U.S. Department of Agriculture

Civil Rights Forum
May 14, 1996

and

Blue Ribbon Task Force Report
Decisions by the Secretary
May 8, 1996

A Compilation of Issues, Concerns, and Commitments

May 30, 1996

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INTRODUCTION

The Secretary of Agriculture has delegated authority to the Assistant Secretary for Administration, Wardell C. Townsend, to provide overall leadership, coordination, and direction for the Department's (USDA's) civil rights programs including program delivery compliance and equal employment opportunity. As the Director of Equal Employment Opportunity for USDA, he became aware of growing perceptions among minorities, women and persons with disabilities that civil rights was no longer a priority in USDA. He proposed that USDA hold a civil rights forum to replace the perceptions and fears with factual information about the status of civil rights within USDA.

BACKGROUND

USDA Civil Rights Forum. On May 14, 1996, Secretary Glickman hosted the USDA Civil Rights Forum (Forum). The Forum focused on establishing positive communications with USDA employees on the most recent developments in civil rights; addressing employment and program delivery issues; and providing training and guidance. Key participants were the Secretary's Subcabinet, agency heads, senior executives, supervisory and nonsupervisory employees, employee organizations, and labor-union representatives. USDA employees in several field locations participated in the Forum live via satellite.

Blue Ribbon Task Force. In November 1994, former Secretary of Agriculture Mike Espy established The Secretary's Blue Ribbon Task Force on Equal Opportunity and Diversity (Task Force). The charge to the Task Force was to make recommendations to the Secretary on ways to effectively address employee concerns in the areas of equal opportunity and diversity. Chaired by Wardell C. Townsend Jr., the Task Force was comprised of the majority of USDA's Subcabinet officers. Using input from the Civil Rights Leadership Council (CRLC), the Task Force developed recommendations which were presented to the Secretary on May 3, 1996.

Secretary Glickman adopted all of the Task Force's recommendations. In addition, he made decisions on issues identified in the report where no recommendations were made; and based on his experience in USDA, made decisions on issues that he had identified since becoming Secretary. He announced his decisions to the Task Force, Civil Rights Leadership Council, and all USDA employees on May 8, 1996.

Summary Report. This report summarizes the issues, decisions and questions from the Task Force recommendations and the Forum. It includes:

MATRIX TO THE

COMMITMENTS MADE

DURING THE CIVIL RIGHTS FORUM

MAY 14, 1996

Source: Draft transcript from May 14, 1996, Civil Rights Forum

Questions/Commitments from Civil Rights Forum May 14, 1996

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
In your June 7, 1995, policy issuance regarding EEO discrimination complaints you stated "Managers and supervisors must continue to take positive steps towards insuring a supportive work environment and reaching early resolutions of complaints. They must also avoid even the appearance of acts of reprisal against employees who exercise their right to file complaints." Do you have any idea as to how you might enforce your policy in terms of civil rights?	An atmosphere free from retaliations, reprisal, or intimidation" will be the norm in this place, managers will be held accountable and will be judged in their ratings, rankings, and performance reviews. This will require sufficient training so that managers will know that the concept of retaliations or reprisal, is not acceptable. The Civil Rights Task Force had some recommendations on accountability and we're going to continue to work on those to make sure that the performance review process reflects that.	Secretary Glickman	
	A task group of mission area representatives revamped the performance appraisal system for senior executives. Those recommendations are implementable for this fiscal year, and required for next fiscal year.	Evelyn White, Acting Director, Human Resources Management	No later than the beginning of next fiscal year for the implementation of Senior Executive performance standards regarding reprisals.

