

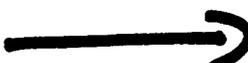
WHITE HOUSE STAFFING MEMORANDUM

Civil Rights

Date: 9/24

ACTION / CONCURRENCE / COMMENT DUE BY: 9/28

Subject: Civil Rights Enforcement Policy - Decision Memo

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BOWLES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
PODESTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REED 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ECHAVESTE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RUFF	<input type="checkbox"/>	<input type="checkbox"/>
LEW	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SMITH	<input type="checkbox"/>	<input type="checkbox"/>
BEGALA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BERGER	<input type="checkbox"/>	<input type="checkbox"/>	SPERLING	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BLUMENTHAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STERN	<input type="checkbox"/>	<input type="checkbox"/>
IBARRA	<input type="checkbox"/>	<input type="checkbox"/>	STRETT	<input type="checkbox"/>	<input type="checkbox"/>
KLAIN	<input type="checkbox"/>	<input type="checkbox"/>	VERVEER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LANE	<input type="checkbox"/>	<input type="checkbox"/>	WALDMAN	<input type="checkbox"/>	<input type="checkbox"/>
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LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	<u>Kagcy</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MARSHALL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Cohen</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MOORE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Mathews</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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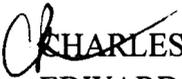
REMARKS: Please advise

RESPONSE:

THE WHITE HOUSE  
WASHINGTON

September 23, 1998

**MEMORANDUM FOR THE PRESIDENT**

FROM:  CHARLES F.C. RUFF, COUNSEL TO THE PRESIDENT  
EDWARD CORREIA, SPECIAL COUNSEL FOR CIVIL RIGHTS

SUBJECT: Civil Rights Enforcement

This memorandum emerges from discussions with Chris Edley and Maria Echaveste and seeks your guidance regarding civil rights enforcement policy in five areas -- higher education admissions, high stakes testing at the elementary and secondary level, school integration, business opportunities, and coordination of civil rights enforcement. It is intended to supplement Chris's broader memo of September 9, 1998, outlining the book on race policy, by suggesting an agenda of shorter-term civil rights objectives that are consistent with the longer-range policy goals reflected in the Advisory Board's recommendations and in the book. The initiatives described in this memo can be implemented (or be well on the way to implementation) during the next eighteen months. They will help shape agency priorities and demonstrate the Administration's commitment both to thoughtful policy development and to action.

Over the past three years, federal agencies, with the guidance of the Justice Department, have taken several steps to carry out your commitment to "mend, but not end" affirmative action. Most recently, for example, the administration instituted major reforms of federal procurement policies to target assistance to firms in industries that still show the effects of discrimination. Although critics of affirmative action continue to call on you to abandon support for any race-conscious policies, Congress itself has rejected efforts to eliminate affirmative action on three occasions during 1998. Carefully designed affirmative action programs are necessary and continue to receive wide public support.

We believe that our new procurement policies will survive constitutional attack, but it is possible that the courts will find them inadequate. There is also uncertainty whether race-conscious programs intended to achieve diversity, such as higher education admissions standards, will be upheld. At this point, California has been the only state to place a sweeping ban on affirmative action, but other states may follow suit. We can also assume affirmative

action will continue to be attacked by some in Congress. Finally, even supporters of affirmative action recognize that it is a temporary approach to equality. Our ultimate goal should be to ensure that all groups have an equal opportunity to succeed without the need for any affirmative action policies.

Under no circumstances do we envision the Administration's abandoning support for affirmative action. Instead, we believe that the Administration should continue to pursue a two-track strategy to achieve diversity and racial equality -- first, supporting traditional affirmative action policies and revising them where necessary; and second, devising race-neutral strategies that can also advance the goal of equality and sustain it on a permanent basis. There is no inconsistency in pursuing both tracks at the same time, but choices will need to be made regarding the emphasis to be placed on each approach.

The uncertain legal and political climate might suggest that we devote more effort to developing race-neutral solutions. We can be certain that these approaches will survive legal challenges, and they are more likely to attract bipartisan support. On the other hand, race-neutral approaches are inherently less targeted. For example, benefits that are made available based on income primarily benefit whites simply because there are more poor white families than poor minority families. Moreover, increasing our emphasis on race-neutral approaches can send the wrong message to disadvantaged minority groups who may believe that strengthening these efforts invariably means signaling a retreat from affirmative action. Each of the enforcement strategies discussed below should be evaluated in the context of these competing concerns.

