and submission of figure 13.



STEP H. DEVELOPMENT OF THE AFFIRMATIVE ACTION PLAN FOR TWO TARGETED OCCUPATIONS

The Affirmative Action Program Plan is a synthesis of all preceding steps in the process. The Plan shall consist of the following: (as described in Section III, steps A through G)

1. Target occupations;
2. Hiring goals and timetables for each underrepresented group(s);
3. Statement of objectives on staffing recruitment strategies, specific actions to be taken and designated timetables.

Figures 3 - 14, with appropriate narrative, are to be submitted with each plan. The cover documents in Appendix E, F and G are to be submitted with each plan.



- (a) the relationship to the employment barriers identified for the targeted occupations;
- (b) the relationship to the achievement of goals.



EEOC Evaluation

EEOC has organized a national effort coordinated out of the Office of Government Employment Washington Headquarters office, with ten field offices, to administer this program. On-site visits shall be made in Washington, D.C. as well as in any of the ten Federal regions to evaluate the scope and effectiveness of agency/component affirmative action programs.

Plans should be available for review on-site. EEOC will offer guidance and technical assistance as necessary throughout the Transition Year.

In addition to the specific standards and criteria described for each step in Section III, agencies should take note that EEOC shall rank agencies based on their plans and accomplishments for FY'80. This ranking will attempt to assess the extent of progress made by an agency/component in relation to its status at the beginning of the fiscal year. Thus individual agencies or components will be evaluated on the rate of progress that has been made in eliminating underrepresentation. This evaluation shall be published annually by the EEOC and be included in the mandated reports to the President and the Congress under Title VII.



STEP I - Phase II

The Commission is requiring that agencies target for Phase II two additional occupations from the six most populous identified in Phase I. One occupation should be professional or administrative and the other should be clerical or blue collar. Agencies shall identify the most populous clerical or wage system occupations as appropriate. The Affirmative Action Planning Process described in Section III is to be applied to these two additional occupations and an appropriate plan (see Section III H) is to be developed and presented to EEOC by April 1, 1980.

Additionally agencies will submit as part of Phase II a design for Implementation, Monitoring and Evaluation of the Affirmative Action Planning Process.

Both Phase I and Phase II are to be implemented during the Program Year (October 1, 1979 to September 30, 1980). The data base for the Transition Year shall be the data covering FY'79. The agency evaluation design will thus be for the entire Program Year.

Establishment of Agency Monitoring Procedures

The agency must establish procedures to insure that affirmative action planning is integrated into the agency's personnel management system. This requires, at a minimum, the following:

- ° information systems that will provide periodic status reports on a statistical workforce profile and on affirmative action goals. Such information systems should reference the affirmative action planning process set forth in these instructions.
- ° ability to monitor employment trends and other historical or trend data.
- ° ability to monitor the achievement of specific goals within designated timetables.
- ° integration of barrier analyses; elimination of impediments; innovative staffing techniques and concomitant revisions in agency selection procedures. This should be related to the number of individuals from underrepresented groups who were affected.
- ° ability to integrate overall management and budget planning with affirmative action planning.



Multi-Year Plans - An affirmative action planning cycle which will extend beyond one year and will coincide with agency ongoing budgetary and personnel management planning in order to address both long term and short term goals.

Professional Grouping - An aggregate of professional and technical occupations in the national and SMSA civilian labor force which will be used as the statistical base for determining underrepresentation and setting goals for professional occupations within the agency.

Professional Occupations - As specified in the PARCO occupations in FPM 720-2.

Promotion Trend Data - Statistical data for a designated time period which illustrates promotion actions for race, national origin groups by sex.

Qualifiable - Those persons who do not presently possess the requisite qualifying factors for lateral or promotional placement, but who through specialized training and/or assignments may advance into an underrepresented employment category.

Race, National Origin, Groups by Sex ("Group") - The racial and ethnic categories to be used in affirmation action program plans. In all instances data and calculations for each group must also differentiate male and female. The UGESP requires analysis of race or sex data. Under these instructions, it is required that analyses be completed for each national origin group by sex.

White (not of Hispanic origin)  
Black (not of Hispanic origin)  
Hispanic  
American Indian or Alaskan Native  
Asian or Pacific Islander

Staffing/Recruitment Strategies - Staffing techniques which are designed to increase the available pools of qualified candidates from among the underrepresented groups.

Standard Metropolitan Statistical Area (SMSA) -- A standard geographic area used for Federal data and programmatic implementation, based on the general concept of an integrated economic and social unit with a recognized large population nucleus, generally a city of 50,000 or more.

Targeted Occupations - The four occupations, selected because of the degree of underrepresentation; the widest grade/pay range; and the number of vacancies. The entire affirmative action planning process will be completed during the Transition Year for these occupations.

Transition Year - A developmental year designed to introduce federal agencies to a systematic approach to affirmative action planning which will lead to multi-year affirmative action planning.



GLOSSARY OF TERMS

Affirmative Action Goal - A numerical goal established for the transition year which is derived by computations based on the civilian labor force representation and agency vacancy projections.

Agency - Those agencies with employees covered by Section 717 of Title VII of the Civil Rights Act of 1964.

Applicant Sources - Any entity from which members of underrepresented groups can be recruited for federal employment.

Barrier Analysis - A review and analysis of selection procedures to determine those procedures which impede agency efforts to eliminate underrepresentation or to offer equal employment opportunities to underrepresented groups.

Civilian Labor Force - The number of persons 16 years of age and over except those in the armed forces, who are employed or seeking employment.

Determination of Underrepresentation - A comparison between the per cent of a particular race, nation origin group by sex in a category of federal employment and the percentage of the same group in the appropriate civilian labor force.

FEORP (5 USC 7201) - Federal Equal Opportunity Recruitment Program - An affirmative recruitment program required by the Civil Service Reform Act of 1978 and predicated upon a determination of underrepresentation in various categories of civil service employment.

Grade or Pay Level - The specific levels within the prevailing pay structure (general schedule (GS), wage grade (WG), or other).

Level of Authority - Designated authority levels within an agency. Supervisory, managerial (a supervisor's supervisor) and other (all other non-supervisory personnel).

Mainstream Occupations - Those occupational series with the widest grade range between entry and the full performance levels.

Major Operating Components - Discrete organizational or functional units below the agency/department level which have designated regional/installation offices.

Monitoring System - Internal agency systems designed to track actions being taken by the agency to ensure compliance with the requirements set forth in these instructions.

Most Populous Occupations - Those occupational series within an agency which have the largest number of actual or projected authorized positions.



Uniform Guidelines on Employee Selection Procedures (UGESP) - Guidelines which set forth standards and procedures to be used by public and private sector employers in analyzing selection procedures.

Vacancy Projections - Annual estimates of unencumbered authorized positions that will occur within an agency during a fiscal year.

Work Force Profile - An analysis of the agency work force showing the dispersion of race, national origin groups, by sex within specified employment categories.



## APPENDIX A

## Designated Major Operating Components (MOC)

Department of Health, Education and Welfare

Office of the Secretary  
Office of Human Development Services  
Health Care Financing Administration  
Education Division  
Public Health Service

Department of Interior

Office of the Secretary  
Bureau of Indian Affairs  
Bureau of Land Management  
Bureau of Mines  
Bureau of Reclamation  
Heritage Conservation and Recreation Service  
Fish and Wildlife Service  
Geological Survey  
National Park Service  
Office of Surface Mining Reclamation and Enforcement

Postal Service

Postmaster General  
Administrative Group  
Manpower and Cost Control  
Operations Group  
Inspector Service  
Regional Offices: Northeast  
Eastern  
Central  
Southern  
Western

Department of Agriculture

Office of the Secretary  
Farmers Home Administration  
Forest Service  
Soil Conservation Service  
Agricultural Stabilization and Conservation Service  
Agricultural Marketing Service  
Food Nutrition Service  
Science and Education Administration



## APPENDIX A

Animal and Plant Health Inspection Service  
Federal Grain Inspection Service  
Food Safety and Quality Service

Department of Justice

Central Office  
Federal Bureau of Investigation  
Immigration and Naturalization Service  
Bureau of Prisons  
Drug Enforcement Administration  
U.S. Marshal Service  
Offices, Boards, and Divisions  
U.S. Attorneys Office

Department of Transportation

Office of the Secretary  
U.S. Coast Guard  
Federal Aviation Administration  
Federal Railroad Administration  
National Highway Traffic Safety Administration  
Saint Lawrence Seaway Development Corporation  
Research and Special Programs Administration

Department of Labor

Office of the Secretary  
Employment Standards Administration  
Employment and Training Administration  
Solicitor of Labor  
Labor Management Services Administration  
Office of the Assistant Secretary for Administration and Management  
Occupational Health and Safety Administration  
Bureau of International Labor Affairs  
Mine Safety and Health Administration

Department of Commerce

Office of the Secretary  
National Oceanic and Atmospheric Administration  
National Bureau of Standards  
Bureau of Census  
Patent and Trademark Office  
Industry and Trade Administration  
Maritime Administration



## APPENDIX A

United States Travel Service  
Economic Development Administration  
National Telecommunication and Information Administration  
Office of Minority Business Enterprise  
Bureau of Economic Analysis  
National Technical Information Service

