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**Race-Race Initiative Policy - Civil
Rights - Federal Employees [3]**

Race Initiative Policy -
Civil Rights Enhancement

Latest version
- 11/12/97
Tom

FY 1999 DIRECTOR'S REVIEW CIVIL RIGHTS CROSSCUT

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

November 1997

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WW/213

DIRECTOR'S REVIEW FOR THE FY 1999 BUDGET
CIVIL RIGHTS CROSSCUT
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**Section I:
Overview and Summary of Presidential Civil Rights Initiative**

Overview and Summary of Presidential Civil Rights Initiative

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

This crosscut is intended to help assure that the Administration's FY 1999 Budget is supportive of the heightened emphasis the President has placed on racial and civil rights issues. Following a discussion of a "Presidential Civil Rights Initiative" and summary funding information in Sections I and II, the third section asks for decision on funding for the six principal civil rights enforcement agencies and the U.S. Commission on Civil Rights. The six enforcement agency proposals discussed in the issue papers comprise the \$56 million Presidential Civil Rights Initiative, discussed below. The fourth and fifth sections are informational only. The fourth section discusses enforcement programs for which funding decisions are not requested, and programs that have been considered "civil rights" related, but are non-enforcement in nature; decisions for these programs will be made in the context of agency reviews. The fifth section discusses possible new Administration initiatives in a variety of areas that may be considered race-related.

The Domestic Policy Council's Civil Rights Working Group Efforts

The Domestic Policy Council (DPC) and OMB staff have been engaged for several months in meeting with both civil rights advocacy group leaders and agency officials to hear their recommendations for improving Federal civil rights efforts. The advocates recommended a range of ideas including improved White House coordination of civil rights policies and stronger enforcement of civil rights laws by and in the Federal Government. All agreed strongly that a coordinated approach to civil rights policies, with a full-time senior person in the White House responsible for civil rights issues, could assist in numerous ways, including: identifying civil rights priorities and focusing resources incrementally in key areas which could aide the Assistant Secretaries in defending their budgets during the appropriations process; focusing the need for Cabinet Secretaries to play a more visible role in advancing the Administration's civil rights agenda; giving strategic attention to Presidential appointments and the timing of major initiatives; and coordinating the fight against discrimination by Federal agencies.

The DPC also conducted a series of meetings with Federal civil rights agencies including the Equal Employment Opportunity Commission (EEOC), the Department of Justice's Civil Rights Division, and the civil rights offices of Education, Health and Human Services, Labor,

and Housing and Urban Development (HUD). These agency meetings were held to discuss ideas for assisting the Administration obtain its civil rights enforcement budgets from the appropriators.

Funding Summary and Presidential Civil Rights Initiative

For FY 1998, funding increases were proposed for nearly every civil rights agency, spreading scarce Federal resources over a broad group of agencies and programs. The average increase in enforcement programs was 8.3 percent, with increases ranging from 3 percent for the EEOC to between 10 and 30 percent for Education's civil rights programs, Labor's Office of Federal Contractor Compliance Program (OFCCP), HUD's fair housing activities, and the U.S. Commission on Civil Rights. Despite the \$503.5 million proposed in FY 1998 for the six principal enforcement, Congress is likely to provide \$465.7 million, equal to the FY 1997 enacted level, and \$37.8 million, or 7.5 percent, below the President's request for FY 1998 (see Attachment A).

For FY 1999, DPC and OMB staff believe increased resources are necessary to implement many of the proposals for civil rights enforcement agencies to conduct business more effectively and efficiently. OMB is proposing \$516 million for five of the six principal enforcement agencies (OMB recommends no increase for HHS Office of Civil Rights), \$33 million or 7 percent greater than the President's FY 1998 request, \$57 million or 12 percent greater than the FY 1998 enacted level, and \$54 million or 11.7 percent over OMB guidance. Using a 2.37 percent GDP deflator, the real increase for OMB's FY 1999 recommended level over the FY 1998 budget request is 4.5 percent, and the real increase over the FY 1998 enacted level is 6 percent. Individual agency increases range from 47 percent for fair housing activities, to 12.5 percent for EEOC to 5 percent for the Education's Office of Civil Rights. The increased funding would be more than a symbolic statement about the President's commitment to civil rights; it would provide the enforcement agencies with badly needed resources. Specifically, these proposed increases would comprise a \$56 million "Presidential Civil Rights Initiative" to assist the key civil rights enforcement agencies:

- to improve compliance;
- to implement greater use of alternative dispute resolution techniques;
- to invest in information systems upgrades; and
- to develop better data collection capabilities.

For example, EEOC could invest in technology and implement greater use of mediation to quickly resolve complaints without significant increases in staffing. OFCCP would continue its streamlining and compliance assistance initiatives. And our recommendation for HUD is to develop a targeted, audit-based enforcement initiative that would raise the Nation's and communities' awareness of the extent of housing discrimination through focused and publicly released audit results and subsequent enforcement action. Detailed agency proposals are discussed in the subsequent issue papers. The funding components for this initiative are shown in the table below:

Presidential Civil Rights Initiative (Budget Authority, in millions of dollars)					
Agency	FY 1998 Enacted	FY 1999 OMB Guidance	FY 1999 RMO Recomm	Presidential Initiative	Delta: Rec Level Above Guidance
EEOC	240	236	270	+30	+34
HUD	30	34	44	+14	+10
DOJ	65	67	69	+4	+2
OFCCP	62	62	68	+5	+6
Education	62	63	65	+3	+2
Total:	459	462	516	+56	+54

Civil Rights Information in the President's Budget

Both the advocates community and the civil rights agencies discussed the need for better and more available data on civil rights programs. During President Clinton's first term, there was no discussion of civil rights programs in the annual budget presented to Congress. For the FY 1998 Budget, a brief discussion on overall funding for civil rights activities in housing and employment was included in the short "Highlights of the Federal Budget" document in "Chapter VI, Expanding Economic Opportunity". This contrasts sharply to fuller analyses of civil rights activities that had been an integral part of the President's Budget through FY 1987 (See Appendix A, "Special Analysis J"). We recommend that OMB include a civil rights section in the FY 1999 Budget as part of an Administration effort to highlight government-wide civil rights activities.

**Civil Rights Enforcement Funding
Funding Summary
(Budget Authority, in millions of dollars)**

	FY 1997 Enacted	FY 1998 Pres Bud	FY 1998 Enacted/ Estimate	FY 1999 Guidance	Agency Request	Diff: Agency Req. less FY 1998 Est.	Pctg. Diff.	RMO Rec	Diff: RMO Rec. less FY 1998 Est.	Pctg. Diff.	Diff: RMO Rec. less Agy Req	Pctg. Diff.
Principal Civil Rights Enforcement Agencies:												
1. Equal Employment Opportunity Commission.....	240	246	240	236	287	47	19.6%	270	30	12.5%	-17	-7.1%
2. HUD Fair Housing Activities.....	30	39	30	34	47	17	56.7%	44	14	46.7%	-3	-10.0%
3. DOJ: Civil Rights Division.....	62	67	65	67	71	6	9.2%	69	4	6.2%	-2	-3.1%
4. DOL: OFCCP.....	59	69	62	62	72	10	16.1%	68	6	9.7%	-4	-6.5%
5. Education: Office of Civil Rights.....	55	62	62	63	70	8	12.9%	65	3	4.8%	-5	-8.1%
Total, 5 principal enforcement agencies.....	446	483	459	462	547	88	19.2%	516	57	12.4%	-31	-6.8%
U.S. Commission on Civil Rights:												
6. U.S. Commission on Civil Rights.....	9	11	9	11	13	4	44.4%	9	0	0.0%	-4	-44.4%
Total, 6 principal agencies, plus USCCR.....	455	494	468	473	560	92	19.7%	525	57	12.2%	-35	-7.5%
Other Civil Rights Enforcement Agencies:												
7. HHS: Office of Civil Rights.....	20	21	20	20	22	2	10.0%	20	0	0.0%	-2	-10.0%
8. EPA: Civil Rights Activities.....	21	21	21	21	21	0	0.0%	21	0	0.0%	0	0.0%
9. Agriculture: Civil Rights and Central Office Activities....	10	15	14	14	21	7	50.0%	21	7	50.0%	0	0.0%
10. DOT: Office of Civil Rights.....	6	6	6	6	7	1	16.7%	6	0	0.0%	-1	-16.7%
11. DOL: Office of Civil Rights.....	5	5	5	5	5	0	0.0%	5	0	0.0%	0	0.0%
Total, Other Enforcement Agencies.....	61	67	66	66	76	10	15.2%	73	7	10.6%	-3	-4.5%
Total, Civil Rights Enforcement Agencies.....	516	560	534	539	636	102	19.1%	598	64	12.0%	-38	-7.1%



Section II:
Summary of Agency Request and Recommended Funding Levels

Table A. Civil Rights Enforcement Agencies Reviewed in Issue Papers 7
Table B. Other Enforcement Agencies and Nonenforcement Programs 10

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL										
<u>Equal Employment Opportunity Commission</u>												
Guidance.....	—	—	236	237	235	236	233	234	232	233	238	238
Agency Request.....	242	240	287	280	287	285	287	287	287	287	287	287
FY 1999 Recommended Level.....	—	—	270	270	276	276	283	283	289	289	296	296

Explanation: \$34 million in budget authority over planning guidance is recommended as part of a Presidential Civil Rights Initiative. EEOC's goal is to reduce the private sector complaint months in inventory from 9.4 months to 6 months by FY 2001.

Department of Housing and Urban Development: Fair Housing Activities

Guidance.....	—	—	34	33	28	35	28	33	28	29	29	28
Agency Request.....	30	27	47	31	47	34	47	39	47	45	47	47
FY 1999 Recommended Level.....	—	—	44	30	39	35	39	39	39	40	39	39

Explanation: \$10 million in budget authority over planning guidance (\$14 million over FY 1998 level of \$30 million) is recommended for HUD as part of a Presidential Civil Rights Initiative. HUD would develop an audit-based enforcement initiative to assist in meeting its goal of promoting equal opportunity in housing.