## **I. HIGHER EDUCATION OPPORTUNITIES**

One of the most important steps we can take toward racial equality is to increase the number of minority young people who complete some form of higher education. There are pressing needs in many areas. First, there is a large gap between white Americans and minorities completing college. For example, 29% of whites aged 25 to 29 have a college degree compared to 14% of African-Americans. A recent report shows that college enrollment rates for African-Americans in southern states is declining and that their likelihood of graduation is far below that of whites. Second, the California experience shows that there may be a drastic decline in minorities who attend top-ranking universities as well as professional schools if affirmative action in admissions is ended. Third, an extremely small number of minorities are pursuing careers in science. African-Americans, Hispanics and American Indians constitute 28.5% of the college-age population, but less than 6% of the engineering workforce and, in 1996, they comprised less than 10% of the bachelors degrees in engineering and less than 3% of the doctorates. While there has been an increase in the percentage of science and engineering degrees going to American Indians, African-Americans, and Hispanics since 1989, a recent study reported a 20% decline in African-American and Hispanic enrollment in first year graduate programs in science and engineering.

### **A. The College Admissions Process**

As you know, the constitutional basis for taking race into account in admissions stems from the Supreme Court's 1973 Bakke decision. We intend to defend Bakke, but the reality is that Bakke may not survive, or, if it does, there may be severe limitations placed on how affirmative action to increase diversity can be implemented. Our goal, then, is to explore alternative means for ensuring diversity in our universities.

Standardized tests play a crucial, often determinative, role in the admissions decisions of almost all universities with competitive admissions standards. Minorities, particularly African-Americans and Hispanics, perform significantly less well on these tests than whites and Asian-Americans. As a consequence, the reliance placed on these tests has a disproportionately negative effect impact on these and other minority groups. There is general agreement between the enforcement and policy staffs that universities should place more emphasis on factors other than standardized tests and high school grades. Such an approach would require universities to commit more resources to the admissions process, but it could result in more diverse student bodies without sacrificing the academic success of admitted students.

## **1. An Enforcement Strategy**

One means of achieving diversity is by enforcing federal regulations under Title VI of the 1964 Civil Rights Act. These regulations bar recipients of federal funds from pursuing policies if they have a racially discriminatory effect and either 1) the policies are unnecessary to achieve the institution's legitimate goals; or 2) there is a less discriminatory alternative that is equally effective to achieve these goals. The Department of Education could take the position that universities that rely too heavily on standardized tests violate these requirements. For example, the SAT is generally viewed as a good predictor of first year grades in college; however, even the Educational Testing Service, which developed the test, cautions that it can be overemphasized. Moreover, the experience of universities that have committed more resources to individualized review of applications suggests that greater reliance on non-quantitative characteristics can result in a more diverse enrollment without sacrificing academic success. In light of this experience, it could be argued that Title VI requires a more individualized review of applications and, correspondingly, less reliance on quantitative measures.

There are disadvantages to the litigation approach, however. While there is some case law supporting such a legal theory, the courts have not provided clear guidance in this area, and there are significant risks that they would reject the theory. Moreover, the empirical data regarding the relevance of standardized tests do not point in a clear direction. While the current admissions system can be improved, there is a great deal of uncertainty as to precisely how to do it. We are confident in saying that universities should rely on several factors, rather than one, and that individual evaluations should play an important role; however, it is difficult to strike the appropriate balance between use of quantitative measures, such as test scores and grades, and non-quantitative factors, such as a record of community service and leadership. Thus, courts may conclude that the role of the tests is an education policy issue to be decided by university administrators, rather than a matter of civil rights law to be decided by courts.

## **2. A Policy Development Strategy**

A second option is for the Administration, while being prepared to take enforcement action in egregious cases, to urge changes in the admissions process as a matter of sound education policy and work with the higher education community to identify and implement the types of admissions procedures that will help to ensure greater diversity while preserving standards of academic performance. For example, Secretary Riley and other administration spokespersons could advocate de-emphasizing standardized tests and focusing more on personal characteristics as predictors of academic performance. Rather than challenge particular admissions procedures in court, the administration could work with the higher

education community to develop a consensus about reform of the admissions process. We can contribute to the debate by analyzing the latest and most reliable research demonstrating the limitations of conventional admissions criteria.

Such an approach can only be effective if leaders in higher education work with us to develop and communicate the appropriate message about admissions. White House staff has already worked with some of these leaders to promote the importance of diversity in general, and they can also form the core of an effort to develop alternative admissions procedures. On a narrower front, the Attorney General has expressed a strong interest in the issue of law school admissions, and we have discussed with her a project to work with law school deans to expand the admissions process.