IMPORTANT NOTES

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
When a complaint becomes formal, why does it take several years to resolve it?	This is the number one issue. Complaints need to be heard substantively, fully, and expeditiously We've done a very poor job in this area. We are going to change; we are focusing around standards, time frames, tracking. On December 13, 1996, 75% to 95% of the backlog will be cleaned up. We've asked other mission areas to cooperate by detailing or lending people to help and we're going to fund the resources for additional people as well.	Secretary Glickman Ira Hobbs, Director, Office of Operations Secretary Glickman	On December 13, 1996, 75% to 95% of the backlog will be cleaned up.
Present EEO complaint system treats legitimate and frivolous complaints the same. Discriminating officials, sexual harassers, ethics violators mitigate or eliminate punishment by filing complaints themselves, thus further intimidating, retaliating against, and victimizing the victims.	We are trying to establish more of a basis of objectivity in terms of how we look at information that we gather in the complaints process. The policy component and the operations component are working jointly to devise strategies and methodologies where we can pinpoint and target misuses of the process on both sides.	Ira Hobbs, Director, Office of Operations	
What are the plans to fill the Native American Coordinator position in the Rural Development mission area?	We're moving to fill this position.	Secretary Glickman	
What is the policy in the Secretary's office for hearing concerns for confidentiality? Within five minutes of a call to your office, my first and second line were notified of the call. I have yet to hear from your office with regards to a meeting.	I don't know about your specific case, but if a caller to my office specifically asks for confidentiality, we'll give that caller confidentiality.	Secretary Glickman	

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
Will there ever be a system where managers and departments that deal specifically with the hiring or evaluation of individuals (will) be evaluated by the employees or their subordinates? How can we know about the system working, or when will we be given an opportunity to know the outcome of those evaluations?	Secretary Glickman commented and asked Evie White, Acting Director, HRM, to respond. Ms. White's response USDA is redrafting its performance evaluation system and some features of it will give agencies the flexibility and latitude to build in those kinds of mechanisms. Current records indicated that, between February of 93 and February of 96, 74 cases (of reprisal) have been referred to Human Resources Management for disciplinary action; 49 of those cases have been dealt with. HRM will publicize this information on a quarterly basis.	Evelyn White, Acting Director, Human Resources Management	Publish quarterly, information on actions taken against USDA officials who have been found to retaliate. No commencement date was given.
Why isn't a college degree considered for promotion opportunities?	Education and experience both count for job experience, but demonstrated experience is a major factor as one moves through his/her career field unless the job requires a positive education requirement.	Evelyn White, Acting Director, Human Resources Management	
How much of the resources have been allocated for preventing EEO-related problems since Secretary Glickman came to USDA and how much has been spent taking care of inherited problems?	We do not have a specific number on how much have been spent on cases since Secretary Glickman came to USDA or how much was spent on inherited problems.	Ira Hobbs, Director, Office of Operations	
If a selecting officer in USDA tried to bypass the existing Equal Opportunity laws specifically when it comes to selecting or promoting an Asian/Pacific American, what does management do to correct the situation?	We will not tolerate the subversion of EEO laws in USDA.	Secretary Glickman	