Treasury Department

Office of the Secretary  
Bureau of Alcohol, Tobacco and Firearms  
Bureau of Customs Service  
Bureau of Engraving and Printing  
Federal Law Enforcement Training Center  
Government Financial Operations  
Internal Revenue Service  
Bureau of the Mint  
Bureau of Public Debt  
U.S. Savings Bonds  
U.S. Secret Service  
Bureau of Control of Currency

Department of the Navy

Office of the Secretary  
Office of the Chief of Naval Operations  
Office of the Comptroller  
Office of Naval Research  
U.S. Marine Corps  
Systems Command (under NAVMAT)  
Telecommunications Command  
Security Group Command  
Bureau of Medicine and Surgery  
Oceanography Command  
Education and Training Command  
Reserve Command  
Data Automation Command  
Civilian Personnel Command  
Naval District Headquarters  
Military Sealift Command  
Atlantic Fleet  
Pacific Fleet

Department of Defense

Office of the Secretary of Defense  
Office of the Joint Chiefs of Staff  
American Forces Information Service



## APPENDIX A

Defense Advanced Research Projects Agency  
Defense Audio Visual Service  
Defense Security System Assistance Agency  
Office of Economic Adjustment  
Tri Service Medical Information Program Office  
Washington Headquarters Services  
Court of Military Appeals  
Defense Civil Preparedness Agency  
Defense Communication Agency  
Defense Contract Audit Agency  
Defense Intelligence Agency  
Defense Investigative Service  
Defense Logistics Agency  
Defense Mapping Agency  
National Security Agency  
Uniformed Services University of the Health Services  
Department of Dependents Schools

U.S. Air Force

Office of the Secretary  
Office of the Chief of Staff  
Air Force Logistics Command  
Military Airlift Command  
Strategic Air Command  
Air Training Command  
Alaskan Air Command  
Air Force Systems Command  
Air Force Reserve  
Air Force Academy  
Tactical Air Command  
Air Force Europe  
National Guard Bureau  
Air Defense Command

U.S. Army

Army Materiel Development and Readiness Command  
Army Forces Command  
Army Training and Doctrine Command  
Army Corps of Engineers  
Army Health Services Command  
Military District of Washington  
Army Communications Command  
Military Traffic Management Command  
Army Recruiting Command  
Army Intelligence and Security Command



## APPENDIX A

Department of Housing and Urban Development

Headquarters  
HUD Regional Offices - 10 (ten)

Department of State

Office of the Secretary  
Arms Control and Disarmament Agency  
Agency for International Development  
International Communications Agency

General Services Administration

Central Office Staff  
Federal Supply Service  
Public Building Service  
Federal Property Resources Service  
National Archives and Record Service  
Automated Data and Telecommunication Service  
GSA Regional Offices - 11 (eleven)



Where the SMSA is not represented in Census table 172, that is, its population in 1970 was less than 250,000, the national statistics in Table B-1 should be used for all race/ethnic/sex groups.

Technical Note: The figures drawn in Tables B-1 and B-2 are estimates of national and local statistics for "Other Professional and Technical, Salaried." These are used to delete the effects upon the national all-industry statistics of large proportions of persons less greatly represented in Federal employment, such as teachers, health professionals and technicians, engineers and engineering and science technicians. The figures in Table B-2 were computed by adjusting total Professional and Technical proportions by the national "Other Professional and Technical" data. The tabulation in Section (c) above reflects both this calculation, and an adjustment to represent occupational changes since 1970.



APPENDIX B

Determination of Underrepresentation for 717 Goal Setting  
in Professional Occupations

Professional occupations are those listed under Category "P" in Appendix A of Attachment 2 to FPM Letter 720-2. For civilian labor force data for occupations other than professional the FEORP statistics in attachments to FPM Letter 720-2 should be used.

To determine underrepresentation, agencies should use the occupation-based data provided in Table B-1 and B-2 below, when applicable. Table B-1 contains national participation in professional and technical occupations for Blacks and Hispanics by sex in 17 SMSA's. Local data are not available for American Indians/Alaskan Natives and Asians/Pacific Islanders; for those groups the national figures in Table B-1 should be used.

For SMSA's not listed in Table B-2, the agency should develop the appropriate statistics where available in the 1970 Census Population. The source is table 172 in each State volume of the General Characteristic Series, PC(1)-D. This source gives detailed information for SMSA's with population of 250,000 or more. The appropriate columns in table 172 are labelled, Total, Negro, and Persons of Spanish Language; the appropriate lines read, Professional, Technical and Kindred Workers, under the Male and Female listings, respectively. The computations are as follows:

- (a) Obtain Total Professional, Technical and Kindred Workers by summing the respective totals for Male and Female.
- (b) Compute the percentages for Total Females, Black Males, Black Females, Hispanic Males, and Hispanic Females by dividing the applicable numbers on the lines for Professional, Technical and Kindred Workers by the figure for Total Professional, Technical and Kindred Workers derived in (a) above.
- (c) These percentages should be further adjusted by multiplying them by the following factors to reflect (1) national changes in occupational levels between 1970 and 1978 and (2) an adjustment to reflect the types of professional and technical job predominant in Federal employment (see technical note below).

	Male	Female
All	--	.86
Black	1.69	.97
Hispanic	1.14	1.08

- (d) Use the national figures in Table B-1 for American Indians and Asians/Alaskan Natives.



Table B-1 - Percent of Minorities and Women in the National Civilian  
Labor Force: Professional Occupations - 1978

<u>Race/Sex Ethnic Group</u>	<u>% of Professional Labor Force</u>	
	<u>Male</u>	Female
All	--	34.6
Black	3.4	3.1
Hispanic	1.6	0.9
American Indian	0.1*	0.1*
Asian/Pacific Islander	1.8*	0.3*

---

1/ See Technical Note

\*These are derived from national 1970 statistics and must be used in place of local data which are not available for these groups.

Source: Bureau of Labor Statistics



Table B-2 - Percent of Minority and Women in the Civilian Labor Force of Selected SMSA's: Professional Occupations -- 1978 Estimates

Percent of Professional Labor Force

	<u>All</u>	<u>Blacks</u>		<u>Hispanics</u>	
	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Males</u>	<u>Female</u>
Washington	31.4	8.0	4.8	1.9	0.8
Atlanta	39.4	6.0	6.8	1.0	0.6
Boston	35.9	2.7	1.7	1.1	0.6
Chicago	32.6	5.8	4.4	1.5	0.7
Dallas-Fort Worth	31.0	3.3	3.1	2.5	1.1
Denver-Boulder	32.1	1.9	1.2	3.4	1.9
Kansas City	37.3	3.8	4.1	1.1	0.6
New York	35.3	6.3	4.7	2.4	1.6
Philadelphia	36.2	4.4	4.2	0.1	0.1
San Francisco	32.6	7.8	4.0	2.7	1.4
Seattle-Everett	30.6	1.5	0.8	1.1	0.5
Houston	30.6	5.2	5.3	4.1	1.7
Indianapolis	33.5	4.5	3.6	0.7	0.3
Miami	34.3	4.5	4.0	12.5	5.4
Milwaukee	33.1	2.0	1.7	0.7	0.3
Newark	33.3	5.0	4.5	0.6	0.4
Pittsburgh	33.7	2.4	1.7	*	*
St. Louis	37.5	9.4	6.2	1.0	0.4

\* Less than 0.1

NOTE: The data shown are estimates derived from the following sources: 1978 CPS Statistics; State Employment Service statistics, and the 1970 Census.



## APPENDIX C

## Staffing and Recruiting Strategies

Following are examples of existing external and internal strategies that can be directed toward specific occupational levels.

External Strategies for Entry Level Positions

Cooperative Education Programs--The Co-op Programs described in FPM Chapter 308 provide an effective long-term staffing strategy for filling entry level positions in professional, technical, and administrative series. These programs offer students an opportunity to gain work experience while pursuing an academic degree. Two such programs are:

- Associate's Degree Co-op Program--FPM Chapter 308 Subchapter 4. The appointment authority for this program is Section 213.3203(c) of Schedule B. This program can be used to train students for designated technical occupations and leads to noncompetitive conversion at the level in the related series (upon meeting the criteria in chapter 308-4-11(1) through (5)).
- Bachelor's Degree Co-op Program--FPM Chapter 308 Subchapter 2. The appointment authority for this program is Section 213.3202 of Schedule B. This program can be used to train students for any professional, technical, or administrative occupation. Upon completion of the bachelor's degree program (and having met the criteria outlined in Chapter 308-2-15(2) through (4), co-op students may be noncompetitively converted at the GS-5 or GS-7 level (depending upon academic standing).

Veterans' Readjustment Appointment--FPM Chapter 307. A veterans' Readjustment Appointment can be used as a short-or long-term staffing strategy depending upon the degree of experience and/or length of training necessary. This is an excepted appointment made after April 8, 1970, to a position otherwise in the competitive service of a veteran who served during the Vietnam era. Such an appointment may be made at the GS-1 through GS-7 level, depending upon requirements stipulated in Chapter 307-1-4.