**Emphasize enforcement strategy \_\_\_\_ or policy strategy \_\_\_\_**

**Other:** \_\_\_\_\_

#### **B. Improving Test Scores and Encouraging Careers in Science**

While we believe that the role of standardized tests in the admissions process should be rethought, a more fundamental problem is that minority students are often poorly prepared for such tests. Thus, a parallel approach is to ensure that minority students can successfully compete under prevailing admissions standards. Improving academic achievement of all students is a long-term effort, which warrants federal intervention at the earliest stages. Administration efforts such as reducing class size and increasing the quality of teachers are central to this long-term strategy; however, we believe it is also important to identify effective intervention points to improve results in the short term, e.g., 3 to 5 years. Concerns about fairness and social cohesiveness require that we take actions that have a more immediate impact on the nation's teenagers, in addition to our longer-range efforts to improve the education of elementary and preschool children.

Low test scores explain almost the entire racial disparity in college admissions. Once earnings are adjusted for test scores, the earnings disparity between white and black applicants also drops dramatically.<sup>1</sup> Thus, equalizing test scores could substantially increase racial equality.

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<sup>1</sup> Jenks and Phillips, America's Next Achievement Test, The American Prospect, Sept.-Oct. 1998. In 1994, the earnings of all black employed men ages 31 to 36 were 67.5% of the comparable white group. However, if the two groups are adjusted for test scores, earnings of this group of black men were 96% of the comparable white group.

If current test score patterns continue, and affirmative action is eliminated or drastically restricted across the country, the effect on minority college enrollment could be serious enough to be socially divisive. There are, therefore, powerful reasons for addressing the problem of low test scores along with any effort to modify the admissions process.

At the high school stage, we believe one promising approach is to strengthen precollege preparation for inner city students. This approach could include providing funds for: 1) advanced science and math courses in inner city schools; 2) college credit courses to be offered during the summer; and 3) courses that would boost academic performance and improve performance on standardized tests. Research shows that test preparation courses often increase performance, and that such courses are largely taken by middle class, white students. On the other hand, there are sufficient doubts about the benefits of short-term test preparation courses that it may not be effective to subsidize them. Instead, it may be more appropriate to provide funding for more extended courses that include substantial academic content, but that can also boost test performance.

Improving the academic performance of minority undergraduate students can expand minority enrollment in professional and graduate schools. We believe a promising approach is to design programs for this group that will increase their graduation rate, increase interest in graduate school, particularly science programs, and improve grades and scores on standardized tests. Federal efforts can include expanding financial support for: 1) improving math and science programs at minority-serving institutions; 2) short-term courses that will boost performance on standardized tests; 3) tutors and counselors for students who are facing academic problems; and 4) science-related internships and research assistant positions. We understand the Department of Education will include some proposals in these areas in their budget submissions. At this point, we seek your guidance as to the general direction and priorities for these efforts.

Finally, another approach is to call on private industry to fund scholarships for minority students in order to pursue science careers. Because of the extremely low numbers of minorities in science careers now, and because we are facing an overall shortage in scientists and engineers, private industry has a stake in increasing minority enrollment in graduate programs in science. The private sector is already making scattered efforts in this area now, but we believe there is a good possibility that a coalition of the nation's largest corporations would set aside substantial funds if you called on them to do so. If you believe it worthwhile, we would be prepared to reach out to some of the leaders in the field of science education to discuss how to accomplish this.

**Develop program to improve test scores: Approve \_\_\_\_\_ Disapprove \_\_\_\_\_**

**Develop program for minorities in science careers: Approve \_\_\_ Disapprove \_\_\_**

**Other \_\_\_\_\_**

## **II. HIGH STAKES TESTING**

High stakes testing is a critical issue in current civil rights enforcement. The Office of Civil Rights in the Department of Education (OCR) is conducting a number of investigations of states and school districts that rely on standardized tests for such important decisions as selecting students for academically accelerated programs and granting high school diplomas. For example, North Carolina requires high school seniors to pass a standardized test to graduate. As in the case of the SAT and LSAT, reliance on test scores has a significantly disproportionate effect on African-Americans and Hispanics. In 1998, the state reported that 93.3% of white students passed the test, but only 82.4% of black students passed. The disparity in some school districts was much more dramatic. In the most extreme case, 84.1% of white students passed, compared to 30% of black students. As you know, the civil rights community has expressed strong concerns about the use of high stakes tests. The question is whether and how we should attempt to influence the use of such tests.