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
What steps are going to be taken to ensure greater representation of Hispanics in mid and upper level management?	Committed to doing a better job in creating a bigger candidate pool of qualified Hispanics (Possibly in area of recruitment and outreach)	Secretary Glickman	
Does the Department have data on the effectiveness of regional OCRE Office?	Yes, we have.	Ira Hobbs, Director, Office of Operations	
Once an EEO complaint has been settled, how long does it take for a claim for damages to be settled? Is a delay going on two years reasonable?	No, it is not. We are planning to effect some operational changes with the EEO process to expedite settlements.	Ira Hobbs, Director, Office of Operations	Next Few Months
In an agency where state directors and their bosses up the line are all politically appointed and unconditionally support one another, how can the EEO concerns of career employees be heard, or even considered legitimate?	Wrongful conduct by managers, whether they are career or political, will be dealt with in the same way.	Secretary Glickman	
If an administrator of an agency orders managers to implement a plan to address concerns that he deemed valid and they still don't implement it, what chance do we (the employee) have of ever turning theses issues around?	Four issues are currently being addressed by the agency. Agency response will be received through a counselor/mediator.	Leonard Hardy, Deputy Administrator for Management, Rural Development	
If the supervisor enters into a mediation settlement with the alternative disputes board, is that allegation of discrimination purged from his records?	Nothing official goes in the supervisor of the employee's official personel file.	Ira Hobbs, Director, Office of Operations	
Will the Secretary work with the Hispanic Group to put a plan of action in place to correct Hispanic under representation in employment in the next four months?	Yes–Secretary will meet with the Hispanic Group in the next two weeks to begin dialog.	Secretary Glickman	4 Months
Will the Secretary sit down with the Hispanic Group to put together a plan of action to improve the delivery of USDA program services to the Hispanic community?	Yes–Secretary will meet with Hispanic Group in next two weeks to begin dialog.	Secretary Glickman	2 Weeks
What type of affirmative consideration will be used to build bridges that will allow not only Hispanics, African Americans but all minorities an opportunity to enter into supervisory, manager and SES positions?	Instruct subcabinet and agency heads to evaluate whether there is equity in promotions and opportunity for upward mobility. Where needed, we will train our people to understand that promotion policy is part of their own evaluations.	Secretary Glickman	
Do you envision the EEO Counseling program remaining a part of the Office of Civil Rights Enforcement or will it be returned to the agencies?	Under review- intend to meet with mission areas and go from there.	Ira Hobbs, Director, Office of Operations	No timeframe established

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
Why create multi-cultural programs headed by African Americans who cannot do anything because their hands are tied?	Will work with employees in following up on suggestions.	David Unger, Associate Chief, Forest Service	
Why does the Forest Service have the highest rate of complaints coming from minorities who are discriminated against, harassed and reprimanded, whereas Whites have rarely been reprimanded or lost their jobs for inappropriate behaviors in the work place?	Will sit down with the Strategy Group to examine the statistics on all cases of alleged discrimination, the manner in which they were resolved and compare them to other groups in the Forest Service. Will sit down and talk specifics with the individual asking the question.	David Unger, Associate Chief, Forest Service Luther Burse, Civil Rights Director, Forest Service	
What is being done to stop supervisors and managers from harassing, intimidating and taking reprisal against employees?	Establish systems for identify ing and counseling offenders.	Secretary Glickman	
What actions are being taken to bring more equity to funding of Hispanic institutions?	No response.	Secretary Glickman	
Why are we spending money on focus groups to study focus groups and not spending that money on rectifying problems?	NFC will work with its employees to implement recommendations from a study that was completed by OPM and OP regarding hiring practices, promotion practices. The report on the study will be distributed to employe s.	Ted David, Deputy Director, Office of Chief Financial Officer	Has been distributed.
Why do Hispanic students receive free housing and technology but 1890 students do not?	Agencies will receive specific guidelines on a new provision in the Farm Bill which allows agencies to pay subsidies for housing and transportation.	Evelyn White, Director, Human Resources Management	Within the next few weeks.
How can the Department help encourage and get the word out that affirmative action and affirmative consideration are viable tools that we still need to use?	We intent to execute fully and implement our programs of small and disadvantaged business in terms of contracting. Our goal is to encourage sharing of 8(a) contracts across the board. We will be working with the mission areas in strengthening the affirmative employment program.	Secretary Glickman George Robertson, Acting Director, Civil Rights	
Why isn't there a USDA-wide budget for special emphasis programs?	There is a budget, but the budget is shared among all the agencies on a contributing basis towards special emphasis type activities.	Secretary Glickman	