Department of Justice: Civil Rights Division

Guidance.....	—	—	67	66	69	69	70	70	72	72	73	73
Agency Request.....	65	65	71	70	79	78	82	81	85	84	88	87
FY 1999 Recommended Level.....	—	—	69	68	71	71	73	73	75	74	77	77

Explanation: The recommended level provides \$2 million in program enhancements, including \$0.3 million to handle additional police misconduct cases and \$1.5 million to improve the Division's automated litigation support. Recommendation provides 3% annual growth in the outyears. This increase would be part of a Presidential Civil Rights Initiative.

TABLE A

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
<u>Department of Labor: Office of Federal Contract Compliance Programs</u>												
Guidance.....	---	---	62	62	62	62	62	62	62	62	62	62
Agency Request.....	62	62	72	72	74	74	76	76	78	78	80	80
FY 1999 Recommended Level.....	---	---	68	68	68	68	68	68	68	68	68	68

Explanation: At \$68M, the recommendation: 1) provides a \$5 million (9 percent) increase over 1998 likely enacted, \$4 million (6 percent) below their request; and 2) continues OFCCP's streamlining and compliance assistance initiatives. The Human Resources Division recommends providing inflation to maintain the FY 1998 requested FTE level. This increase would be part of a Presidential Civil Rights Initiative.

Department of Education: Office of Civil Rights

Guidance.....	---	---	62	62	62	62	62	62	62	62	62	62
Agency Request.....	62	60	70	66	72	71	73	73	75	75	77	77
FY 1999 Recommended Level.....	---	---	65	62	67	64	68	65	70	67	72	69

Explanation: A \$2 million increase over guidance would provide for investments to information technology capabilities and additional staff to increase productivity. This increase would be part of a Presidential Civil Rights Initiative.

U.S. Commission on Civil Rights

Guidance.....	---	---	11	11	11	11	11	11	11	11	11	11
Agency Request.....	9	9	11	11	11	11	11	11	11	11	11	11
FY 1999 Recommended Level.....	---	---	9	9	9	9	9	9	9	9	9	9

Explanation: Recommend \$9.1 million, \$1.9 million below the planning guidance, which provides, relative to the FY 1998 estimate of \$8.74 million, a cost of operations increase of \$260,000 and \$100,000 for consulting assistance to implement management reforms.

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL										
<i>Total, Five Principal Enforcement Agencies and the U.S. Commission on Civil Rights:</i>												
Guidance.....	---	---	472	471	467	475	466	472	467	469	475	474
Agency Request.....	470	463	558	530	570	553	576	567	583	580	590	589
FY 1999 Recommended Level.....	---	---	525	507	530	523	540	537	550	547	561	558

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
OTHER ENFORCEMENT AGENCIES:												
<u>Department of Health and Human Services: Office of Civil Rights 1/</u>												
Guidance.....	---	---	20	20	20	20	19	19	19	19	20	20
Agency Request.....	20	20	22	22	22	22	22	22	22	22	22	22
FY 1999 Recommended Level.....	---	---	20	20	20	20	19	19	19	19	20	20

1/ BA includes transfers from Medicare Trust Funds

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

Environmental Protection Agency: Civil Rights Activities

Guidance.....	---	---	21	21	21	21	21	21	21	21	21	21
Agency Request.....	21	22	21	21	21	21	21	21	21	21	21	21
FY 1999 Recommended Level.....	---	---	21	21	21	21	21	21	21	21	21	21

Explanation: Funds civil rights and related environmental justice activities throughout the agency.

Department of Agriculture: Central Activities, including Civil Rights Office

Guidance.....	---	---	21	21	21	21	21	21	21	21	21	21
Agency Request.....	14	14	21	21	21	21	21	21	21	21	21	21
FY 1999 Recommended Level.....	---	---	21	21	21	21	21	21	21	21	21	21

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

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL										
Department of Transportation: Office of Civil Rights												
Guidance.....	—	—	5	5	5	5	5	5	5	5	5	5
Agency Request.....	6	6	7	7	7	7	7	7	7	7	7	7
FY 1999 Recommended Level.....	—	—	6	6	6	6	6	6	6	6	6	6

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

Department of Labor: Office of Civil Rights

Guidance.....	—	—	5	5	5	5	5	5	5	5	5	5
Agency Request.....	5	5	5	5	5	5	5	5	6	6	6	6
FY 1999 Recommended Level.....	—	—	5	5	5	5	5	5	5	5	5	5

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

Total, Other Enforcement Agencies:

Guidance.....	—	—	72	72	72	72	71	71	71	71	72	72
Agency Request.....	66	67	76	76	76	76	76	76	77	77	77	77
FY 1999 Recommended Level.....	—	—	73	73	73	73	72	72	72	72	73	73

TABLE B

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL										

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

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

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

Department of Commerce: Minority Business Development Agency

Guidance.....	—	—	26	27	26	26	26	26	26	26	26	26
Agency Request.....	26	27	29	29	29	29	29	29	29	29	29	29
FY 1999 Recommended Level.....	—	—	26	27	26	26	26	26	26	26	26	26

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

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

Guidance.....	—	—	3	3	3	3	3	3	3	3	3	3
Agency Request.....	3	3	3	3	3	3	3	3	3	3	3	3
FY 1999 Recommended Level.....	—	—	3	3	3	3	3	3	3	3	3	3

Explanation: Minority Business Outreach funds are used to help small/disadvantaged businesses participate more fully in DOT projects and programs.

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL										
Department of Transportation: Office of the Secretary/Minority Business Resource Center, (continued)												
Funding for Minority Business Resource Center Loans												
Guidance.....	—	—	2	2	2	2	2	2	2	2	2	2
Agency Request.....	2	2	2	2	2	2	2	2	2	2	2	2
FY 1999 Recommended Level.....	—	—	2	2	2	2	2	2	2	2	2	2

Explanation: The Minority Business Resource Center provides short-term loans and lines of credit to minority business enterprises and small disadvantaged businesses in partnership with commercial banks. The goal is to help such businesses participate in Federal procurements. The \$1.9 million in subsidy BA shown in this account supports \$15 million in direct loans.

Department of Agriculture: Direct Farm Loans, Farm Service Agency

Guidance.....	—	—	33	33	39	39	39	39	39	39	39	39
Agency Request.....	38	38	33	33	33	33	33	33	33	33	33	33
FY 1999 Recommended Level.....	—	—	33	33	39	39	39	39	39	39	39	39

Explanation: Direct farm loans are targeted to beginning and socially disadvantaged farmers (10% of program). Subsidy BA shown would fund \$636 million in direct loans in FY 1999 compared with \$534 million enacted.

Department of Agriculture: Cooperative State Research, Education and Extension Service

Guidance.....	—	—	77	77	77	77	77	77	77	77	77	77
Agency Request.....	70	70	77	77	77	77	77	77	77	77	77	77
FY 1999 Recommended Level.....	—	—	77	77	77	77	77	77	77	77	77	77

Explanation: Financial assistance to support agricultural research at the 16 Historically-Black Land-Grant Institutions and Tuskegee University.

TABLE B

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

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
<u>Department of Agriculture: Loans and Grants for Migrant Labor Housing, including rental assistance</u>												
Guidance.....	---	---	60	40	60	48	60	54	60	58	60	59
Agency Request.....	26	20	60	40	60	48	60	54	60	58	60	59
FY 1999 Recommended Level.....	---	---	60	40	60	48	60	54	60	58	60	59

Explanation: Loans and grants to construct housing for migrant farm laborers. BA shown would fund \$32 million in direct loans and \$13 million in grants, along with \$31 million for related rental assistance in FY 1999.

Department of Agriculture: Natural Resource Conservation Service/Outreach for Socially Disadvantaged Farmers

Guidance.....	---	---	10	10	10	10	10	10	10	10	10	10
Agency Request.....	3	3	10	10	10	10	10	10	10	10	10	10
FY 1999 Recommended Level.....	---	---	10	10	10	10	10	10	10	10	10	10

Explanation: The FY 1999 increase would be largely used for community studies to evaluate the needs of those clients traditionally under-served by NRCS and then assess the best ways to provide assistance with the array of existing USDA conservation programs.

Department of Labor: Women's Bureau

Guidance.....	---	---	8	8	8	8	8	8	8	8	8	8
Agency Request.....	8	8	10	10	10	10	10	10	11	11	11	11
FY 1999 Recommended Level.....	---	---	8	8	8	8	8	8	8	8	8	8

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

TABLE B

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

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>										
<u>Department of Justice: Community Relations Service</u>												
Guidance.....	—	—	8	8	8	8	8	8	9	9	9	9
Agency Request.....	5	5	10	9	12	11	12	12	13	13	13	13
FY 1999 Recommended Level.....	—	—	6	6	6	6	6	6	7	7	7	7
<p>Explanation: The recommended level would fund CRS at a current services level (3% growth) in 1999 and the outyears, but would provide no program increases.</p>												
<u>Total, Nonenforcement Programs:</u>												
Guidance.....	—	—	234	215	240	228	240	234	241	239	241	240
Agency Request.....	188	183	257	232	259	246	259	253	261	259	261	260
FY 1999 Recommended Level.....	—	—	237	216	243	231	243	237	244	242	244	243

III

III

**Section III:
Issue Papers**

Issue #1	Equal Employment Opportunity Commission	17
Issue #2	Department of Housing and Urban Development, Fair Housing Grant Programs	20
Issue #3	Department of Justice, Civil Rights Division	23
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PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

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

ISSUE: Funding level for the Equal Employment Opportunity Commission

	FY 1997	FY 1998	FY 1999				
	<u>Actual</u>	<u>Estimate</u>	<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Estimate</u>
BA/OB.....	240	240	287	236	270	-17	+30
OL.....	239	239	285	233	270	-15	+31

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

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

Option 3: OMB staff recommends \$270 million, a \$30 million, or 12.5 percent, increase over FY 1998 likely enacted and \$34 million or 14 percent above guidance.

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

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

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

Without additional resources to continue procedural reforms, implement greater use of mediation, and invest in technology, the Commission is unlikely to make further progress toward its goal of reducing the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by 2001. DPC and the HTF Division agree that addressing this goal is important to demonstrate the Federal government's commitment to reducing employment discrimination and to assist both complainants and employers by resolving cases quickly.