### **A. An Enforcement Strategy**

One option is to challenge the use of these tests under the Title VI regulations described above. The Department of Education's draft guidelines state that a test that has a disparate impact must be "valid and reliable for the purpose for which it is being used and [must be] the least discriminatory alternative that can serve the institution's educational purpose." Although the use of tests at the elementary and secondary level will raise many of the same questions raised by college admissions standards, there are significant differences in analysis. For example, because the alternative of a more individualized approach to measuring ability is probably less feasible where the goal is a widespread assessment of a minimum level of competence, states might argue that tests represent the only practical approach to identifying students who have achieved a minimum level of academic performance. Standardized tests also have the advantage of providing a way to compare the performance of school districts themselves. The administration itself has argued for standardized tests on these grounds.

For these reasons, we can expect that the states will often be able to meet their burden of proving that standardized tests are necessary to achieve a legitimate goal. As in the case of college admissions, the most disputed issue in a Title VI case is likely to be the existence of an equally effective, less discriminatory alternative. OCR argues that, in certain cases, it could establish in litigation that there are better ways to measure ability that have less discriminatory impact. There are, however, disagreements among experts about the predictive value of even the most respected tests, and a court might defer to a school district's decision to use a particular test as the best way to accomplish its educational objectives.

**B. A Policy Development Strategy**

As in the case of higher education admissions, the alternative is to emphasize the development of reliable tests as a matter of sound education policy. We would still continue to enforce Title VI in clear-cut cases, and, in fact, Secretary Riley has assured the civil rights community that we will do so. For example, OCR has challenged school districts that relied exclusively on IQ tests to place students in a gifted and talented program in elementary grades. In those cases, even those who designed the test were prepared to testify that the test should not be used for that purpose. In close cases, however, we would forego legal challenges in favor of working with educators to develop sound testing techniques that have less discriminatory impact. This approach would also be consistent with upcoming ED efforts to discourage social promotions. Both approaches are aimed at persuading school districts to adopt appropriate methods to evaluate student performance.

**Emphasize enforcement strategy \_\_\_\_ or policy strategy \_\_\_\_**

**Other: \_\_\_\_\_**

### **III. SCHOOL INTEGRATION**

One of the most discouraging aspects of race relations in America is the stubborn persistence of segregation in schools and residential areas. Recent data show that public schools are actually becoming more segregated. This segregation is driven by residential patterns, both within and among school districts. In 1995, about 56% of the enrollment in central city districts throughout the country was composed of African-American and Hispanic students. Nine of the ten largest districts had more than 75% minority enrollment. In contrast, 22.3% of the students in suburban schools and 19.3% of the students in rural schools were African-American or Hispanic. Students in many schools are often racially isolated. One third of African-American and Hispanic students attend schools with more than 90% minority enrollment.

Below, we discuss three possible approaches to achieving a higher degree of integration: pursuing litigation, promoting housing integration, and expanding magnet schools. These strategies are not mutually exclusive, and we seek your guidance as to the priority to be placed on each.

#### **A. School Desegregation Litigation**

Historically, DOJ has initiated or participated in most major school desegregation cases throughout the country. While there have been many successes, particularly in the south, there is no doubt that efforts to integrate large city school districts have been undercut by the movement of white families to the suburbs. In addition, the Supreme Court has limited court-ordered desegregation by prohibiting remedies that include the suburbs unless the constitutional violation has extended beyond a single school district. In practice, this has meant that almost all school desegregation decrees have involved only individual school districts.

Today, there are essentially no new school desegregation cases to bring. Instead, the enforcement questions concern the position DOJ should take in regard to efforts to modify or vacate decrees that have been in existence for many years. Many school districts, particularly in the south, are content to leave a desegregation plan in place as long as there is general public acceptance. Other districts have asked the court to vacate their decrees, encouraged by the fact that the Supreme Court has adopted a more permissive standard for doing so. Increasingly, courts themselves are raising the issue of vacating these decrees. In general, DOJ has taken a strong stand against vacating desegregation decrees so long as there are additional significant steps that can be taken to break down vestiges of discrimination. When there are no realistic possibilities for such steps, DOJ has joined with the parties in a motion to vacate a decree. In the absence of other guidance, DOJ intends to continue this approach. The reality, however, is that litigation is unlikely to achieve significant new gains in integration.