Quality Ranking Selective Placement Factors-- Utilization of FPM-322-B-12 factors is a staffing strategy appropriate in filling positions from all existing registers (e.g., PACE and Mid-Level). There are successful factors essential to the performance of a position and as such constitute a part of the minimum requirements for the position in question. Some examples of selective placement factors are:

- Knowledge of a language other than English;
- Knowledge and abilities pertaining to a certain program or mission, when these cannot readily be acquired after promotion; and



## APPENDIX C

- ° Proven ability in a functional area (e.g., ability to "meet and deal").

An example of use of a selective factor would be:

An agency requests a certification for a GS-9 public information specialist position with a selective factor of fluency in Spanish. This is supported by a position description or other official certification showing that among the principal job requirements is ability to make oral presentations to groups of spanish-speaking persons. In this instance, the OPM area office would refer only those eligibles with ability to speak Spanish fluently.

External Strategies for Positions Above Entry Level

Excepted Appointment Authority for Graduate Students--FPM Chapter 213 Appendix D. Under this authority a student participating in a graduate program at a bona fide college may be employed in an occupation directly related to his/her major field of study. This is a term appointment for one year that may be extended an additional year with OPM approval. Graduate students are able to gain specialized experience at the GS-7, GS-9, or GS-11 level, depending on current academic standing. This strategy gives students time to file for the mid-level register and enhance their competitiveness.

Co-op Program for Graduate Students--FPM Chapter 308 Subchapter 3. The appointment authority for this program is Section 213.3202(b) of Schedule B. Under this authority a graduate student can enter into a work/study arrangement with a Federal agency.

Use of Name Requests--Agencies may "name request" applicants who have been recruited and who are on an employment register in one of the designated occupational categories. This strategy expedites the staffing process and affords recruited candidates full cooperation. This strategy is applicable for all competitive employment registers.

Presidential Management Intern Program--FPM Chapter 362 - This program is designed to identify individuals who have completed a graduate course of study with concentration in public management (and who meet the criteria outlined in FPM Chapter 362 Subchapter 2-2-1) for participation in a two year internship with a Federal agency. The interns enter the program at a GS-9 level and upon successful completion of their internship are non-competitively converted into a career or career-conditional appointment.

Executive Search--It is essential that agencies institute an executive search program designed to identify and recruit members of underrepresented groups at the supervisory/managerial levels and above. For General Schedule occupations this means GS-13 and above, including the Senior Executive



## APPENDIX C

Service and/or GS-16-18. For trades and crafts this includes WL and WS levels.

Senior Level Recruiting Bulletin--FPM Chapter 332 Appendix H. Agencies that have identified candidates at the appropriate levels through executive search efforts can submit an SF-39 (Request for Certificate of Eligibles) and a name request when there is a senior level position to be filled. This will ensure that candidates recruited will be given full consideration when selections are made.

Trades and Labor Exam--This is an unassembled examination covering all Wage Grade occupations. Candidates recruited through executive search efforts should be encouraged to file and also can be name requested for full consideration when there are upper level positions to be filled.

Internal Staffing Strategies: Entry Level

Agencies should conduct a skills survey to identify those employees within the work force who are qualified or qualifiable to move into targeted occupations. To assist this effort, Operation MUST (Maximum Utilization of Skills and Training) FPM Chapter 312 Appendix A should be implemented. Program elements should include:

- ° Careful periodic examination of agency organizational structure, and each position in the structure, to identify low-skill tasks that may not be commensurate with the type and level of work for which positions were established.
- ° Establishment of new positions incorporating low-skill tasks removed from higher-level positions.
- ° Creation of job patterns and career ladder that will ensure the best use of all skills available to the organization.
- ° Establishment of training programs so that new employees and others can upgrade their skills.
- ° Provision of opportunities for growth through special employee development programs.
- ° Encouragement of employee self-development.

Other internal staffing strategies for filling vacancies at an entry level include:

- ° Use of in-service placement provisions of FPM Chapter 339, Subchapter 3 or use of X118 or X118c qualification standards;
- ° Upward mobility programs;



## APPENDIX C

- ° Competitive reassignments as described in FPM Chapter 335, Subchapter 1;
- ° Establishment of trainee positions, with area of consideration directed toward the agency work force.

Internal Staffing Strategies: Other than Entry Level

Cross Series Training Agreements--These agreements afford employees at the GS-9 level and above opportunities to move laterally into different occupational series. The employees will receive training, usually for one year, that qualifies them for the series they wish to enter.

Competitive ReassignmentsInternal Staffing Strategies: Senior Level

Cross Series Training Agreements--These agreements, as described above, can be used for executive development programs.

Understudy Positions--Senior level positions can be established in such a way that employees at lower levels will be eligible for selection. For example, an agency wishing to fill a GS-15 position can announce it as a GS-13/14/15 position and fill it at the lowest level.



## APPENDIX D

Types of Data That May Be Required for Work Force  
Analysis in the Future

The procedures outlined in this appendix are being contemplated for the full work force analysis envisioned as a requirement for FY 1981 affirmative action planning and monitoring. While these procedures are not now mandatory and will be subjected to further review and possible modification, they do represent a process that, if utilized would provide a comprehensive assessment of equal employment opportunity (EEO) within an agency work force and are, therefore, provided as guidance to agencies that desire to conduct or prepare to conduct a thorough self-assessment.

- A. Purpose: The work force analysis is conducted in order to:
1. identify the degree to which minorities and women are utilized in:
    - a. all occupations
    - b. all grade/pay levels
    - c. all organizational segments
    - d. all levels of authority;
  2. identify rates of mobility for each race/sex/national origin group;
  3. determine the degree to which all race/sex/national origin groups receive:
    - a. training
    - b. awards
    - c. disciplinary actions
    - d. various ratings on personnel evaluations;
  4. determine the degree to which minorities and women are represented in occupations and grade/pay levels that lead to advancement to top-level management.
  5. identify trends in:
    - a. the representation of minorities and women in the work force over time



## APPENDIX D

- b. the rates of employment benefits (promotions, training, awards, etc.) for minorities and women over time.

B. Discussion and Overview

1. For ease in approaching the task of self-assessment, the various data analysis methods are divided into the following steps:
  - a. An analysis of the "as is" condition of EEO in the agency/component/installation
  - b. An analysis of "contributing data factors" to the "as is" condition of the work force
  - c. An analysis of "supporting data factors" to the "as is" condition of the work force
  - d. An analysis of the race, sex, and national origin of employees within promotional paths to top-level management
  - e. An analysis of trends in the representation of minorities and women over time in the work force.
2. Each of the steps in the process is described in paragraph C of this appendix. By conducting the initial analysis outlined here and then by relating the various analysis products to each other, agencies, components, and/or installations can identify EEO areas that may require further detailed analysis and affirmative action planning.

C. Definitions and Instructions1. Analysis of the "as is" Condition of EEO

- a. Definition: The "as is" condition of EEO in the work force is described as the current degree of dispersion of minorities and women throughout the work force. The "as is" condition of EEO is analyzed by comparing the percentage representation of employees by race, sex, and national origin within organizational segments, grade/pay levels, occupations, and levels of authority.

b. Method of Analysis:

Step 1: Determine the number and percentage of each class group throughout the work force. Class groups are defined as white males, white females, black males, black females, Hispanic males, Hispanic



## APPENDIX D

females, American Indian/Alaskan native males, American Indian/Alaskan native females, Asian/Pacific Islander males, and Asian/Pacific Islander females. A table as shown in Figure D-1 should be developed.

Step 2: Summarize each of the categories of data using the format shown in Figure D-2. This figure is an example of an organizational segment breakdown at the installation level. At the component level, breakdowns can be done by regions (for agencies that are divided into regional and district offices) or by installations (for agencies like Department of Defense that have command units). Each category of data is described in Figure D-3.

Breakdown by Level of Authority

At all three levels develop a breakdown showing the distribution of persons by class group within each level of authority. The four levels of authority to be used are: Trainee/intern/apprentice/worker/helper, full performance, supervisor, and manager.

2. Analysis of "Contributing Data Factors" to the "as is" Condition of the Work Force

a. Definition: Contributing data factors are personnel actions that have had a direct effect on the composition of the work force. These personnel actions include: accessions, separations and transfers, promotions, downgrades, and lateral movements. For a detailed listing of actions to be analyzed, see Figure D-5.

b. Method of Analysis:

Step 1: Data concerning each contributing data category should be gathered by class group.

Step 2: The contributing data should be summarized in the format shown in Figure D-6. This analysis should be developed for each pay scale by grade and for the specified number of populous occupations. One page should be developed for each class group. Figure D-6 is an example of a grade breakdown for females in one installation. The breakdowns for populous series should use a similar format with headings appropriate to occupational changes.



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3. Analysis of "Supporting Data Factors" to the "as is" Condition of the Work Force

a. Definition: Supporting data factors are personnel actions that have an indirect effect on the composition of the work force. These personnel actions include: awards, training, disciplinary actions, and employee evaluations.

b. Methods of Analysis:

Step 1. Data concerning each supporting data category should be gathered by class group.

Step 2. The supporting data should be analyzed to show differences for the various class groups in rates of training, awards, disciplinary actions, and employee evaluation scores. This can best be accomplished by comparing percentages for the various class groups. Figure D-2 is a format that could be used for this analysis. Figure D-7 outlines a set of definitions for each of the categories of supporting data.