Option 1: OMB Guidance level of \$236 million. At \$236 million, EEOC's funding would be \$4 million, or 2 percent, below its expected FY 1998 level of \$240 million, and \$10 million below the President's FY 1998 request of \$246 million. Because EEOC is a labor-intensive organization, this funding level would likely result in reducing 150 staff, postponing critical information systems investments, reducing the use of mediation, and reducing staff training. At guidance, caseload inventories would rise as fewer staff were available to investigate; the average time to process a complaint would rise from 9.4 months to 1 year by the year 2001. EEOC is already at its lowest staffing level in 20 years, down from a high of 3,390 FTE in FY 1980 to 2,680 FTE in FY 1997. This funding level would not meet the President's commitment to providing the EEOC with the resources necessary to enforce employment discrimination laws.

Option 2: EEOC request level of \$287 million. At \$287 million, EEOC would increase its private sector and federal sector enforcement staffs by 203 FTE, upgrade its technology, and put more resources into litigation, systemic programs, and an alternative dispute resolution program. The agency would reduce its charge inventory to 6 months by FY 2001. However, we believe EEOC could reach this goal with a lower level of staffing coupled with an enhanced mediation program, as described in Option 3.

Option 3: Recommended funding level of \$270 million. At \$270 million, EEOC would reduce its charge inventory to 6 months by FY 2001 through a combination of investments in information technology capabilities, increased use of mediation, and an increase in staffing by 162 FTEs.

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

Funding for the Alternative Dispute Resolution Program. Voluntary mediation is an effective method of complaint resolution that can be used in enforcement efforts. EEOC currently uses some of its trained investigators to mediate, but this diverts scarce investigative resources from the majority of cases that do not lend themselves to mediation. While volunteers have also been used since the program's inception in FY 1996, EEOC will need to use more experienced and credible mediators in the future. We believe the most viable option for ramping up this program is to provide mediators through contracts. Additionally, using contractors would encourage employer participation by addressing employers' concerns about bias by EEOC staff, and could encourage claimants to elect mediation by addressing claimant concerns about the competency of volunteers. Hence, this option adds \$4 million to allow EEOC to mediate about 8,000 cases, or 10 percent of the 80,000 new charges expected in FY 1999.

Funding for Additional for Staffing. Although EEOC's budget request included funding for an additional 203 FTEs, we believe that it would be more cost effective for the agency to implement its technology upgrades and enhanced mediation program, and fund a lower level of staffing. We recommend funding 162 additional FTEs as follows:

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

RECOMMENDATION: OMB and White House staff agree with civil rights advocates and the EEOC that additional resources are necessary to meet President Clinton's commitment at his commencement speech at the University of California at San Diego, June 14, 1997, to provide EEOC with the resources "necessary to enforce the law of the land". We recommend that the President announce a performance goal for EEOC of reducing the time it takes to process private sector cases to 6 months by FY 2001, while also implementing alternative and more effective procedures for resolving disputes. The recommendation would achieve this goal through a combination of technology funding, increasing resources for voluntary mediation, and some staffing increases.

In total, the EEOC would receive \$270 million in FY 1999, a \$30 million increase over FY 1998 enacted and a \$34 million increase over guidance. The \$30 million over the FY 1998 estimate would be part of a Presidential civil rights initiative that would support \$7.6 million for cost increases, \$8 million for an additional 162 FTEs, \$10 million for technology upgrades and \$4 million for increased use of contract mediation.



PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

Issue Paper #2
Department of Housing and Urban Development
Fair Housing Grant Programs
(In millions of dollars)

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

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	30	30	47	34	44	-3	+14
OL.....	22	22	31	33	30	-1	+ 8

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

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

Option 3: HTF staff recommends \$44 million, \$10 million, or 33 percent, over planning guidance to support an audit-based enforcement proposal as part of a Presidential civil rights initiative.

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

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

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

Option 1: Guidance level of \$34 million. At \$34 million, HUD's fair housing grants would be \$4 million, or 13 percent, above the

FY 1998 enacted level of \$30 million. HTF Division staff would recommend that the FHIP program be increased from \$15 million to \$19 million, with level funding of \$15 million provided for the FHAP program. The increase in FHIP funding would enable the Department to support existing organizations with marginal increases in funding and create new private fair housing groups in underserved areas. However, civil rights advocates may view this level as inconsistent with the Administration's stated commitment to civil rights in light of both the FY 1998 budget request of \$39 million and the President's recent statement.

Option 2: HUD request level of \$47 million. For FY 1999, HUD proposes an "Anti-Discrimination in Housing Initiative", and requests \$17.4 million above the \$30 million appropriated in FY 1998, all of which is directed at increasing enforcement activity by State and local agencies and private fair housing groups to enable HUD to reach its goal of doubling the number of enforcement actions during the President's second term. HUD requests \$23 million for FHAP, an \$8 million, or 53 percent, increase above the \$15 million appropriated in FY 1998, primarily to increase from \$1,700 to \$1,800 the per case reimbursement rate and pay for additional post-charge costs to substantially equivalent agencies. HUD also requests \$24.4 million for the FHIP program, a \$9.4 million, or 63 percent, increase above the FY 1998 enacted level of \$15 million, to fund new private fair housing groups in underserved areas, fund increased testing and other investigative activities, fund programs that focus on systemic issues of discrimination, and fund support education and outreach programs.

HTF Division staff recommend no increase for the FHAP program. HUD reports that there have been no strong objections to the rate it reimburses for agencies to process housing discrimination cases. Further, HUD historically overestimates the expected number of complaints received by FHAP agencies. We expect FHAPs to process 5,100 in FY 1999, on par with the level of complaints processed when the FHIP program was last funded at \$26 million, its highest level ever. For the FHIP program, while it is important for HUD to continue developing the capacity of local non-profits in underserved areas and provide some additional resources to equal housing organizations to enhance their testing and investigative services, HTF Division staff believe that HUD should also develop a more focused and targeted approach to identifying and eliminating housing discrimination, as discussed in Option 3.

Option 3: Propose \$44 million and an audit-based enforcement initiative. This option would provide a combination of increased funding **and** a new way of addressing HUD's responsibility to enforce the Fair Housing Act. *We believe that Federal dollars would be more wisely spent by HUD on a targeted, audit-based enforcement initiative*, piloted in several metropolitan areas, that would raise the Nation's and communities' awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement action. An audit-based enforcement initiative using paired testers could be piloted in 20 metropolitan areas around the country. \$5 million would provide each of the 20 non-profit organizations with \$250,000 to establish an organizational capacity to administer paired testing in the rental and sales markets, develop comparable indices of discrimination, and provide for analysis and public dissemination of audit results. An additional \$5 million would provide the 20 metropolitan areas with sufficient funds to conduct audits using 500 pairs of testers.

This proposal could be modeled on the recent work of the Fair Housing Council of Greater Washington's (FHCGW) Fair Housing Index. Community analyses of impediments to fair housing have seldom tried to identify an overall level of illegal discrimination in the marketplace. In fact, the FHCGW's Fair Housing Index was the first serious attempt by a community-based organization to

develop an index of discrimination in a metropolitan area. Partially using FHIP grant funding, FHCGW determined that blacks and Hispanics face discrimination more than 40 percent of the time when they try to rent an apartment in the Washington area. In the sales market, blacks experienced discrimination 33 percent of the time, and Hispanics 42 percent of the time. These results received substantial publicity and led to numerous enforcement actions. DC-area counties pledged more resources to address illegal housing discrimination. Montgomery County, for example, pledged \$400,000 for a two-year initiative to perform its own "tests" of the market and enforce housing discrimination laws against landlords and real estate agents who use discriminatory practices.

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

RECOMMENDATION: Option 3: Fund fair housing activities at \$44 million. A Presidential initiative to support fair housing enforcement is timely and desirable, but it should be more creative and systematic than simply providing more money for HUD's existing approaches. Increasing HUD's fair housing resources by \$10 million for a new audit-based enforcement initiative and \$4 million for ongoing efforts demonstrates a renewed and serious Administration effort in this area. FHIP would be funded at \$29 million, \$14 million over the FY 1998 enacted level of \$15 million. An increase of \$10 million would fund an audit-based enforcement initiative, and HUD could allocate the additional \$4 million across ongoing programs. FHAP would remain constant at \$15 million.



PREPARER/EXT: John Thompson/ 5-3730
TYPE OF ISSUE: Funding for base programs/Presidential initiative.

Issue Paper #3
 Department of Justice: Civil Rights Division
 (In millions of dollars)

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

	FY 1997 <u>Actual</u>	FY 1998 <u>Estimate</u>	<u>FY 1999</u>				Change from <u>Request Level</u>	Change from <u>'98 Enacted</u>
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>			
BA.....	62	65	71	67	69	(2)	+4	
OL.....	58	65	70	66	68	(2)	+3	

Option 1: Guidance (\$67 million). The guidance level would fund the base program, but provide no program increases.

Option 2: Agency request (\$71 million). The agency is requesting \$4 million in increases for police brutality and misconduct, hate crimes, ADA enforcement, automated litigation support, institutionalized persons, and voting rights.

Option 3: Recommendation (\$69 million). Funds \$1.8 million in program increases for highest priority increases: police misconduct cases and litigation support. This option, however, can be funded within the Justice Department's overall guidance.

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

ANALYSIS:

Option 1: The guidance level would fund the Division's adjustments to base, providing a current services level in 1999, but it would not provide additional resources for program enhancements. Holding the Civil Rights Division to guidance would require the Division to fund priority initiatives by shifting base resources. For example, if the Division wants to step up its efforts to investigate and litigate cases involving a pattern and practice of police department misconduct, or individual charges of police brutality, as many civil rights groups would like, it would have to shift funds away from lesser priorities or areas where complaints are declining. For example, the

Criminal Prosecution Section received fewer complaints in 1997 than in 1996. It is unlikely, however, that the Division would choose to do so, since it does not consider any of its functions to be low priorities.

Option 2: The agency is requesting increases for police brutality and hate crimes (\$0.6 million); ADA enforcement (\$1.3 million); automated litigation support (\$1.5 million); institutionalized persons and pattern and practice of police misconduct cases (\$0.55 million); and redistricting litigation (\$0.4 million).