## B. The Role of HUD

HUD administers a variety of programs that can assist minority families to purchase or rent low-cost housing. In many cases, HUD has considerable discretion as to where and how to target this assistance. Another approach to breaking down school segregation is to target housing subsidies in metropolitan areas where there is an opportunity to promote substantial school desegregation. To some extent this can be done with existing regulations and appropriation levels. A more significant effort would require additional funds.

Recently, for example, DOJ was involved in settlement discussions regarding a long-standing desegregation decree applicable to Indianapolis and the surrounding suburbs. Indianapolis presented an unusual example where the desegregation plan required bussing students to and from the suburbs. DOJ, along with the city and private parties, agreed to a settlement that will end bussing in seventeen years. The settlement also included a modest provision to increase housing integration. Under the terms of the settlement, the city established a center to assist low-income residents of Indianapolis in locating and financing housing in the suburbs, but the city was not required to help fund the center or any associated services. Although our role in this litigation is essentially at an end, HUD could provide financial assistance to increase the number of low-income families in the suburbs. This in turn could promote school desegregation, perhaps as effectively as judicially-ordered desegregation.

Approve: \_\_\_\_\_ Disapprove \_\_\_\_\_ Other \_\_\_\_\_

*MARIA: Tracking Resources*

## C. Inter-district Magnet Schools

The Department of Education now administers a modest (about \$100 million) grant program for magnet schools that are formed for the purpose of increasing school integration. About 65 districts will receive grants this year. The Department of Education recently announced that magnet schools that use race as a factor in their admissions policies must satisfy strict scrutiny to comply with constitutional standards. After some initial concern about whether the districts could comply with that standard, virtually all districts were able to comply with modest adjustments in their admissions policies.

Magnet schools contribute to school integration, but their effect is limited. They usually enroll students from a single district that is already dominated by students of one race. In fact, the effect of magnet schools is often to create an integrated magnet school at the expense of increasing segregation at the "feeder" schools from which students come. Although the current statutory authorization allows for grants to magnet schools that serve more than one district, only

three grants were given to such schools because of the limited funding for the program. One option is to seek expanded funding for magnet schools and to earmark some of the funds for schools drawing students from more than one district. This would represent a voluntary, inter-district alternative to rarely obtained inter-district desegregation orders.

**Approve** \_\_\_\_\_      **Disapprove** \_\_\_\_\_      **Other** \_\_\_\_\_

#### **IV. EXPANDING BUSINESS OPPORTUNITIES**

Since the Nixon Administration, both Republican and Democratic administrations have pursued efforts to expand opportunities for minority-owned businesses. This business-oriented strategy is the natural counterpart to an educational strategy. We have recently initiated several reforms of federal procurement programs that are designed to expand these opportunities. There are strong arguments that additional reforms, outlined below, are needed.

##### **A. Current Programs**

Several federal programs are intended to increase opportunities for minority-owned businesses. The largest and most significant of these is the SBA's 8(a) program, which provides a sheltered environment for newly developing firms to enable them to obtain the experience and record necessary to compete in an open marketplace. Federal agencies work through the SBA to arrange for contracts with qualified firms on a non-competitive, or at least limited-competition, basis. The 8(a) program arranges for over \$6 billion in federal procurement contracts for SDB'S. This represents the lion's share of all federal procurement dollars going to these firms. Our recent procurement reforms implemented a separate price credit program that provides a boost to minority-owned firms in industries that reflect the ongoing effects of discrimination. The Department of Transportation's DBE program requires grantees to set goals for minority contracting. Finally, the new HUBzones program provides for preferences in federal procurement for all small firms located in inner cities. HUBzones, which was a Republican initiative pushed by Senator Bond, largely superseded the Empowerment Zone initiative, which was intended to accomplish similar objectives.

##### **B. Applying Benchmarking to SBA's 8(a) Program**

In order to identify industries that reflect the ongoing effects of discrimination, Commerce has developed "benchmarks," which are a measure of the value of contracts that would be expected to be awarded to SDB's in the absence of discrimination. While these benchmarking standards will not apply directly to 8(a), we stated that we would apply similar principles to the 8(a) program. DOJ believes we must do so or face the prospect that a court will find 8(a) unconstitutional.

DOJ recommends that we apply benchmarking principles to 8(a) by limiting contracts in certain industries and by limiting the firms that can participate in the program. In particular, DOJ recommends that, in industries where the gap between SDB's and other firms appears to have been closed, SBA should begin to limit all large contracts as well as contracts to firms that have

participated in the 8(a) program for a longer period. Although these steps may be met with political opposition, particularly by firms who face the prospect of a loss of contracts, the alternative is that the entire program may be struck down.