Step 3: Using the statistics developed in Steps 1 and 2 determine the degree of distribution existing in the work force. Figure D-4 is an example of this table.

4. Analysis of Promotional Path Data:

a. Definition: The analysis of promotional paths is designed to provide a summary of the movement into top management of minority and female group members. Promotional paths to top management are occupations and grade/pay levels through which personnel progress to top-senior-level management jobs. The analysis should show the distribution by race, sex and national origin group of work force membership holding entry-level, mid-level, senior-level, and Senior Executive Service (SES) appointments in occupational categories that lead to or are top-level management positions.

b. Method of Analysis:

Step 1. Determine the occupational fields out of which top-level managers have progressed.

Step 2. Identify the race, sex, and national origin of persons presently in the occupational fields which lead to top management.



## APPENDIX D

Step 3. Identify by entry-level, mid-level, senior-level and SES the percentage of persons by race, sex, and national origin who presently hold appointments in occupational paths leading to top management.

Step 4. Identify these levels and occupations that lead to top management where minorities and women are underrepresented. Further guidance will be provided in the multi-year planning process reporting formats.

5. Analysis of Trends in the Representation of Minorities and Women in the Work Force

a. Definition. Trend analysis above the changes over time of the representation of minorities and women in the work force. The analysis conducted as a result of this step in the process can be utilized to measure and portray graphically trends in long-term goal achievement based on the elimination of underrepresentation. Trend charts shown in Figure D-7 can be developed for any occupational category and race/sex/national origin group.

b. Method of Analysis:

Step 1: Using the underrepresentation data developed in paragraph 1 of this section, complete the table shown at the bottom of Figure D-8 for any targeted occupational categories and underrepresented groups. For best results, data for at least five years should be developed.

Step 2: Plot corresponding points for each year of data developed on the chart shown in Figure D-8. The underrepresentation index score is developed through the use of the following formula:

$$\left[ \frac{(\% \text{ of group in category X}) (100)}{[\% \text{ of group in civilian labor force}]} - 100 \right] = \text{Underrepresented Index}$$

Step 3: The Trend Analysis Summary should be updated either annually or semi-annually to show progress toward goal achievement. With only minor modification this trend method can additionally be used to show trends in contributing and supporting data as desired.







SUBJECT : Component Comparison

PERIOD COVERED: END FISCAL YEAR 80

AGENCY/COMPONENT/INSTALLATION: Government Agency X

	RACE/NATIONAL ORIGIN GROUPS																	
	Total	Male	Female	Majority			Black			Hispanic			American Indian/ Alaska Native		Asian American/ Pacific Islander			
				Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
COMPONENT A	# 750	500	250	450	195	645	44	50	94		3	3	1		1	5	2	7
	% 100	66.7	33.3	60.0	26.0	86.0	5.9	6.7	12.5		0.4	0.4	0.1		0.1	0.7	0.3	0.9
COMPONENT B	# 600	300	300	274	239	513	20	60	80		6	1	7					
	% 100	50.0	50.0	45.7	39.8	85.5	3.3	10.0	13.3		1.0	0.2	1.2					
COMPONENT C	# 500	500	100	380	60	440	15	40	55							5		5
	% 100	80.0	20.0	76.0	12.0	88.0	3.0	8.0	11.0							1.0		1.0
COMPONENT D	# 400	276	124	237	95	332	33	28	61		1		1			5	1	6
	% 100	69.0	31.0	59.3	23.8	83.0	8.3	7.0	15.3		7.0	15.3	0.3	0.3		1.3	0.3	1.5
TOTAL	2250	1476	774	1311	589	1930	112	178	290		7	4	11		1	15	3	18

NOTE: All percentages are calculated using the total Civilian Labor Force.

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FIGURE D-2



APPENDIX D  
FIGURE D-3

FIGURE D-3: Data Categories for Describing the "as is" Condition of EEO

Breakdown by Organizational Segments

At Agency Level - Provide statistics showing the distribution of persons by class groups within each major component in the agency.

At Major Component Level - Provide statistics showing distribution of persons by class groups within each region or installation as appropriate to the agency

At Installation Level - For each installation of 500 or more persons provide a breakdown showing the distribution of persons by class groups within each major organizational sub-unit (i.e. Department, Division) in the installation as appropriate. For installations and units of less than 500 persons agencies should develop and provide guidance for this breakdown.

Breakdown by Grade or Pay Level

At all three levels develop a breakdown showing the distribution of persons by class group within grade/pay group level by pay plan.

Breakdown by Occupation

At all levels develop a breakdown showing the distribution of persons by class group within each occupation by pay plan; (Initially the occupational breakdown may be limited to a specified number of populous occupations.)



SUBJECT : Distribution Analysis by Component

PERIOD COVERED: End Fiscal Year 80

AGENCY/COMPONENT/INSTALLATION: Government Agency X

	RACE/NATIONAL ORIGIN GROUPS																		
				Majority			Black			Hispanic			American Indian/ Alaska Native			Asian American/ Pacific Islander			
	Total	Male	Female	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	
COMPONENT A		1.7	-3.2	.7	-.8	.2	18.0	-15.2	-3.1	-100	100	-20	-	-	0	200	-12.5		
COMPONENT B		-23.7	45.3	-23.3	51.9	-.3	-34.0	26.6	3.1	233.3	0	-66.7	-	-	-100	-100	-100		
COMPONENT C		22.0	-41.9	27.5	-54.2	2.6	-40.0	1.3	-14.7	-100	-100	-100	-	-	42.9	-100	25.0		
COMPONENT D		5.2	-9.9	-.5	-9.5	-3.3	66.0	-11.4	18.6	0	-100	-400	-	-	85.7	200.0	87.5		

NOTE: Minus Sign indicates less than equal distribution \*BREAKDOWN OF OTHER

Females - American Indian population too small for comparison.

D-9

FIGURE D-4



APPENDIX D  
Figure D-5

FIGURE D-5: Contributing Data Categories

Contributing Transaction Data: These data categories reflect personnel actions taken during the 12-month period from 1 January to 31 December of the subject year.

NOTE: Those agencies not using OPM personnel management procedures should use the general guidance provided here and apply it to their personnel management system.

- ° Breakdown of Accessions: This category includes all personnel transactions that caused a member to be added to the installation work force, including but not limited to merit promotions from outside the activity, transfers from other agency activities as well as from other agencies, new hires to government service, re-hires to government service, temporary appointments, etc.
- ° Breakdown of Promotion: This category includes all promotions of agency personnel. Promotion action can be identified by the Nature of Action (NOA) Code 702 on Standard Form 50. This category does not include merit promotions that add new personnel to the activity work force. Accession promotions are included in the Breakdown of Accessions described above. The data in the promotion category should be broken into two listings:
  - a. Totals reflecting the grade and series into which personnel were promoted;
  - b. Totals reflecting the grade and series out of which personnel were promoted.
- ° Breakdown of Reduction in Grade: This category includes personnel actions taken to lower the grade of an employee. These may include reduction-in-force actions, reduction in grade for cause (disciplinary), reduction in grade due to job justification, etc. The data in this category should be broken down into two listings:
  - a. Totals reflecting the grade and series out of which personnel were downgraded; and
  - b. Totals reflecting the grade and series into which personnel were downgraded.



FIGURE D-5 (Cont'd)

- Breakdown of Separation and Transfers: These data reflect all personnel actions that caused individuals to be separated or transferred from an activity. This category includes but is not limited to transfers to other agency installations as well as other government agencies, retirement, and voluntary separations.
- Breakdown of Changes in Grade Not Due to Promotion or Demotion: This category would change in grade caused by a change in appointment authority (i.e. temporary appointment to a permanent appointment at a lower or higher grade) or any other change in grade not reflected in paragraph 2. The data in this category should be broken into two listings.
  - a. Totals reflecting the new grade and series into which personnel moved.
  - b. Totals reflecting the former grade and series out of which personnel were moved.
- Breakdown of Changes in Series: Data in this category include any transactions that caused a change in series (e.g., due to promotion, reassignment, reclassification, or change in appointment). The data in this category should be taken into two listings:
  - a. Totals reflecting the new series and grade into which personnel were changed.
  - b. Totals reflecting the former series and grade out of which personnel were changed.







## FIGURE D-7

## FIGURE D-7: Supporting Data Categories

Supporting Transaction Data: These data categories reflect personnel during the 12-month period 1 January through 31 December of the subject year.

NOTE: Those agencies not using OPM personnel management procedures should use the general guidance provided here and apply it to their personnel management system.

- ° Breakdown of Awards: This category includes Sustained Superior Performance Awards, Quality Step Increase, Superior Achievement Awards, Outstanding Performance Evaluations, and Citations and Commendations given to activity personnel. Beneficial Suggestions are not included in this category.
- ° Breakdown of Training: This data should be organized into the following sections:
  - a. Training by dollars spent.
  - b. Training by type of training received.
  - c. Training by hours spent in classes.
- ° Breakdown by Formal Disciplinary Actions (Adverse Actions): This category includes all formal adverse actions (i.e. reduction in grade for cause, termination for cause, suspensions, etc.)
- ° Breakdown of Employee Evaluation Scores: This category includes all evaluations given to employees during the 12-month period and should review the distribution of personnel by class group for each level of performance.