Option 3: The recommended level would provide \$1.8 million for the two increases most critical to the Division's ability to carry out its mandate, including the requested \$1.5 million for litigation support and the requested \$0.3 million for police brutality and misconduct cases. (Note: this increase can be funded out of DOJ's overall guidance level.) Improving the Division's litigation support capabilities (including exhibit preparation, customized databases, statistical analysis, and imaging systems) would make the personnel already on board more effective, enhancing the ability of the Division's attorneys to prepare for litigation and make more effective courtroom presentations. In addition, a \$0.3 million program increase would allow the Division to initiate four police misconduct investigations in 1999. The 1994 Crime Act authorized the Attorney General to initiate civil litigation to remedy a pattern and practice of civil rights violations by law enforcement officials, but no program increases have been appropriated for this purpose, although the Division has received allegations of police misconduct from hundreds of sources. The recommended level would not provide additional resources for ADA enforcement, hate crimes, institutionalized persons, and redistricting litigation.



Issue #4

Issue #4



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

Issue Paper #4
Office of Federal Contract Compliance Programs
Department of Labor
(In millions of dollars)

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

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	59	62	72	62	68	4	5
OL.....	59	62	72	62	68	4	5

Option 1: Recommended funding level of \$68M. At \$68M and 823 FTE, the OFCCP would be \$5.4 million (9 percent) above the guidance and FY 1998 likely enacted level. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. HRD recommends providing inflation and maintaining FY 1998 requested FTE.

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

Option 3: Guidance level of \$62M. At \$62M and 788 FTE, the OFCCP would be straightlined from the FY 1998 likely enacted level. This funding level will enable the agency to continue streamlining and compliance assistance initiatives, although at a slower pace. Guidance is the FY 1998 likely enacted level. It was developed by HRD; DOL did not provide a guidance level to agencies based on the August targets.

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

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

- (1) regulatory reform which consists of two regulatory projects: (1) implemented a tiered compliance review process (completed 8/19/97), and (2) streamline the Affirmative Action Plans and issue the Affirmative Action Plan Summary (expect a proposed rule in fall of 1998); and,
- (2) Affirmative Action Plan Summary which will be the basis for the tiered compliance review; and,
- (3) tiered compliance review process which leverages current resources by implementing compliance checks, limited and full compliance reviews (versus the old full compliance review in all cases) thus enabling OFCCP to target serious cases. OFCCP anticipates a 10% increase in FY 1999 in the number of compliance reviews conducted. The compliant contractor is only subject to a limited review, thereby decreasing contractor burden. OFCCP also recently instituted compliance checks which allows them to ascertain whether previous information submitted by the contractor is accurate without having to launch a review. When enforcement is necessary, OFCCP uses fixed term and indefinite debarment.

OFCCP Workload Chart						
	FY 1994 Actual	FY 1995 Actual	FY 1996 Actual	FY 1997* Actual	FY 1998 Projected	FY 1999 Projected
FTE	785	775	727	739	788	823
Compliance Reviews	4,179	3,991	3,476	4,100	4,500	5,000
Compliance Investigations	802	566	473	900	400	425
Total Other Compliance Actions**	4,799	4,324	4,097	4,100	4,330	5,040
BA (\$ in millions)	\$56	\$59	\$56	\$59	\$62	\$68

* OFCCP has not updated this data.

** Including action monitoring letters and consent decrees.

OFCCP plans to establish a baseline measure for compliance in FY 1998. To date, they only have output measures: in FY 1999 the number of compliance reviews are expected to increase by 10% over FY 1998 (due to the new tiered system that prioritizes case investigations), and in FY 1998 OFCCP recovered \$30 million in back pay. OFCCP provided anecdotal information that: 1) their impact is increasing, 2) their level of respect in the contracting universe has increased, and 3) they are beginning to implement creative ideas that will reach their goals. However to date, OFCCP has no information on the percentage of contractors that are in compliance.

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

RECOMMENDATION: At \$68M and 823 FTE, the OFCCP would be \$5.4 million (9 percent) above the guidance and FY 1998 likely enacted level. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. HRD estimates that this level will increase compliance reviews by 10%. As OFCCP refines their Fair Enforcement Initiative, it is expected to become more efficient with current resources and thus complete more compliance reviews. HRD recommends providing inflation and maintaining the FY 1998 requested FTE level. HRD’s estimates of the OFCCP’s resource needs based on more recent information than was available before leads us to believe the agency can maintain the FY 1998 staff request in FY 1999 with fewer dollars than requested in 1998. We believe the personnel costs (category 11 and 12) presented by OFCCP are unnecessarily inflated. The FY 1999 agency request is based on the FY 1998 request, most of which we did not receive. The FY 1999 request does not propose any “new” initiatives, it simply continues FY 1998 request activities with inflation.



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

Issue Paper #5
 Department of Education
 (In millions of dollars)

ISSUE: **Funding for the Department of Education Office for Civil Rights**

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	55	62*	70	63	65**	-5	+3
OL.....	57	60	66	62	62	-4	+2

* Likely Conference outcome as of 10/29/97

** Tentative HRD Recommendation

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

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

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

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

ANALYSIS: The mission of ED's Office for Civil Rights (OCR) is to ensure equal access to education and to promote educational excellence throughout the Nation through vigorous enforcement of civil rights laws and regulations. Priority issues for OCR currently include: over-representation of minorities in special education and remedial courses, under-representation of women, girls, and

minorities in math and science and other advanced placement courses; access to programs for limited English proficient (LEP) students; racial and sexual harassment; admissions/testing/assessment; gender equity in athletics; and higher education and elementary and secondary school desegregation. As the following chart shows, the majority of complaints received are for disability. The compliance reviews are selected by OCR based on field assessments of the greatest problems of unredressed discrimination in the regions. OCR targets those areas where no other action is currently being taken to address the discriminatory practices.

FY 1997 Regular Complaint Receipts and Compliance Review Starts

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

*Combination of the above

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

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

Workload Trends and FTE Levels

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

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

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

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

RECOMMENDATION: We tentatively recommend increasing funding over guidance by \$2 million to \$65 million, subject to funding decisions on overall levels for the Department of Education.



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

Issue Paper #6
 U.S. Commission on Civil Rights
 (In millions of dollars)

ISSUE: What funding level should be proposed for the U.S. Commission on Civil Rights?

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	8.7	8.7	13.8	11.0	9.1	-4.7	+0.4
OL.....	8.6	8.6	13.8	11.0	9.1	-4.7	+0.5

Option 1: Provide the OMB Guidance level of \$11 million, a \$2 million, or 22 percent, increase over FY 1998 enacted.

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

Option 3: Provide the Commission \$9.1 million, a \$1.9 million, or 17 percent, decrease below guidance.

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

ANALYSIS:

Option 1: Fund at the OMB guidance level of \$11 million. The Commission is unable at the present time to demonstrate its ability to manage its resources wisely. The Commission's focus for FY 1999 needs to be on addressing the management deficiencies described in the GAO report. Although the Administration proposed \$11 million in each of the past two years, proposing increases at this time would be an unwise use of Federal resources. Civil rights advocates would view a subsequent \$11 million for FY 1999 as a

continued commitment by the Administration in the civil rights area. However, recent Congressional concerns about the Commission's operations indicate it is unlikely Congress will provide the Commission with additional funding.

Option 2: Fund at the Commission request level of \$13.8 million. The Commission's request for FY 1999 is \$13.8 million, \$5.06 million more than its current level of \$8.74 million. The Commission would increase funding for civil rights projects by 92 percent from \$1.9 million to \$3.6 million, increase program support by 56 percent from \$3.2 million to \$5 million, and provide increases for State Advisory Committee activities and Information activities. Staffing would increase by 35 FTE over its current FTE level of 97; staffing costs comprise \$2.275 million, or 45 percent, of the \$5.06 million requested increase.

The Commission proposes an ambitious projects agenda, but it is highly unlikely the Commission could manage a 58 percent increase in its budget over 1998. Although \$13.8 million could arguably allow the Commission to complete more projects with more staff, the Commission has historically undertaken too many projects for its appropriated resource level resulting in numerous project delays. It is also highly unlikely that Congress would provide significant increases in funding.

Option 3: Fund at \$9.1 million, slightly above FY 1998 enacted, but \$1.9 million below guidance. This level provides the Commission with a \$260 thousand increase for inflation. The Commission needs to focus its attention on improving its project costing and management, personnel management, and financial reporting systems. The Commission should also prioritize its projects and undertake only those projects it can complete timely and competently within its appropriated funding levels.

Civil rights advocates would argue that this recommendation is counter to the Administration's commitment to addressing the resource concerns of civil rights enforcement agencies. The civil rights advocates community believes that the Commission could be a valuable resource for information and Federal government enforcement. HTF Division staff also believe that the Commission stands in a unique position, as a bipartisan agency, to provide leadership in efforts to promote national discussions about matters related to civil rights. However, the Commission is a poorly managed organization that needs to resolve its operational deficiencies before increased funding is warranted. The Commission's focus for FY 1999 needs to be on management reform. If it succeeds, the Administration could then recommend the Commission undertake a project that evaluates and recommends measures of discrimination to use in addressing public policy issues.

RECOMMENDATION: Provide \$9.1 million for the Commission, and recommend in passback that the Commission focus its attention in FY 1999 on addressing management reform issues. The Commission needs to establish a management information system to plan and track projects' costs and timeliness; update the C.F.R. to provide for the public an organizational structure and internal procedures of the Commission; and update internal management guidance to assign responsibility and hold management accountable for the day-to-day operations of the Commission. Relative to the FY 1998 level of \$8.74 million, the \$9.1 million recommended level includes a \$260,000 increase for cost of operations and \$100,000 for the Commission to fund consulting assistance to implement management reforms. Whatever decision is made, OMB's recommendation should be fully vetted with White House/EXOP staff and probably should be underscored by a call from an OMB policy official to Commissioner Berry.



**Section IV:
Other Enforcement Agencies and Nonenforcement Programs**

The following section is informational only. It describes key activities and proposed FY 1999 initiatives for civil rights enforcements agencies and nonenforcement programs. Decisions on FY 1999 funding for these agencies and programs need to be made in the context of agency budget reviews.