### **C. Further 8(a) Reforms**

Applying benchmarking principles to 8(a) will go some way to reform the program, but additional reforms are needed. Critics have pointed to a number of weaknesses in 8(a):

- (1) Wealthy individuals still participate since the cap on assets is up to \$750,000 and equity in a business, as well as home equity, is not counted against this ceiling;
- (2) Many firms participate that would be successful without the program; a 1994 survey showed that many companies in the program were stronger economically than average companies in the same industry;
- (3) A large portion of 8(a) contracts goes to a relatively small number of firms; for example, about 25 % of 8(a) contract dollars in FY 94 went to 1% of firms; at the same time, 53% of the firms during FY 92-94 received no contracts;
- (4) The program does not significantly expand minority hiring and economic development in the inner city; few 8(a) firms are actually located in inner cities; and
- (5) The program does not provide significant business development assistance; the current funding for technical assistance is \$2.5 million, only enough to provide advanced management courses for a limited number of executives; meanwhile, about half of the firms in the program are not awarded any federal contracts.

We recommend that the administration propose reforms in the 8(a) program to address these shortcomings. Some of these can be done administratively; others require statutory changes. In particular, we recommend that a working group be created to develop specific proposals to: 1) lower the cap on the wealth of participating firm owners; 2) lower the cap on the amount of contract dollars any 8(a) firm can receive; and 3) reduce the size of participating firms. These limitations on 8(a) should be balanced with a significant expansion of SBA's technical assistance program and with certain more permissive financing requirements, e.g., easing the bonding requirement. These reforms will be met with strong opposition by some members of the minority business community, but there is a good argument that 8(a) benefits a relatively small

number of firms now, while doing little for overall equality. A restructured 8(a) program can extend assistance to more firms in a more effective way.

**Approve** \_\_\_\_\_ **Disapprove** \_\_\_\_\_ **Other** \_\_\_\_\_

**D. Broader Procurement Reforms**

In addition to these reforms, we believe that the administration should pursue the second track of strengthening race-neutral efforts to expand minority business opportunities. As in the case of education, one strategy is to target assistance to inner-city areas. This strategy reaches a disproportionate number of minority-owned firms while increasing minority employment in economically depressed areas. This is the approach of Empowerment Zones (an administration initiative) and HUBzones (a Republican initiative). The Empowerment Contracting initiative provided a preference in federal procurement for firms in Empowerment Zones, but this program was never implemented because of the enactment of HUBzones.

The Empowerment Zones and HUBzones programs provide structures upon which additional efforts can be built. One possibility is to expand technical and mentoring assistance to firms in HUBzones. Many HUBzone firms are already eligible for the SBA's technical assistance program, but funding is so limited that the SBA has restricted all technical assistance to 8(a) participants. A second possibility is to reinstitute a provision that was originally included in the Empowerment Zone proposal by providing a preference in federal procurement for large firms that operate in severely distressed inner city areas. In order to ensure that this preference is most effective, it can be limited to large firms that hire substantial numbers of inner-city residents.

**Expand technical and mentoring assistance: Approve** \_\_\_ **Disapprove** \_\_\_ **Other** \_\_\_\_\_

**Preference in federal procurement: Approve** \_\_\_ **Disapprove** \_\_\_ **Other** \_\_\_\_\_

## V. COORDINATION OF CIVIL RIGHTS ENFORCEMENT

We believe that a civil rights coordinating council, composed of the heads of the major civil rights agencies, should meet periodically to coordinate enforcement and to report to you and other administration officials about their efforts. The council would be chaired by the Assistant Attorney General for the Civil Rights Division and would plan meetings and briefings with the aid of the Counsel's Office. White House staff or other administration officials would attend as appropriate.

The council is needed for several reasons. First, because civil rights enforcement plays a crucial role in achieving the administration's fundamental goal of economic and social equality, there is a particular need for the enforcement agencies to inform the White House of their priorities and policies. Second, civil rights enforcement decisions often relate closely to general administration policy. For example, the approaches to higher education admissions and testing discussed earlier in this memo necessarily raise important questions about education policy. Finally, civil rights enforcement responsibilities are shared by several agencies, including the Civil Rights Division in DOJ, the EEOC, the Office of Civil Rights in ED, and the Office of Civil Rights in HHS. Ensuring that these agencies coordinate their activities will promote consistency and more effective enforcement.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_ Other \_\_\_\_\_