APPENDIX E

Title Page for Affirmative Action Program Plan

Affirmative Action Program Plan

Fiscal Year \_\_\_\_\_

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Address of Organization

\_\_\_\_\_  
Number of Employees Covered by this Plan

\_\_\_\_\_  
Name and Title of Principal EEO Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Head of Organization (certifies that agency and component plans are in compliance with Section 8(h) as further specified in 29 CFR Part 1613.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## APPENDIX F

## Agency Policy Statement

The Head of each agency is to submit a signed policy statement as part of the agency affirmative action program plan. This statement should make it clear that equal employment opportunity and affirmative action program requirements will be enforced by the Head of the agency and its top management. The policy statement should include, as an attachment, a copy of a directive or instructions from the agency head to management at all levels in all components and installations and should also include but need not be limited to the following conceptual elements:

1. Equal employment opportunity for all persons, regardless of race, creed, color, sex, national origin, age, or handicap is a fundamental agency policy.
2. The equal employment opportunity policy requires special affirmative action throughout the agency to overcome effects of past discrimination.
3. Therefore, equal employment opportunity cannot be merely a "neutral" policy. It requires new goal-setting programs that include measurement and evaluation factors similar to those used for other major agency programs. Accountability for goal achievement is established to assure that affirmative action shares equal importance with other agency goals.
4. Affirmative action will affect all employment practices including (but not limited to) recruitment, hiring, layoffs, and terminations.
5. Managers at all levels, the Equal Employment Opportunity Office and the Director of the Office of Personnel, share responsibility and will be held accountable for achievement of agency affirmative action goals. Management performance will be evaluated in terms of these as well as other major agency goals.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

WH-122

1979 DEC 17 PM 10:12

Honorable Paul A. Volcker  
Chairman  
Board of Governors of the Federal  
Reserve System  
Washington, D. C. 20551

Dear Mr. Chairman:

The Office of Management and Budget is responsible for monitoring and improving agency performance under Executive Order 12044, "Improving Government Regulations." As you know, the Executive Order established a framework for managing regulatory responsibilities within the Federal Government. Our recent report to the President underscored agency progress, but also noted that much remains to be done to achieve full compliance.

We are working with the departments and agencies to find new, creative ways to improve their regulatory processes. As part of this effort, OMB will sponsor a Regulatory Management Conference for agency managers on Tuesday, January 8, 1980, at Loews L'Enfant Plaza Hotel in Washington, D. C. The Conference is designed to inform the participants about useful management techniques and to develop new methods for regulatory oversight. Special emphasis will be placed on strengthening agency compliance with E.O. 12044, with additional discussion of pending Administration and Congressional regulatory reform initiatives.

We invite you to select representatives to participate in the Conference who have significant agency regulatory responsibilities or who work on E.O. 12044 implementation. We have allotted two spaces for key officials from your agency. Instructions for nomination of participants and other conference details will be sent to your personnel director along with a copy of this letter.

I know you appreciate the importance of regulatory reform to this Administration and will make your selections carefully.

Sincerely,

*James T. McIntyre, Jr.*  
James T. McIntyre, Jr.  
Director



W H - 122 - No resp. neey.

Digitized for FRASER

<https://fraser.stlouisfed.org>

Federal Reserve Bank of St. Louis



Sandy —

12/18

Nancy called

W H # 121

No answer necessary

-- They are sending

it to Eleanor

Stockwell for her  
information.



THE WHITE HOUSE  
WASHINGTON

1979 DEC 11 11:52

December 11, 1979

W-11-121

MEMORANDUM FOR THE HEADS OF  
EXECUTIVE DEPARTMENTS AND AGENCIES

Small business is an essential part of our economy and our social fabric. However, we lack detailed current data necessary to distinguish and analyze the condition of small firms, which make up some 95 percent of the nation's total businesses. Thus, federal, state, and local policies that are meant to help these smaller firms are often based on inadequate information.

Some information now collected by the Government is limited in value because different agencies use different definitions in measuring the size of a business. In addition, there is no way to measure the relative contribution that small business makes to our economy, because the data that are collected for the national economic accounts, employment and price indices are not available by size of business. There is no comprehensive data base that can be used for assessing the health of this essential sector of our economy and society.

Therefore, in order to remedy this situation I am directing the Small Business Administration to accelerate the establishment of a small business data base which will provide the information needed to guide effective policymaking for the small business sector.

I am further requesting that all executive departments and agencies which are engaged in information gathering and other relevant activities cooperate fully with the Small Business Administration in this important effort.

Jimmy Carter



THE WHITE HOUSE

WASHINGTON

December 11, 1979

1979 DEC 14 11:52

W-120

MEMORANDUM FOR THE HEADS OF  
EXECUTIVE DEPARTMENTS AND AGENCIES

In order to assure that Federal policymaking for the small business sector is based on adequate information, the President has directed the Small Business Administration to accelerate the establishment of small business data base. The Small Business Administration will need the cooperation of a number of other Federal agencies in this effort.

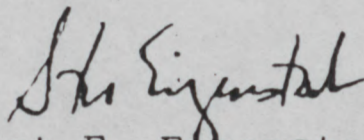
Pursuant to the President's mandate, the Secretary of Commerce, as chairperson of the Statistical Policy Coordinating Committee (SPCC), will establish an interagency Small Business Data Committee under SPCC auspices. The Committee will develop and implement the proper strategy and design for the formation of the small business data base. It will determine criteria for classifying businesses by size and will develop common definitions of business size categories to use in the collection and tabulation of statistical data. In this work it will be guided by consideration of the special needs and problems of small business.

The Committee will be chaired by the Small Business Administration, which will coordinate policy management for the project. Major questions of statistical policy will be referred to the full SPCC, on which the Small Business Administration will be represented.

Those agencies presently represented on the SPCC may be represented on the Small Business Data Committee either by the officers who represent them now on the SPCC, or by other policy level officers. The President expects members of the new interagency committee to give this small business data base project their personal attention and support. The Office of Federal Statistical Policy and Standards will serve as executive secretariat. In addition, the Small Business Data Committee will be assisted by a technical level working group.



The President expects the Committee to be in a position to give a preliminary accounting of its deliberations to the White House Conference on Small Business in January 1980.



Stuart E. Erzenstat  
Assistant to the President  
for Domestic Affairs and Policy





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON, D. C. 20506

1979 DEC 12 PM 12:26

OFFICE OF THE CHAIR

MEMORANDUM

DATE : December 11, 1979

TO : All Agency Heads  
All Agency Directors of Personnel  
All Agency Directors of EEO

FROM : Eleanor Holmes Norton, Chair *EHN*  
Equal Employment Opportunity Commission

SUBJECT : EEOC Instructions for Affirmative Action Program Plans for  
Hiring, Placement, and Advancement of Handicapped Individuals  
Including Disabled Veterans

*WH-119*

The attached instructions concern 1979 reports of achievements and 1980 affirmative action program plans. The final document incorporates revisions made as a result of comments from Federal agencies during formal and informal comment periods. An analysis of comments is appended.

As of January 1979 certain equal employment opportunity enforcement functions concerning handicapped individuals were transferred from the Civil Service Commission (now the Office of Personnel Management) to the Equal Employment Opportunity Commission (EEOC). Fiscal year 1980 will be a transition year during which a continuing process of change is begun. Agencies and EEOC will focus on result-oriented actions and elimination of unnecessary paperwork.

During the transition year agencies are to emphasize:

- \* employment of handicapped individuals with specified severe disabilities;
- \* recruiting and hiring of handicapped individuals;
- \* removal of architectural and other barriers in agency facilities; and
- \* analysis of selection procedures to identify those that impede employment of handicapped individuals.

Agency reports of 1979 accomplishments were due October 15, 1979. To shift emphasis from plan development to measurable achievement, agencies are instructed to leave their 1979 affirmative action program plans in effect throughout the FY 1980 transition year. To supplement existing plans, agencies are to prepare relatively brief, specifically targeted transition



year plans consisting of elements to be submitted in two phases. Some documents are due February 1, 1980; some are due April 1, 1980.

Should you have questions about the instructions, please call Richard Dickerson, Director, Federal Affirmative Action Division, Office of Government Employment. His telephone number is (202) 634-6915. Staff members assigned to work with affirmative action program plans for handicapped individuals including disabled veterans are Sharon Wilkin and Rick Dudley. Their telephone number is (202) 634-6922.

Attachment



5. SCOPE. The provisions of this directive apply to all departments, agencies, and instrumentalities in the Executive Branch of Government, including the United States Postal Service, Postal Rate Commission, and units in the Government of the District of Columbia having positions in the competitive service.

6. RESPONSIBILITIES.

- a. Agency heads are responsible for prompt and effective compliance with these instructions within their organizations.
- b. The Equal Employment Opportunity Commission will approve or disapprove each agency affirmative action program plan, rate the accomplishments of each agency satisfactory or unsatisfactory, and communicate results of evaluation to each agency with instructions for submission of a revised plan if required.