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**Other Enforcement Agencies and Civil Rights Nonenforcement Program Funding
Funding Summary
(Budget Authority, in millions of dollars)**

	FY 1998 Enacted/ Estimate	FY 1999 Guidance	Agency Request	Diff: Agency Req. less FY 1998 Est.	Pctg. Diff.	RMO Rec	Diff: RMO Rec. less FY 1998 Est.	Pctg. Diff.	Diff: RMO Rec. less Agy Req	Pctg. Diff.
Other Civil Rights Enforcement Agencies:										
1. HHS: Office of Civil Rights.....	20	20	22	2	10.0%	20	0	0.0%	-2	-10.0%
2. EPA: Office of Civil Rights.....	21	21	21	0	0.0%	21	0	0.0%	0	0.0%
3. Agriculture: Office of Civil Rights & Central Activities...	14	21	21	7	50.0%	21	7	50.0%	0	0.0%
4. Transportation: Office of Civil Rights.....	6	5	7	1	16.7%	6	0	0.0%	-1	-16.7%
5. Labor: Office of Civil Rights.....	5	5	5	0	0.0%	5	0	0.0%	0	0.0%
Total, Other Enforcement Agencies.....	41	47	49	8	19.5%	48	7	17.1%	-1	-2.4%
Nonenforcement Programs:										
1. Small Business Administration	7	7	23	16	229.0%	12	5	72.5%	-10.8	-156.5%
2. Commerce: Minority Business Development.....	26	26	29	2	8.7%	26	0	0.0%	-2.3	-8.7%
3. Transportation: Minority Business Resource Center....	5	5	5	0	0.0%	5	0	0.0%	0	0.0%
4. Agriculture: Civil Rights Programs.....	131	180	174	43	32.8%	180	49	37.4%	6	4.6%
5. Labor: Women's Bureau.....	8	8	10	2	27.3%	8	7.8	101.3%	-1.8	-23.4%
6. Justice: Community Relations Service.....	5	8	10	5	100.0%	6	1	20.0%	-4	-80.0%
Total, Nonenforcement Programs.....	182	234	250	68	37.5%	237	63	34.5%	-12.9	-7.1%
Total, Other Enforcement Agencies and Nonenforcement Programs.....	223	281	299	76	34.2%	285	70	31.3%	-13.9	-18.2%

Other Civil Rights Enforcement Agencies

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS**

FUNDING SUMMARY
(budget authority in millions of

FY 1997 Enacted	FY 1998 Likely	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
19.5	19.7	19.7	22.4	19.7	to be determined

1/ All BA reflects transfers from Medicare Trust Funds

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

2. **An assessment of how well they are doing:** OCR's efforts to streamline its complaint-processing activities and prevent discrimination through increased outreach and technical assistance to entities who receive federal funds (e.g., hospitals) is reflected through the increased amount of time OCR plans to spend on **non-complaint** activities: from 50% in 1997, to an estimated 54% in 1998. The Philadelphia regional office provides a good example of OCR's efforts to process complaints more efficiently to free up resources for other activities. In 1992, 65% of their time was dedicated to investigating complaints and 35% was directed to outreach and compliance review activities, while in 1997, 43% of their time is focused on complaints and 57% is directed towards outreach and compliance reviews. In FY 1998, OCR plans to begin developing baseline measures against which to compare the success of OCR's compliance activities.

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

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

4. **Proposed civil rights initiatives in the agency’s FY 1999 budget request:**

Program Initiatives: For FY 1999, OCR has requested additional funds to: 1) undertake a survey of federally-funded (Hill-Burton) hospitals to determine if discrimination is occurring under managed care, 2) expand compliance reviews under the Small Business Job Protection Act of 1996, and 3) improve access to HHS services for persons with limited-English proficiency. These activities fall under OCR’s jurisdiction under Title VI and are a natural outgrowth of their existing responsibilities. We would recommend trying to carry out these activities within OCR’s base funding level.

Management initiatives: OCR has also requested enhanced technology for its share of the Office of the Secretary’s Office of Information Resources Management operating-system upgrade, and staff training to facilitate more teamwork.

Prepared By/Date: Melany Nakagiri -5-3894, October 7, 1997

**ENVIRONMENTAL PROTECTION AGENCY
CIVIL RIGHTS ACTIVITIES**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
21	21	21	21	21	21

Key civil rights programs:

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

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

It is too early to assess EPA's environmental justice activities. Among other things, the Office of Environmental Justice has convened an interagency working group to coordinate implementation of E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations." Many EPA programs have environmental justice components. EPA and other agencies have undertaken a few small place-based initiatives specifically because of the environmental threats to minority populations. They have also held public meetings to discuss environmental justice issues. A Federal Advisory Committee, the National Environmental Justice Advisory Council, provides overall guidance. EPA and other agencies are studying how environmental programs should consider minority and low-income populations who subsist on seafood and may receive dangerous levels of exposure through what they catch from contaminated waters. There are no quantitative performance measures for any of these activities.

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

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

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

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

DEPARTMENT OF AGRICULTURE
Centrally Administered Programs (Including Enforcement)
FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec	FY 1999 Director's Rec
10	14	21	21	21	to be determined

1. **Key civil rights programs:** These civil rights programs are funded under the Office of the Assistant Secretary for Administration and include portions of several areas, the largest of which is the Office of Civil Rights (OCR). The OCR is responsible for investigating internal employee (EEO) complaints and issuing policy guidance to the Department. In FY 1998 it received additional funding to re-establish the unit that will investigate current and future civil rights complaints directed at program operations. In addition, in FY 1997 the Office also included funding for civil rights counselors, who were largely located in field offices, to advise employees who had complaints (funds for counselors are transferred to program bureaus in FY 1998). Other civil rights responsibilities include reducing and eventually eliminating under representation of minorities in the workforce, increasing workforce diversity, increasing outreach to minority programs, such as the 1890's universities, and small and disadvantaged businesses, and improving internal conflict resolution operations.

2. **An assessment of how well they are doing:** A major problem that the Department has identified in its Civil Rights Action Team (CRAT) report was the large backlog of complaints within the farm loan programs administered by the Farm Service Agency (formerly the Farmers Home Administration). A 1965 U.S. Commission on Civil Rights first identified discrimination problems in the farm loan programs. This report has been followed by similar reports in 1982 and 1990 and the current discrimination complaints in 1996 and 1997. In September 1997, the USDA OIG has found that FSA had a backlog of 474 discrimination complaints. In addition, USDA's OCR has a backlog of 984 complaints (including the 474 related to the FSA). The unit which had the responsibility of investigating program-related civil rights complaints was abolished in 1983.

3. **An assessment of current enforcement efforts:** Current enforcement efforts are marginal at best. In response to complaints by minority farmers in December 1996, Secretary Glickman appointed the CRAT, which was a team of USDA leaders to investigate the discrimination complaint backlog and make recommendations for change. This Civil Rights Action Team (CRAT) produced a report with recommendations to the Secretary in February 1997. The Secretary supports nearly all of the 92 recommendations in the report. Many of the recommendations have not yet been implemented.

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

4. **Proposed civil rights initiatives in the agency's FY 1999 budget request:** In response to the CRAT report, the Secretary has proposed increases of \$7.8 million in the programs mentioned above, as well as an FY 1998 supplemental of \$7.8 million. This would directly address the backlog of discrimination cases, improve oversight and outreach efforts within the Department, and improve conflict resolution. The recommendation reflects the proposed funding increases for both years.

Prepared By/Date: Stephen Frerichs/Noah Engelberg (5-4763), November 4, 1997

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

FUNDING SUMMARY

(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
6	6	5	7	6	to be determined

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

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

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

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

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

**DEPARTMENT OF LABOR
OFFICE OF CIVIL RIGHTS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
4.5	4.6	4.6	5.2	4.8	to be determined

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

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

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

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

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

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

Nonenforcement Programs

**SMALL BUSINESS ADMINISTRATION
MINORITY ECONOMIC DEVELOPMENT PROGRAM**

FUNDING SUMMARY
(budget authority in millions of dollars)

	FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
MED/8(a)	3.8	4.3	4.3	5.1	4.3	to be determined
7(j) Tech. Assistance	2.7	2.6	2.6	17.6	7.6	to be determined

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

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

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

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

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

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

**DEPARTMENT OF COMMERCE
MINORITY BUSINESS DEVELOPMENT AGENCY**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
28	26.4	26.4	28.7	26.4*	to be determined

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

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

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

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

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

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

Prepared By/Date: Rob Nabors (5-5604), November 10, 1997

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

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
5	5	5	5	5	to be determined

Key civil rights programs: In addition to Office of Civil Rights functions related to enforcing the rights of Departmental employees the Office of the Secretary is responsible for enhancing the opportunities for minority enterprises and small and disadvantaged businesses to participate in federally funded transportation programs and projects through its minority business outreach and loans programs. Minority Business Outreach funds (\$2 million) are used to provide information and training to small and disadvantaged businesses so that they may participate more fully in DOT projects and programs. The Minority Business Resource Center provides short-term loans and lines of credit to minority business enterprises and small disadvantaged businesses in partnership with commercial banks. The goal is to help such businesses participate in Federal procurements.

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

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

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

**DEPARTMENT OF AGRICULTURE
CIVIL RIGHTS PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
152	131	180	174	180	180

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

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

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

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

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

**DEPARTMENT OF LABOR
WOMEN'S BUREAU**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
7.7	7.8	7.7	9.8	8.0	to be determined

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

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

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

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

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

**DEPARTMENT OF JUSTICE
COMMUNITY RELATIONS SERVICE**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
5	5	6	10	6	to be determined

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

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

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

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



**Section V:
Federal Race-Related Initiatives for a Civil Rights Agenda**

The following section provides a compilation of potentially new, Federal race-related initiatives that are either currently under consideration in agency budget reviews or through White House working groups, or were recently announced at the November 10 White House Conference on Hate Crimes. These initiatives provide an idea of what could be incorporated into a larger, Administration civil rights agenda, if desired. The proposals are in various stages of development; FY 1999 RMO funding is provided, where available.

The list is purely informational only. Decisions on these initiatives need to be made in the context of agency budget reviews and through other White House working groups.

Federal Race-Related Initiatives for a Civil Rights Agenda

FY 1999 RMO
Recommendation
(\$ millions)

Department of Housing and Urban Development

1. **Hate Crimes - Make 'em Pay Initiative** **\$0**

HUD has developed an initiative to assist victims of hate crimes and discrimination in housing seek monetary damages from the perpetrators. HUD has created a unit that will bring civil suits on behalf of residents of public and private housing who have suffered hate crimes and other discrimination. This initiative was announced by the President at the November 10 White House Conference on Hate Crimes. This initiative would be funded within base programs.