7. POLICIES AND PROCEDURES.

- a. The 1979 reporting year has been extended to cover the period July 1, 1978, through August 31, 1979. Agencies are to submit statistics and reports of accomplishments.
- b. FY 1980 will be a transition year during which agencies are to continue to implement the objectives of their 1979 affirmative action program plans through September 30, 1980. As in the past, agencies are to assemble selective placement coordinator statistics and handicap and disabled veteran statistics for the agency work force.
- c. During the transition year, agencies are to focus their primary efforts as follows:

(1) Place emphasis on employment of handicapped individuals with severe disabilities.

ACTION: Analyze handicap data for the agency work force with special emphasis on selected disabilities. Data are to be reported by grade, type of occupation, and disability category for the following codes: 16 and 17 (deafness); 23 and 25 (blindness); 28 and 32-38 (missing extremities); 64-68 (partial paralysis); 71-78 (complete paralysis); 82 (convulsive disorders); 90 (mental retardation); 91 (mental illness); and 92 (distortion of limbs and/or spine). Codes are those used on Standard Form 256, a copy of which is attached (Exhibit 1). The disabilities specified have been selected on an experimental basis in an attempt to address statistical problems involved in affirmative action for handicapped individuals. (See paragraph 8c.)



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY

MANAGEMENT DIRECTIVE

EEO-MD 703

DATE: December 6, 1979

TO THE HEADS OF FEDERAL AGENCIES

1. SUBJECT. INSTRUCTIONS FOR AFFIRMATIVE ACTION PROGRAM PLANS FOR HIRING, PLACEMENT, AND ADVANCEMENT OF HANDICAPPED INDIVIDUALS INCLUDING DISABLED VETERANS FOR FISCAL YEAR 1980
2. PURPOSE. This directive prescribes instructions to agencies for submission of 1979 reports of achievements and 1980 affirmative action program plans for hiring, placement, and advancement of handicapped individuals including disabled veterans.
3. AUTHORITY. These instructions are prepared pursuant to the Equal Employment Opportunity Commission's obligation and authority under Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); Section 403 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2014(c)); Reorganization Plan No. 1 of 1978 (issued pursuant to 5 U.S.C 901 et. seq.); and Executive Order 11478 (34 FR 12985, August 10, 1969), as amended by Executive Order 12106, issued under this plan (44 F.R. 1053, December 30, 1978).
4. POLICY INTENT. It is the intent of the Equal Employment Opportunity Commission to take a positive and directive role in assuring that Federal agencies fully comply with Section 501 of the Rehabilitation Act of 1973, as amended, and Section 403 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. It is the policy of the Federal Government to provide equal employment opportunity for persons with disabilities. All Federal agencies must take affirmative action to hire, place, and advance qualified handicapped individuals, including disabled veterans, and to retain Federal employees who become disabled after appointment.



5. SCOPE. The provisions of this directive apply to all departments, agencies, and instrumentalities in the Executive Branch of Government, including the United States Postal Service, Postal Rate Commission, and units in the Government of the District of Columbia having positions in the competitive service.
6. RESPONSIBILITIES.
- a. Agency heads are responsible for prompt and effective compliance with these instructions within their organizations.
  - b. The Equal Employment Opportunity Commission will approve or disapprove each agency affirmative action program plan, rate the accomplishments of each agency satisfactory or unsatisfactory, and communicate results of evaluation to each agency with instructions for submission of a revised plan if required.
7. POLICIES AND PROCEDURES.
- a. The 1979 reporting year has been extended to cover the period July 1, 1978, through August 31, 1979. Agencies are to submit statistics and reports of accomplishments.
  - b. FY 1980 will be a transition year during which agencies are to continue to implement the objectives of their 1979 affirmative action program plans through September 30, 1980. As in the past, agencies are to assemble selective placement coordinator statistics and handicap and disabled veteran statistics for the agency work force.
  - c. During the transition year, agencies are to focus their primary efforts as follows:
    - (1) Place emphasis on employment of handicapped individuals with severe disabilities.

ACTION: Analyze handicap data for the agency work force with special emphasis on selected disabilities. Data are to be reported by grade, type of occupation, and disability category for the following codes: 16 and 17 (deafness); 23 and 25 (blindness); 28 and 32-38 (missing extremities); 64-68 (partial paralysis); 71-78 (complete paralysis); 82 (convulsive disorders); 90 (mental retardation); 91 (mental illness); and 92 (distortion of limbs and/or spine). Codes are those used on Standard Form 256, a copy of which is attached (Exhibit 1). The disabilities specified have been selected on an experimental basis in an attempt to address statistical problems involved in affirmative action for handicapped individuals. (See paragraph 8c.)



(2) Give priority to increased hiring of handicapped individuals.

ACTION: Establish goals and timetables for hiring persons with the disabilities designated above during FY 1980. For the purpose of setting goals, the disabilities specified may be considered as a group. In establishing goals and timetables an agency may wish to consider its own past performance, the performance of agencies with exemplary records, overall government progress, and census data. (See paragraph 8c and Appendix A.)

ACTION: Implement a special recruitment program for handicapped individuals with the disabilities designated above, and describe results in terms of applications, nonselections, and hires. To the extent possible agencies are to adapt and apply the basic principles embodied in the Federal Equal Opportunity Recruitment Program. (See 44 F.R. 22029, April 13, 1979; 5 C.F.R. part 720. Also, see paragraph 8d.)

ACTION: Report accessions and losses of handicapped individuals with the disabilities designated during FY 1980. Data are to be reported by grade, type of occupation, disability category, education, and age. Specify by appointment: full-time, part-time, intermittent, excepted, career-conditional, career, etc. (See paragraph 8g.)

(3) Make agency facilities accessible to handicapped individuals.

ACTION: Survey facilities and establish goals and timetables for removal of barriers. (See paragraph 8e.)

ACTION: Report on facility accessibility. (See paragraph 8g.)

- d. Agencies are to submit targeted plans for the FY 1980 transition year. These plans need only address the three target areas indicated above and must explain how objectives will be accomplished within each area.
- e. During FY 1980 agencies are to analyze selection procedures in order to identify those that impede hiring, placement, and advancement of handicapped individuals. Principles set forth in the Uniform Guidelines on Employee Selection Procedures (1978) should be adapted and applied insofar as possible. (See 43 F.R. 38312, August 25, 1978; 29 C.F.R. part 1607.) As procedural barriers are identified, lists of alternatives should be prepared. (See paragraph 8f.)



8. REPORTING REQUIREMENTS. Agencies are to submit the following items to the Office of Government Employment, Equal Employment Opportunity Commission, on or before the dates indicated:
- a. October 15, 1979 -- Agencies are to submit selective placement coordinator statistics and handicap and disabled veteran statistics for the agency work force. Data are to be reported as of December 31, 1978, using the attached format (Exhibit 2).
  - b. October 15, 1979 -- Agencies are to submit reports of accomplishments during the extended reporting year July 1, 1978, through August 31, 1979. The format for reporting these accomplishments is the same as in previous years and is described in Subchapter 11 of Chapter 306 of the Federal Personnel Manual.
  - c. February 1, 1980 -- Agencies are to submit a preliminary analysis of work force representation in the disability categories specified, along with goals and timetables for hiring persons with these disabilities during FY 1980.
  - d. February 1, 1980 -- Agencies are to submit a plan for implementing a special recruitment program for handicapped individuals with the disabilities specified in these instructions. This plan is to include assurances that necessary data will be reported and analyzed.
  - e. February 1, 1980 -- Agencies are to submit goals and timetables for removal of barriers in facilities surveyed.
  - f. April 1, 1980 -- Agencies are to submit a preliminary report identifying selection procedures that impede hiring, placement, and advancement of handicapped individuals and describing alternatives being considered or being implemented.
  - g. The reports of accomplishments required under targeted objectives for FY 1980 will be due in formats and on dates to be specified in the future.
  - h. Agency reports of FY 1980 accomplishments are to include an analysis of selection procedures and possible alternatives to those that impede employment of handicapped individuals. Format and submission date will be specified in the future.



9. APPENDICES. Attached are Standard Form 256, Self-Identification of Medical Disability; a statistical reporting format from Appendix C of Chapter 306 of the Federal Personnel Manual; an analysis of comments on draft instructions; and guidance for establishing goals and timetables for hiring persons with specified severe disabilities.
10. INQUIRIES. Further information concerning this directive may be obtained by contacting:

Office of Government Employment  
Equal Employment Opportunity Commission  
2401 E Street, N.W., Room 4208  
Washington, D.C. 20506

Telephone: (202) 653-7638

Interagency Report Control Number:

This interagency report was cleared in accordance with FPMR 101-11.11. Reports required in paragraphs 8a and 8b are assigned interagency report control number 0023-CSC-AN. Reports required in paragraphs 8c through 8f are assigned interagency control number 0234-EEO-XX. Clearance for reports mentioned in paragraphs 8g and 8h will be requested in the future.

*Preston David*  
Preston David  
Executive Director



Exhibit 1

Self-identification of Medical Disability

Attachment 1 to FPM LTR 290

APPENDIX B

Last Name \_\_\_\_\_ Birth Date (Mo./Yr.) \_\_\_\_\_ Social Security Number \_\_\_\_\_

ENTER CODE HERE

**DEFINITION OF A REPORTABLE DISABILITY:** A physical or mental disability is NOT determined by a person's ability to perform his or her work but by a disability or a history of such disability, which is likely to cause the employee to experience difficulty in obtaining, maintaining or exercising employment. This does not apply solely to an employee's current position, but applies to the total career life cycle of that employee. (In the case of multiple disabilities, choose the code which describes the impairment that would most likely result in such difficulties.)

GENERAL CODES		Code
I do not wish to have my disability status officially recorded outside my medical records. (Before using this code, please read the reverse side of this form, which explains the need for obtaining this information. [Note your agency may use this code if, in their judgement you have used an incorrect code.]		01
I have no disability of the types listed in the codes below		04
<b>SPEECH IMPAIRMENTS</b>		
I have a speech impairment or inability to speak, hearing is normal. (Examples: defect of articulation [unclear lip sounds], stuttering, and a larynx and language function), laryngectomy [removal of the "voice box"].		13
<b>HEARING IMPAIRMENTS</b>		
Total deafness in both ears with understandable speech	Code	16
	15	17
Total deafness in both ears, and unable to speak clearly		17
<b>VISION IMPAIRMENTS</b>		
Inability to read ordinary size print, not correctable by glasses. (can read oversized print or use assisting devices such as glass or projector modifier).		23
Blind in one eye		24
Blind in both eyes. (No usable vision, but may have some light perception)		25
Ability to read ordinary size print with glasses, but with loss of peripheral (side) vision. (Restriction of the visual field to the extent that mobility is affected - "Tunnel vision")		22
<b>MISSING EXTREMITIES</b>		
Code	One leg	32
27	Both hands or arms	33
28	Both feet or legs	34
29	Both hands or arms and both feet or legs	38
One hand		35
One arm		36
One foot		37
<b>NONPARALYTIC ORTHOPEDIC IMPAIRMENTS</b>		
One or both arms		46
One or both legs		47
Hip or pelvis		48
Back		49
Any combination of two or more parts of the body		57
One or both hands		44
One or both feet		45
<b>PARTIAL PARALYSIS</b>		
One leg, any part		63
Both hands		64
Both legs, any part		65
Both arms, any part		66
One side of body, including one arm and one leg		67
Three or more major parts of the body (arms and legs)		68
One hand		61
One arm, any part		62
<b>COMPLETE PARALYSIS</b>		
Both arms		73
One leg		74
Both legs		75
Lower half of body, including legs		76
One hand		70
Both hands		71
One arm		72
One side of body, including one arm and one leg		77
Three or more major parts of the body (arms and legs)		78
<b>OTHER IMPAIRMENTS</b>		
Mental retardation. (A chronic and lifelong condition involving a limited ability to learn, to be educated, and to be trained for useful productive employment as certified by a State Vocational Rehabilitation agency under section 213.3102(t) of scheduled A)		90
Heart disease with no restriction or limitation of activity (history of heart problems with complete recovery)		80
Heart disease with restriction or limitation of activity		81
Convulsive disorder (e.g., epilepsy)		82
Blood diseases (e.g., sickle cell disease, leukemia, hemophilia)		83
Controlled diabetes with no restriction of activity		84
Diabetes with limitation of activity due to complications such as retinitis, neuritis, etc.		85
Pulmonary or respiratory disorders (e.g., tuberculosis, emphysema, asthma, etc.)		86
Kidney dysfunctioning (e.g., if dialysis [use of an artificial kidney machine] is required, etc.)		87
Cancer - a history of cancer with complete recovery		88
Cancer - undergoing surgical and/or medical treatment		89
Severe distortion of limbs and/or spine (e.g., dwarfism, kyphosis [severe distortion of back], etc.)		92
Disfigurement of face, hands, or feet (e.g., distortion of features on skin, such as those caused by burns, gunshot injuries, and birth defects [gross facial birth marks, club feet, etc.])		93

250-101

Standard Form 256 (1-77)  
U.S. Civil Service Commission  
FPM Chap. 290



Sample Affirmative Action for The Hiring, Placement, And Advancement of Handicapped Individuals and Disabled Veterans

306-C-17

(Statistical Report)

Part D. Format For Agency Report of Affirmative Action Program Plan on Employment of the Handicapped

Statistical Data

- 1. Total number of all employees as of December 31. (Include full-time permanent and all others.)
2. Total number of all handicapped employees as of December 31. This number includes only those disabled veterans with reportable handicaps.
Data should conform to the instruction in FPM Letter 290-10, dated September 30, 1976.

Other

- 1. Number of agency component activities and field establishments having appointing authority
2. Percentage of time spent by agencywide coordinator for selective placement in managing the program
3. Number of coordinators designated in all component agency activities... Percentage of time spent by component coordinators in implementing the program. Indicate the number in each group:
1- 10%
11- 25%
26- 50%
51- 75%
76-100%

Part E. Format For Agency Report of Affirmative Action Program Plan on Employment of Disabled Veterans

Statistical Data as of December 31 (Use the following table format.)

Table with 3 columns: VETERAN STATUS, NO. IN WORK FORCE, NO. HANDICAPPED. Rows include 10-point compensable, 10-point noncompensable\*, and 5 point.

\* EXCLUDES 10 POINT OTHER (SPOUSE, WIDOW/WIDOWER, AND MOTHER).



## APPENDIX A

Guidance for Establishing Goals and Timetables  
for Hiring Persons with Specified Severe Disabilities

As is stated in the instructions, in establishing goals and timetables, an agency may wish to consider its own past performance, the performance of agencies with exemplary records, overall government progress, and census data. Agencies are reminded that goals and timetables may be established for the target group as an aggregate of specified disabilities rather than for each disability separately. Goals should be set and results should be reported in terms of percentage of new hires during the reporting period and percentage of change expected in work force composition.

Summaries of 1970 census data on disabilities are available from the President's Committee on Employment of the Handicapped, Washington, D.C. 20210, in a booklet called "One in Eleven." It indicates that one in eleven work-age adults reported disabilities that may interfere with ability to work.

Figures commonly used to identify work-age adults by disability are:\*

Paralyzed	5,400,000	or	4.25%
Mentally retarded	3,500,000	or	2.89%
Epileptic	2,000,000	or	1.65%
Blind	700,000	or	.58%
Deaf	250,000	or	.21%
Mentally restored	250,000	or	.21%
Amputees	200,000	or	.17%

According to the U.S. Department of Labor Employment Standards Administration, a conservative estimate places the number of handicapped persons of work force age and able to work at 7.2 million. This represents 5.95% of the entire work-force-age population. This estimate by the Labor Department is based on census and other data and encompasses a population roughly comparable to the transition year target group. Therefore, if census data are used to compute agency goals for disabilities in the target group, this percentage is recommended.

According to data from the Central Personnel Data File, as of December 31, 1978, the Federal Government employed 16,495 persons with the specified disabilities. This represents 0.79% of the total Federal work force on that date.

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\*These categories encompass all disability codes targeted except for code 92 (severe distortion of the limbs or spine), for which no work force data are available.



Only 16 Federal agencies reported more than 1% representation in designated categories. These agencies are as follows:

<u>Agency</u>	<u>Total Employees</u>	<u>Handicapped Employees with Targeted Disabilities</u>	<u>Percentage of Work Force with Targeted Disabilities</u>
Committee for Purchase from the Blind and Other Severely Handicapped	11	2	18.18
National Commission on Library & Information Science	48	1	2.08
International Boundary & Water Commission	334	6	1.79
Community Service Administration	1,106	18	1.63
Government Printing Office	7,511	115	1.53
Veterans Administration	235,471	3,495	1.48
Federal Maritime Commission	340	5	1.47
National Mediation Board	71	1	1.40
Federal Communication Commission	2,011	29	1.29
Office of Management and Budget	588	7	1.19
General Services Administration	39,172	457	1.17
Securities and Exchange Commission	1,954	23	1.17



<u>Agency</u>	<u>Total Employees</u>	<u>Handicapped Employees with Targeted Disabilities</u>	<u>Percentage of Work Force with Targeted Disabilities</u>
Railroad Retirement Board	1,831	21	1.15
Unspecified Defense	697	8	1.15
Defense Logistics Agency	46,676	523	1.12
Interstate Commerce Commission	2,137	24	1.12

Agencies with less than 5.95% representation in the designated categories must select a comparative base and establish goals and timetables for progress in terms of increased numbers of employees with targeted disabilities. If present representation equals or exceeds 5.95%, agencies may devote their efforts to assuring equitable internal representation in all occupations, grades, and levels of authority. Equitable internal representation of handicapped individuals will be a focus of Federal affirmative action in years to come.



## APPENDIX B

Analysis of Comments on Proposed Instructions to Agencies for  
Submission of 1979 Reports of Achievements and 1980 Affirmative  
Action Program Plans for Handicapped Individuals

Issue:

Several agencies questioned the necessity for having separate affirmative action program plans for handicapped individuals and for minorities and women, since the formats and submission dates are similar.