2. **Housing Mobility Programs - Regional Opportunity Counseling** **\$20**

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

3. **Diverse Neighborhoods Initiative** **N/A**

A work in progress developed by HUD and the Domestic Policy Council, this initiative is to develop stronger links between HUD's fair housing efforts, local block grant planning efforts, and Community Reinvestment Act efforts. Through this coordination we could achieve more diverse neighborhoods. Budgetary impact and performance measures have not yet been developed.

Federal Race-Related Initiatives for a Civil Rights Agenda

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

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

1. Fair Lending/Fair Housing Initiative

N/A

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

Department of Health and Human Services

1. "Healthy Life" Initiative to Address Racial Disparities in Health

\$30

At the request of the Domestic Policy Council, HHS has drafted a possible FY 1999 initiative called "Healthy Life" to address current disparities in health status among racial groups. Using the Health Resources Services Agency's Healthy Start Infant Mortality Demonstration program as a model, this initiative would grant a total of \$360 million (BA) over 5 years to 30 communities to address current health disparities in one of the six health areas cited below. In theory, five communities would address one of the six goals.

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

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

Federal Race-Related Initiatives for a Civil Rights Agenda

FY 1999 RMO
Recommendation
(\$ millions)

Department of Justice: Hate Crimes

1. **Expand the Federal Hate Crimes Statute** \$0
Expand the Federal Hate Crimes statute to prohibit crimes on the basis of gender, sexual orientation, and disability. This was announced at the November 10 White House Conference on Hate Crimes. This initiative would be funded within base programs.

2. **Prosecution and Enforcement Initiatives** \$0
DOJ is proposing federal-state-local partnerships that would coordinate the prosecution of hate crimes, which would be centered in the approximately 100 U.S. Attorney Offices throughout the country. Members of the "National Hate Crimes Working Group" would include: the U.S. Attorneys' offices, the FBI, state and local law enforcement, state and local prosecutors, schools, and advocacy groups. In addition to prosecuting hate crimes, the groups would seek to increase enforcement of hate crime laws, to maximize reporting of hate crimes, and to educate the public about hate crimes. These efforts would be funded in part with \$13 million for 130 additional FBI personnel, including assigning over 30 FBI agents and prosecutors to the task of hate crimes enforcement, and \$181 thousand for Town Hall meeting. The RMO recommendation is for DOJ to fund these priority activities within its overall planning ceiling.

Other prosecution and enforcement efforts would include encouraging police academies nationwide to include hate crime as part of their basic training and providing funding so that state and local law enforcement can attend federal training on hate crimes; developing a best practices guide to local law enforcement organizations (see Civil Rights Analytical Center, below); and surveying 800 district attorneys offices to identify the policies and practices prosecutors use in hate crimes cases. These initiatives have been announced at the November 10 White House Conference on Hate Crimes. They would be funded within base programs.

3. **FBI - Civil Rights Analytical Center** \$0
The FBI has proposed additional funding in the FY 1999 budget for a new Civil Rights Analytical Center (CRAC), which will analyze trends and practices in hate crimes/civil rights. The CRAC would also develop a best practices

Federal Race-Related Initiatives for a Civil Rights Agenda

FY 1999 RMO
Recommendation
(\$ millions)

guide for local law enforcement organizations. The CRAC would be staffed with six FTEs. The RMO recommendation is for DOJ to fund this program out of its base. This initiative has been announced at the November 10 White House Conference on Hate Crimes.

4. **Additional Reporting, Outreach, and Training**

\$2

DOJ has submitted a budget enhancement of \$1 million for FY 1999 to further the participation and technical abilities of local law enforcement agencies to collect and report hate crime data. DOJ will also incorporate hate crime questions in existing crime surveys. In addition, DOJ is requesting \$1.25 million to: complement the proposed U.S. Attorney Hate Crimes Task Force; develop State, local, and Federal partnerships to prevent and respond to hate crimes; and provide training in every U.S. District. A small amount of the \$35 million requested by DOJ for the National Incident-Based Reporting System would also be used to improve hate crime reporting.

Other initiatives regarding statistics include adding hate crime inquiries as part of the annual National Crime Victimization Survey conducted each spring and a study aimed at improving collection of statistics on hate crimes and methods to improve reporting. These initiatives have been announced at the November 10 White House Conference on Hate Crimes.

Department of Education: Hate Crimes

1. **Educational Initiatives**

\$0

These initiatives have been announced at the November 10 White House Conference on Hate Crimes. They would be funded within base programs.

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

Federal Race-Related Initiatives for a Civil Rights Agenda

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

**Department of Education/ Justice/ Health and Human Services / Housing and Urban Development /
Equal Employment Opportunity Commission**

1. Linked Civil Rights Data Bases

N/A

The Department of Education is developing a draft proposal in which agencies with civil rights enforcement responsibilities conduct a study to determine the feasibility and cost of linking their databases to facilitate civil rights enforcement. For example, the Department of Housing and Urban Development maintains demographics on housing that would assist Education's Office of civil rights in identifying racial isolation when linked to school district demographic data.

Total, Federal Race-related Civil Rights Initiatives.....

\$52



EXECUTIVE OFFICE OF
THE PRESIDENT
OFFICE OF MANAGEMENT
AND BUDGET

**SPECIAL
ANALYSES
BUDGET OF THE
UNITED STATES
GOVERNMENT**

FISCAL YEAR

1987

THE BUDGET DOCUMENTS

Budget of the United States Government, 1987 contains the Budget Message of the President and presents an overview of the President's budget proposals. It includes explanations of spending programs in terms of national needs, agency missions, and basic programs, and an analysis of receipts, including a discussion of the President's tax program. This document also contains a description of the budget system and various summary tables on the budget as a whole.

United States Budget in Brief, 1987 is designed for use by the general public. It provides a more concise, less technical overview of the 1987 budget than the above volume. Summary and historical tables on the Federal budget and debt are also provided, together with graphic displays.

Budget of the United States Government, 1987—Appendix contains detailed information on the various appropriations and funds that comprise the budget. The *Appendix* contains more detailed information than any of the other budget documents. It includes for each agency: the proposed text of appropriation language, budget schedules for each account, new legislative proposals, explanations of the work to be performed and the funds needed, and proposed general provisions applicable to the appropriations of entire agencies or groups of agencies. Supplementals and rescission proposals for the current year are presented separately. Information is also provided on certain activities whose outlays are not part of the budget-totals.

Special Analyses, Budget of the United States Government, 1987 contains analyses that are designed to highlight specified program areas or provide other significant presentations of Federal budget data. This document includes information about: alternative views of the budget, i.e., current services and national income accounts; economic and financial analyses of the budget covering Government finances and operations as a whole; information on Federal aid to State and local governments; and Government-wide program and financial information for Federal civil rights and research and development programs.

Historical Tables, Budget of the United States Government, 1987 provides data on budget receipts, outlays, surpluses or deficits, and Federal debt covering extended time periods—in many cases from 1940-1991. These are much longer time periods than those covered by similar tables in other budget documents. The data have been restructured to be consistent with the concepts and presentation used in the 1987 Budget, so these data series are comparable over time.

Management of the United States Government, 1987 provides a description of efforts to improve the management of Federal agencies. It reports on the President's Council on Integrity and Efficiency, describes Reform '88 initiatives undertaken by the President's Council on Management Improvement, and outlines the Administration's management proposals. Management improvement themes covered in the report include privatization, productivity improvement, return of responsibilities to State and local governments, administrative streamlining, program delivery improvements, cost reductions, cash and credit management, payment integrity efforts, upgraded information technology systems, and increased use of user fees and contracting out. Special sections describe current procurement reforms, the status of Grace Commission recommendations, and implementation of the Debt Collection Act of 1982, the Prompt Payment Act of 1982, and the Financial Integrity Act of 1982.

Instructions for purchasing copies of any of these documents are on the last two pages of this volume.

GENERAL NOTES

1. All years referred to are fiscal years, unless otherwise noted.
2. Detail in the tables, text, and charts of this volume may not add to the totals because of rounding.
3. Sequestration of budgetary resources in 1986 is required by the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177). All 1986 data shown in this volume incorporate the effects of sequestration, unless otherwise noted.

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INTRODUCTION

Part 3 furnishes Government-wide program and financial information in two selected program areas—civil rights and research and development, designated J and K.

Special Analysis J (Civil Rights Activities) summarizes Federal spending for principal civil rights activities, concentrating on compliance, investigation, and enforcement efforts.

Special Analysis K (Research and Development) identifies Federal programs for the conduct of research and development, and for the support of facilities related to such activities.

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SPECIAL ANALYSIS J

CIVIL RIGHTS ACTIVITIES

Coverage and Scope. Some 130 Federal statutes prohibit discrimination based on sex, race, color, religion, national origin, age, or handicap in employment, housing, education, credit, public accommodations, and participation in Federally assisted programs (as well as in the exercise of such rights and responsibilities of citizenship as voting and jury service). Taken as a whole, these laws express the vision Americans have come to share of the nation we want to be: a nation in which every woman and man is treated according to individual effort and ability; a nation in which one's race, sex, religion, color or national origin are truly irrelevant to the judgment of what a person is worth and what he or she can contribute.

Special Analysis J describes the progress made in enforcing these guarantees.

VOTING RIGHTS

The Voting Rights Act of 1965, as amended, (42 U.S.C. 173 et seq.) and the Overseas Citizens Voting Rights Act (42 U.S.C. 1973 dd) guarantee the right of all qualified citizens to register and vote without discrimination on account of race, color, membership in a language minority group, age, or absence from legal residence. The Department of Justice's Civil Rights Division is primarily responsible for enforcing these statutes.

Under the Voting Rights Act, for example, Justice is solely responsible for designating counties where Federal personnel are necessary to conduct registration or observe polling places; and for determining whether proposed changes affecting voting in 926 political subdivisions in 21 States (including 9 States in their entirety) covered by the Act's pre-clearance provisions are discriminatory. In conjunction with the Director of the Census, the Department determines which States and subdivisions of States will be subject to those pre-clearance requirements. In addition, the Office of Personnel Management is responsible for providing Federal observers as necessary to assure the fairness of elections.