Response:

The possibility of combining plans was considered, but the idea was rejected because there are significant differences in the methods that must be used to implement affirmative action programs for handicapped individuals and for minorities and women. For example:

- \*\* Handicapped individuals are not included in the Federal Equal Opportunity Recruitment Program (FEORP). The types of work force statistics required for minorities and women under FEORP are not available for the handicapped population, and persons with disabilities face different employment problems. The rudimentary statistics that are available make it obvious that handicapped individuals are grossly underrepresented throughout the Federal work force. Targeting jobs is not practical because there would be underrepresentation in all categories, particularly insofar as persons with severe disabilities are concerned. Targeting disabilities is a better approach.
- \*\* Concern for the accessibility and useability of facilities in which Federal employees work is unique to affirmative action programs for handicapped individuals. There is no parallel in programs for minorities and women.
- \*\* Selection procedures that do not discriminate against minorities and women may discriminate against handicapped individuals. Remedies include reasonable accommodation in testing situations and use of excepted appointing authorities. The concepts and actions involved, and the planning upon which they must be based, are not pertinent to equal employment opportunity for other protected classes.
- \*\* In many Federal agencies, responsibility for management of affirmative action programs for handicapped individuals is not within the purview of the Equal Employment Opportunity Office. Separate plans facilitate implementation of programs in separate offices within an agency, at least during the transition year. At the same time, since the plans are to be as parallel as possible,



agencies and the Equal Employment Opportunity Commission (EEOC) will be able to work toward combination of plans and programs in the future if this becomes practical. For the time being, since different data reports are required and different criteria will be used to evaluate agency plans and accomplishments, separate plans are necessary.

Issue:

A few agencies questioned the advisability of targeting specified disabilities. Some commentators cautioned that persons with disabilities that are not targeted might be excluded from all recruitment efforts and that this would constitute discrimination against some segments of the handicapped population. Other commentators felt that certain disabilities should be added to or removed from the target group.

Response:

The disabilities selected for the target group were chosen to provide a focus on severe handicaps that traditionally have caused persons to be excluded from the work force and that can be identified relatively easily for recruitment purposes during the transition year. Nondiscrimination regulations state clearly that no qualified handicapped individual may be denied employment because of a disability that is not job-related, regardless of the severity of the disability, regardless of whether the disability is real or imagined by an employer. Targeting certain disabilities for special recruitment in no way legitimizes discrimination against persons with other disabilities and in no way justifies discontinuation of affirmative action to hire handicapped individuals whose disabilities are not in the target group. The transition year instructions put agencies on notice that EEOC will emphasize certain disabilities when recruitment and placement efforts are evaluated. The possibility of altering the composition of the target group will be considered at the end of the transition year.

Issue:

Representatives of constituent organizations felt that affirmative action plans and reports should include analyses of reasonable accommodations being made by agencies, career development and upward mobility of handicapped employees, and retention of employees who become disabled.

Response:

One purpose of the transition year is to give EEOC an opportunity to find out what agencies can do with existing resources if these resources are focused on a few specific goals rather than stretched to meet as many needs in as many areas as possible. The focus during the transition year will be on recruitment, placement, facility accessibility, and elimination



of selection barriers. Reasonable accommodation is an essential element of affirmative action and nondiscrimination, particularly insofar as severe disabilities are concerned. Agencies will not be able to achieve their transition year goals without accommodating the disabilities of applicants and employees. Partially for this reason, agencies are not being asked to use their resources to catalog or report on accommodations. However, such an exercise may be valuable in the future. It is recognized that reasonable accommodation is one of many areas that should be addressed in a comprehensive affirmative action program plan even though they are not being addressed through transition-year planning and reporting processes. Career development and upward mobility and retention of employees who become disabled also are in this category.

Issue:

Several commentators requested guidance for establishing goals and timetables for hiring individuals with targeted disabilities.

Response:

New language has been added to the instructions, and guidance is provided in Appendix A.

Issue:

Some agencies felt they would not be able to collect and analyze handicap data in a timely fashion.

Response:

Some agencies, particularly the larger ones, have automated data retrieval capability. All agencies have access to the Central Personnel Data File maintained by the Office of Personnel Management (OPM). OPM has a data run as of December 31, 1978, which gives agency work force data by disability. Agencies are to use these data to conduct work force analyses for the purpose of establishing goals and timetables.

Issue:

Some agencies asked for clarification of the request for applicant data, since a person's handicap status generally is not known when he or she applies for employment or is referred on a certificate.

Response:

The instructions call for a special recruitment program for handicapped individuals. Data reported are to be collected through this special effort, and as part of this effort recruiters may invite applicants to identify disabilities in cover letters accompanying applications. It is recognized that applications from handicapped persons may be received independent of special recruitment efforts and that these handicapped applicants may escape notice. If selected, however, it is



likely they will identify themselves as handicapped at the time they come on board. Thus, agencies will be able to include them in accession data.

Issue:

Some agencies asked for clarification of the statement "To the extent possible agencies are to adopt and apply the basic principles embodied in the Federal Equal Opportunity Recruitment Program (FEORP)."

Response:

First, a typographical error has been corrected. The word intended was "adapt," not "adopt." Handicapped individuals are not included in FEORP principally because they are not named in the enabling legislation. However, it is also true that the work force statistics required for minorities and women under FEORP are not available for the handicapped population. EEOC is requiring a special recruitment effort for handicapped individuals that will be similar to but different than FEORP for minorities and women. For this purpose, underrepresentation is to be addressed in terms of disabilities instead of job categories. Recruitment sources that may be tapped include but are not limited to State rehabilitation agencies, Veterans Administration counselors, selective placement specialists in OPM area offices, schools for disabled people, campus organizations of disabled students, and organizations of and for persons with disabilities. Two publications may be helpful:

- \*\* Directory of Organizations Interested in the Handicapped. Revised 1976. Available from the publisher: Committee for the Handicapped, People-to-People Program, Suite 610, La Salle Building, Connecticut Avenue and L Street, N.W., Washington, D.C. 20036.
- \*\* Directory of National Information Sources on Handicapping Conditions and Related Services. December 1976. Available from the publisher: Office for Handicapped Individuals, Department of Health, Education, and Welfare, Washington, D.C. 20201.

Issue:

One commentator foresaw difficulties with goals and timetables for removal of architectural barriers since some buildings are covered by the Architectural Barriers Act of 1968 and others are not.

Response:

Agencies are to survey their facilities and report the extent of accessibility. A reporting format is being developed that will allow agencies to indicate which facilities are and which facilities are not covered by the Architectural Barriers Act of 1968. Nondiscrimination regulations specifically prohibit



THE WHITE HOUSE

WASHINGTON

December 6, 1979

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WH-118

MEMORANDUM FOR Department and Agency Heads

FROM: Esther Peterson *EP*

SUBJECT: Release of Draft Consumer Programs under  
Executive Order 12160

I am writing to invite you, or your designee, to attend a press conference, at which the draft consumer programs, developed under Executive Order 12160, will be released. The press conference will be held Monday, December 10 at 3:00 p.m. in Room 450 of the Old Executive Office Building (17th and Pennsylvania Avenue, N.W.). I think it is important that each agency's consumer representative be on hand to answer questions on behalf of the agency about your agency's draft program.

On September 26, 1979, President Carter signed Executive Order 12160 on Federal Consumer Programs. Among its provisions, the Order requires agencies to publish draft consumer programs in the Federal Register. The Register will publish the agencies' draft consumer programs on December 10, 1979.

Jack Watson, Secretary to the Cabinet and the President's Assistant for Intergovernmental Affairs, will introduce the draft programs. Clearance is required. If you or your designee plan to attend, please call Marianne Wilk or Suzie Parks at 456-6226 no later than 5:00 p.m. Friday with the name of your agency's representatives. //

I would like to express my personal appreciation for the cooperation and assistance of your agency in making possible the publication on December 10 of the draft consumer programs. I am well aware that the Executive Order gave you very little time in which to prepare your draft program, and the effort your agency put into the preparation of its program is a tribute to your commitment to the principles upon which the Executive Order is based.

I look forward to working with you in the days ahead, as we continue to try to make the Federal Government more responsive to the needs of consumers.



employment discrimination on the basis of facility inaccessibility, and it is EEOC's view that all facilities in which Federal employees work should be barrier-free. If an agency believes accessibility problems are so severe that it is impossible to establish a time frame for barrier removal, detailed justification will be required. If indeed it is impossible to make a facility accessible, the agency will be required to find other ways of accommodating handicapped applicants and employees affected by inaccessibility.

Issue:

Representatives of constituent organizations felt that meaningful accessibility is achieved only when communication and transportation barriers are removed along with architectural barriers.

Response:

The reporting format that is being developed addresses all three types of barriers. The emphasis is on architectural barriers. Transportation barriers are considered insofar as characteristics of the facility and the area immediately surrounding it may impede the ability of a handicapped individual to approach and leave the building in an automobile, in a wheelchair, or on foot. Communication barriers are dealt with in terms of telephone facilities, which must be useable by disabled people, including those who are deaf and those who use wheelchairs.

Issue:

Several agencies questioned the order in which plans were to be submitted. It was suggested that the recruitment plan should come after, not before, analysis of work force data and establishment of goals and timetables.

Response:

The instructions have been changed so that February 1, 1980, is the due date for work force analyses, goals and timetables, and recruitment plans. In preparing these items, agencies will be able to use work force data as a basis for establishing goals and timetables and designing recruitment plans.