The Civil Rights Division's Voting Rights Section participated in 17 new cases during 1985, 16 as plaintiff and 1 as *amicus curiae*. Of the 16 lawsuits filed by the Division, 6 were brought prior to the November 1984 Presidential election to achieve compliance by the

J-1

States of Alabama, Arkansas, Minnesota, Montana, New Hampshire and Wisconsin with the Overseas Citizens Voting Rights Act, (as was a lawsuit filed during the final month of fiscal year 1984 against Colorado). All were resolved by court orders that allowed overseas voters' absentee ballots to be counted for the Presidential election if they were postmarked by election day and received within 10 to 14 days thereafter—allowing the votes of 2,768 people to be counted in the 1984 Presidential election.

The Civil Rights Division filed 4 lawsuits to enforce the pre-clearance requirement of Section 5 of the Voting Rights Act, 5 lawsuits to enjoin alleged dilution of minorities' voting rights through the use of at large or malapportioned election districts in violation of Section 2 of the Voting Rights Act, and 1 lawsuit to compel a State to comply with the voter assistance provisions of the Voting Rights Act. The Civil Rights Division obtained 4 consent decrees during 1985 requiring cities, counties, and school boards to adopt districting plans that comply with Section 2 of the Voting Rights Act.

During 1985, the Civil Rights Division received over 3,000 submissions involving more than 14,000 voting changes under section 5 of the Voting Rights Act, and objections were made to 105 voting changes. Also during 1985, a total of 700 observers were assigned to cover 12 elections in 29 counties in 5 States. 307 of these observers were assigned to counties in Mississippi during the 1984 Presidential election.

ENFORCEMENT OF OTHER FUNDAMENTAL CONSTITUTIONAL AND CIVIL RIGHTS

To be secure in one's person and property and to enjoy the freedoms guaranteed each individual by the Constitution are the most basic of civil rights. In addition to the provisions of the Constitution itself, these rights are guaranteed by:

- Title 18 of the United States Code, which prohibits deprivations of rights and privileges guaranteed under the Constitution or the laws of the United States, including 18 U.S.C. 241 (conspiracy against the rights of citizens), 18 U.S.C. 242 (deprivation of rights under color of law), 18 U.S.C. 245 (interference with Federally protected rights), 18 U.S.C. 1581 (prohibition against peonage), and 18 U.S.C. 1584 (prohibition against involuntary servitude).
- 42 U.S.C. 3631, which prohibits interference with housing rights.
- 30 other criminal civil rights statutes (in addition to those cited above).
- 42 U.S.C. 1997 (The Civil Rights of Institutionalized Persons Act), which prohibits violations of the rights of persons confined to publicly operated residential institutions including

prisons, jails, mental health and retardation facilities, juvenile detention centers, and publicly operated nursing homes.

Within the Department of Justice, the Civil Rights Division's Criminal Section is primarily responsible for investigating and prosecuting violations of the Federal civil rights criminal statutes. The Division annually processes a large number of complaints alleging criminal interference with civil rights.

During 1985, the Criminal Section reviewed over 9,000 complaints alleging criminal interference with civil rights; approximately 3,000 of these complaints were investigated by the Federal Bureau of Investigation. The results of 56 investigations were presented to Federal grand juries; 35 indictments were returned and 13 informations were filed charging a total of 106 defendants, including 67 law enforcement officers. Thirty cases were tried, resulting in conviction for 41 defendants and acquittal for 21 defendants. An additional 36 defendants pled guilty to violations of criminal civil rights statutes. In sum, the Section enjoyed a success rate of almost 80 percent.

The Civil Rights Division's Criminal Section continued to give particular emphasis to prosecuting cases involving racial violence. During 1985, the Division filed 11 racial violence cases involving 30 defendants. Six of these cases (involving 16 defendants) involved Ku Klux Klan activity, and 7 of these defendants have already been found guilty. A 2-year grand jury investigation of crossburnings and shootings into the residences of individuals living in North Carolina resulted in the conviction of 3 members of a group styling itself the "White Knights of Liberty". Indictments are pending against 9 additional members in this case. In Montgomery, Alabama, 3 persons associated with a Klan group pled guilty to setting fire to the offices of the Southern Poverty Law Center which maintains files on Klan activities. All of the defendants were sentenced to prison terms, with one defendant sentenced to serve 15 years for receiving stolen explosives. A fourth individual pled guilty and was sentenced to a year's imprisonment for his involvement in another racial incident in Montgomery, the burning of a cross at the home of a county commissioner who had urged citizens to boycott a local bank for alleged discriminatory practices.

The Civil Rights Division's Criminal Section actively prosecuted alleged violations of civil rights by government officials. For example, the Division obtained convictions in a case involving 10 police officers in Puerto Rico charged with perjury and conspiracy to obstruct justice in connection with their participation in the unlawful killing of 2 independence advocates. The 10 defendants were sentenced to serve prison terms ranging from a minimum of 6 years up to 30 years (5 received terms of 20 years or more). In another noteworthy case, the Division prosecuted 2 police officers

and 3 prison inmate/trustees in Tennessee for beating and sexually assaulting a man and his fiancée while they were in custody for traffic related offenses. The indictments led to the conviction of all 5 defendants.

The Criminal Section also continued its efforts to deter the victimization of migrant workers in violation of the involuntary servitude and peonage statutes during 1985. In Los Angeles, California, 4 defendants indicted for conspiracy to smuggle Indonesian laborers into the United States via fraudulently obtained non-immigrant visas pled guilty, while 2 others charged with conspiracy and violating involuntary servitude statutes were convicted after a 2-month trial. Another case alleging involuntary servitude was filed against 2 wealthy homeowners who recruited illegal aliens to perform domestic work in their homes in Hawaii, California and Nevada. Recruited predominantly in southern California, the victims were misled as to their working conditions and were subjected to physical abuse.

Under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. 1997, the Special Litigation Section of the Department of Justice's Civil Rights Division participates in litigation to vindicate the constitutional rights of persons confined to publicly operated residential institutions. These include prisons, jails, mental health and retardation facilities, juvenile detention centers and publicly operated nursing homes. During 1985, the Special Litigation Section succeeded in resolving 5 suits filed under CRIPA with consent decrees. In addition, the Section filed its first contested lawsuit under CRIPA involving a mental health facility; and initiated 12 investigations of alleged CRIPA violations by mental health institutions, mental retardation facilities, juvenile detention centers, and adult correctional institutions.

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

It is fundamental that activities funded by the Federal government itself must be conducted without discrimination. This principle is embodied in a substantial body of law including, in addition to numerous program-specific statutory provisions prohibiting discrimination:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination in all Federally assisted programs and activities based on race, color, or national origin.
- Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex in Federally educational programs and activities.

- The Age Discrimination Act of 1975, which prohibits discrimination based on age in all Federally assisted programs and activities.
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicap in all Federally assisted programs and activities.

Since every agency which provides financial assistance enforces these statutes, assuring nondiscrimination in Federally assisted programs is the most widely dispersed Federal civil rights enforcement responsibility. In the past, this dispersion has given rise to numerous problems, including: Potential conflicts of interest arising from the fact that each agency is responsible for enforcing these provisions in regard to assistance it provides; absence of correspondence between enforcement resources and the alleged incidence of discrimination in the various Federally assisted programs; overlap and duplication of agency enforcement efforts; a tendency of enforcement agencies to emphasize technical trivia and impose nonproductive reporting and other paperwork burdens; and attempts to extend agency enforcement mandates to include the employment practices of recipients.

Within the Department of Justice's Civil Rights Division, the Coordination and Review Section has been working to eliminate these and other problems. Under Executive Order 12250, the Department of Justice is responsible for coordinating the enforcement of all statutes requiring equal opportunity in the provision of Federally assisted services and benefits except the Age Discrimination Act. Significant accomplishments by the Section in 1985 included:

- Reviewing 59 agency regulations implementing these statutes to assure clarity and consistency.
- Negotiating additional and improved delegation agreements, designed to eliminate duplicate agency compliance activities and provide for more effective allocation of agencies' enforcement resources.
- Developing detailed technical assistance guides designed to aid agencies in implementing their responsibilities under Section 504 (in addition to continuing its efforts to assist agencies in developing regulations under Section 504 governing agency conducted activities).

Among Federal agencies, the Department of Health and Human Services and the Department of Education have the largest enforcement programs under these statutes. During 1985, the Department of Health and Human Services (HHS) completed 725 investigations, resulting in changes in potentially discriminatory policies by 89 hospitals, 14 long term care facilities, 12 other direct health care providers, 5 child welfare agencies, and 39 other social services providers. HHS also completed 135 compliance reviews, result-

ing in changes in potentially discriminatory policies by 83 health care providers and social services agencies.

A combination of improved procedures and declining complaint workloads has enabled the Department of Education's Office for Civil Rights (the largest of the Title VI enforcement agencies) to significantly improve its complaint closure rate (resulting in a 50% reduction in its backlog of pending complaints since 1980):

Table J-1. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS COMPLAINT CLOSURE RATE, 1980-1985*

	Fiscal year	
	1980 (actual)	1985 (actual)
Percentage closure rate*	57%	67%
Number, complaints pending end of year	2,051	1,009

*Complaints closed/complaints pending or received for processing.

The Equal Educational Opportunity Section of the Justice Department's Civil Rights Division represents the Federal government in education-related litigation under Title VI (as well as other nondiscrimination statutes and the Constitution). During 1985, the Section launched a major inquiry into the funding of minority schools by the Los Angeles Unified School District and targeted for investigation the special education programs of several school systems. The Section also increased its enforcement efforts with regard to Native Americans, initiating investigations of alleged discrimination in the provision of educational opportunities by public school districts in North Dakota, Montana, Idaho, Arizona, and New Mexico.

The Equal Educational Opportunity Section filed 2 new suits involving elementary and secondary education during 1985. One suit, a Title VI referral from the Department of Education concerning the high school district in Phoenix, Arizona, resulted in a consent decree utilizing magnet schools to encourage voluntary student desegregation. The other suit involved the public school system in Bolivar County, Mississippi, and sought further desegregation and equalization of the District's educational facilities. Among significant actions involving institutions of higher education, the Section entered into a consent decree resolving allegations of sex discrimination at a Texas institution, and commenced negotiations with the Massachusetts Maritime Academy concerning appropriate measures to remedy a finding of illegal sex discrimination by a Federal district court.

EQUAL EMPLOYMENT OPPORTUNITY

The principal statutes and Executive orders prohibiting discrimination in employment are:

- Title VII of the Civil Rights Act, which prohibits employment discrimination based on race, color, religion, national origin, or sex.
- The Equal Pay Act (EPA), as amended, which prohibits discrimination in compensation based on sex.
- The Age Discrimination in Employment Act (ADEA), which prohibits discrimination against persons aged 40 through 70 based on age.
- Executive Order 11246, as amended, section 503 of the Rehabilitation Act of 1973, and section 402 of the Vietnam Veterans Readjustment Act, which prohibit employment discrimination by Federal contractors based on race, color, sex, national origin, religion, handicap, service-connected disability, or Vietnam era military service, and require Federal contractors to take affirmative action to assure that such discrimination does not occur.

The EEOC enforces the Equal Pay Act and the Age Discrimination in Employment Act. It also enforces all aspects of title VII except litigation involving State and local governments. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246, section 503 of the Rehabilitation Act, and section 402 of the Vietnam Era Veterans Readjustment Act. The Department of Justice's Civil Rights Division litigates all employment discrimination cases under Executive Order 11246 and the statutes prohibiting discrimination by Federally assisted programs. It also litigates alleged violations of title VII by State and local governments. The Equal Employment Opportunity Act of 1972 and Executive Order 12067 require the EEOC to coordinate enforcement of all Federal statutes and regulations prohibiting employment discrimination.

During 1985, 72,002 charges of employment discrimination were filed with the EEOC. The Commission completed processing of 63,567 charges, 8,989 (14%) through pre-investigative settlement. The EEOC also continued its leadership among Federal civil rights agencies in involving State and local agencies in resolving employment discrimination charges. During 1985, the EEOC provided over \$18.7 million in grants to State and local nondiscrimination agencies.

The EEOC conducted an equally vigorous litigation program. The Commission had 537 cases in active litigation at the beginning of 1985. During 1985, the Commission prosecuted these (and subsequently authorized) cases by conducting 54 trials, successfully resolving 90 subpoena enforcement actions and successfully resolving 204 lawsuits by settlements, consent decrees or judgments. Additionally, as a result of extensive litigation development activities, field legal units filed 411 new lawsuits in 1985.

Since 1981, the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has effected substantial improvements in its management and procedures—particularly its procedures for selecting contractors for compliance reviews and assuring their quality and timeliness. As a result, the OFCCP was able to complete 5,217 compliance reviews of contractor facilities employing 2.97 million persons during 1985 (compared with only 2,632 compliance reviews of facilities employing 1.05 million workers during 1980, the last year of the prior administration. The OFCCP also completed 1,035 investigations of discrimination complaints during 1985.

During 1985, the Employment Litigation Section of the Department of Justice's Civil Rights Division filed 9 new suits against public employers under Title VII of the Civil Rights Act of 1964, as amended. Consent and litigated decrees, providing relief for identified victims of discrimination, were obtained in 10 cases. Also during 1985, the Division contacted defendants in more than 50 cases to seek modifications of consent decrees previously obtained. The modifications sought by the Division were designed to make the decrees consistent with the Department of Justice's interpretation of the Supreme Court's 1984 decision in *Firefighters Local 1784 v. Stotts*, 104 S.Ct. 2576. The Division also filed motions requesting the court to order such modifications in decrees involving 3 cities. These motions are currently pending, and the ultimate disposition of these cases will depend upon the rulings of the Supreme Court and other appellate courts.

FAIR HOUSING AND EQUAL CREDIT

Title VIII of the Fair Housing Act of 1968, as amended, prohibits discrimination based on race, color, religion, sex, or national origin in the sale, rental, or financing of housing or provisions for brokerage services.

The Department of Housing and Urban Development's Office for Fair Housing and Equal Opportunity is responsible for investigating complaints of alleged violations of title VIII. Where it concludes that violations of title VIII have occurred, HUD attempts to resolve them through informal conference, conciliation, and persuasion.

Title VIII also provides that fair housing complaints filed with HUD may be deferred to State and local fair housing agencies with equivalent statutory authority. HUD has worked aggressively to expand the involvement of State and local governments in processing fair housing complaints. Through direct grants and technical assistance, HUD has helped State and local agencies develop procedures, train staff, and complete other tasks necessary to develop the capacity to process fair housing complaints. As a result, the number of State and local agencies participating in charge process-

ing grew from 32 at the end of 1980 to 96 at the end of 1985, a three-fold increase, and 2,867 fair housing complaints were referred to State and local agencies for processing during 1985 which would otherwise have been processed by HUD.

Table J-2. TOTAL FAIR HOUSING COMPLAINTS PROCESSED BY HUD AND STATE AND LOCAL AGENCIES

Year	Total closures	Percent change, 1980-1985
1980.....	2,860	
1985.....	3,308	+15%

During 1985, HUD also provided financial support for local Community Housing Resource Boards. These Boards initiate affirmative marketing and other voluntary efforts to assure fair housing. It is expected that 589 of these Boards will be in existence at the end of 1986. An estimated \$1 million will be spent to support the activities of these Boards in 1987. (In addition, the President's budget would make \$7 million available to support fair housing initiatives by State and local governments and private organizations during 1987.)

Table J-3. FAIR HOUSING COMPLAINTS REFERRED TO STATE AND LOCAL AGENCIES

	Actual					
	1980	1981	1982	1983	1984	1985
Complaints received.....	3,039	4,209	5,112	4,551	4,533	4,490
Complaints referred.....	410	1,661	2,679	2,736	3,062	2,867

HUD's investments in the abilities of the private sector and State and local governments will reduce the incidence of violations which give rise to complaints. Where complaints are filed, more will be resolved by the States and communities in which the parties reside. During 1985, for example, HUD referred 64 percent of the complaints it received to State and local agencies for processing (compared with only 13 percent in 1980). As a result of this cooperation between HUD and State and local agencies, there has been a substantial increase in the service provided to persons filing complaints under title VIII, with 15 percent more complaints closed in 1984 than in 1980.

The Civil Rights Division of the Department of Justice is responsible for bringing suits to enjoin alleged patterns and practices of discrimination prohibited by title VIII. During 1984, the Division established a separate unit, the Housing and Civil Enforcement Section, to handle pattern and practice lawsuits brought pursuant

Table J-4. NUMBER OF STATE AND LOCAL AGENCIES WITH CHARGE PROCESSING AGREEMENTS

End of fiscal year:	
1980.....	32
1981.....	42
1982.....	67
1983.....	79
1984.....	90
1985.....	96
1986 (estimate).....	110
1987 (estimate).....	130

to the Fair Housing Act (42 U.S.C. 3601-3619) or the Equal Credit Opportunity Act (15 U.S.C. 1691-1691f).

During 1985, the Housing and Civil Enforcement Section filed 18 housing discrimination cases and successfully negotiated consent decrees in 21 housing suits. Nine of the cases filed attack alleged racial discrimination by apartment owners in 7 different States, including a company operating over 1,600 units in the Memphis metropolitan area. Five other new cases alleging racial discrimination were filed against time-share developers. Defendants in these cases controlled the sale of approximately 12,000 time-share units. Three other suits were brought recently to challenge racially restrictive covenants. (During 1985, the Housing and Civil Enforcement Section also filed 6 suits under Title II of the Civil Rights Act of 1964 to remedy alleged racial discrimination in places of public accommodation.)

Since the passage of the 1976 amendments to the Equal Credit Opportunity Act, the Department of Justice's Civil Rights Division has worked with Federal regulatory agencies and significant suits have been filed challenging the lending practices of banks, cash loan companies and retail creditors as well as the activities of real estate appraisers and mortgage lenders. These suits include cases against 4 nationwide creditors. During 1985, the Division's Housing and Civil Enforcement Section filed complaints and consent decrees in 2 cases against nationwide creditors (a third equal credit opportunity case filed in 1985 involved a time-shared development which was also covered by the Fair Housing Act).

THE U.S. COMMISSION ON CIVIL RIGHTS

Congress established the Commission on Civil Rights in 1957 to study the enforcement of statutes guaranteeing equal protection of the law regardless of race, color, religion, or national origin. The Commission's early work contributed significantly to the national recognition that it is immoral to limit any person's opportunities because of his or her sex, race, religion, national origin, or other characteristics similarly irrelevant to character and ability—a rec-

ognition that led to the passage of the Civil Rights Act of 1964, the Voting Rights Act, the Fair Housing Act, the Rehabilitation Act of 1973, and other landmark legislation. In 1983, the President nominated several new members with distinguished civil rights backgrounds to the Commission. An impasse over these nominations was terminated by the passage of compromise legislation, supported by the President and the Congressional leadership of both parties, creating a new Commission.

During 1985, the Commission held a widely noted hearing on the status of affirmative action. The hearing included several panels of experts (with widely varying policy perspectives) in the fields of law, statistics, economics, and management. Topics addressed included the concepts of underrepresentation and underutilization, minority business set-aside programs, and the future of affirmative action. The Commission also published a compilation of papers presented during 1984 hearings on the concept of comparable worth; and completed work on a *Directory of State and Local Fair Housing Agencies* and a *Citizen's Guide to Understanding the Voting Rights Act*.

Through 1987, the Commission will continue to pursue studies focusing on a wide variety of concerns, including violence and bigotry against Asian and Pacific Island Americans; trends in income and unemployment by sex, race, and ethnicity; civil rights enforcement by State and local governments; affirmative action in higher education; methods of achieving school desegregation; and the employment of Americans of Eastern and Southern European Ancestry.

Table J-5. BUDGET AUTHORITY FOR PRINCIPAL FEDERAL CIVIL RIGHTS ACTIVITIES

(in millions of dollars)

	1985 actual	1986 * estimate	1987 estimate
Architectural and Transportation Barriers Compliance Board.....	2.0	1.9	2.0
Commission on Civil Rights.....	12.9	11.8	12.6
Department of Education, Office for Civil Rights.....	45.0	41.8	38.2
Department of Health and Human Services, Office for Civil Rights *.....	20.2	19.3	19.3
Equal Employment Opportunity Commission.....	163.7	157.9	167.7
Department of Housing and Urban Development, Fair Housing Activities.....	32.4	32.3	39.8
Department of Justice, Civil Rights Division.....	22.6	21.8	24.1
Department of Labor, Office of Federal Contract Compliance Programs.....	45.4	43.7	45.9

* Total obligational authority, including both budget authority and trust fund transfers.

* 1986 estimates include reductions mandated by the Balanced Budget and Emergency Deficit Control Act of 1985.