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
Could there be follow-up to settlement agreements?	A. Structural changes will be made to work closer with agencies. B. Subcabinet officers are required to report status, with weekly updates.	Farm Service Agency	5-8 weeks
Why are some organizations permitted to operate independently without consolidating?	The reorganization certainly was meant to consolidate and streamline agencies.	Secretary Glickman	
Is there anything that prevents discrimination at grade levels and time in government?	Yes, there is. And it's called common decency and respect.	Secretary Glickman	
Could there be a follow up to settlement agreements to assure compliance?	A. We plan to establish a mechanism that will allow us to follow-up on settlement agreements. B. Structural changes will be made to work closer with agencies in compliance area. C. Subcabinet officers will report status with weekly updates.	A. B. OO? C. Secretary Glickman	A. B. TBD C. June 30, 1996
A. When do you envision the regional service centers becoming full-service centers? B. When will the regional service centers receive the additional FTE's to allow us to fulfill our mission? C. When will our counselors and mediators be provided the proper and necessary training?	The Secretary and Deputy Secretary have committed to providing additional resources so that we could become fully staffed, as we had originally planned. So I expect that to be completed, hopefully withing the next 90 days.	Wardell Townsend, Assistant Secretary for Administration	A. B. 90 days C.
Why hasn't the Office of Civil Rights issued an action plan for 1995 and 1996 on what direction the USDA Administration is headed?	- Acknowledged not familiar with a civil rights action plan; however, stated the Civil Rights Forum is "augmenting" an agency- wide action plan. -Adopted recommendations from the Blue Ribbon Task Force to examine the role of civil rights. - Acknowledged series of other reports submitted by agencies that are required by law, i.e., affirmative employment plans. - Need to do general compliance and specific compliance and follow-up with the agencies, i.e., [AEP] plans. -Adopted recommendations from the Blue Ribbon Task Force to implement civil rights action plans.	Secretary Glickman Wardell Townsend, Assistant Secretary for Administration	See BRTF

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
When will USDA--but specifically, the Animal and Plant Health Inspection Service address cronyism, and provide true equal opportunity?	Requested that the individual contact his office.	Mike Dunn, Assistant Secretary for Marketing and Regulatory Programs	
How can we get USDA managers to see college students with disabilities as capable and qualified candidates? How can we increase the hiring commitment?	- Disability program function transferred to civil rights. - USDA did not do well in hiring individuals with targeted disabilities. - Renew recruitment efforts to ensure USDA is not relaxing its commitment. -Worked continuously will the agencies to recruit individuals with disabilities and utilize the summer intern program as a recruitment mechanism. - Emphasized a need to educate USDA about hiring individuals with disabilities, i.e., accommodations.	Evelyn White, Director, Human Resources Management George Robertson, Acting Director, Civil Rights	
Would you consider writing a memo to USDA agencies which would emphasize that people with disabilities, and other minorities be considered for hiring.	Yes.	Secretary Glickman	
What is the Department doing to reinstate training which previously existed for African-American males, women, Hispanics, and others?	- A proposal will be submitted to the Secretary outlining a diverse executive leadership development training program. - Emphasized an equivalent amount of training this year in that arena.	George Robertson, Acting Director, Civil Rights	Few weeks
Can USDA prohibit the display of the name and logo of the Washington [Redskins] team on posters, pennants, sweatshirts, and other paraphernalia, within the USDA and its facilities?	May not be a legally permitted imposition upon one's right of privacy in activities.	James Gilliland, Office of the General Counsel	

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
Can USDA contract experienced mediators who are neutral in the informal complaint (front-end) process as a project	Yes. - Recommended empowering people to resolve decisions at the lowest level. -Stated in process reviewing and expanding the alternate dispute resolution process.	Ira Hobbs, Director, Office of Operations	
Why has there been a decline in the participation of 1890's and historically black colleges in the USDA summer intern program?	-No decline in the participation of 1890 institutions in the summer intern program. - Estimated about 700-800 interns in the Department with a significant number from the 1890 institutions.	Evelyn White, Director, Human Resources Management	
When can we expect the Dispute Resolution Board to resume?	The Boards were reactivated on May 8, 1996.	Ira Hobbs, Director, Office of Operations	
The Department spends at least $6000 per case contracting out to an investigation agency to investigate cases and complaints that go beyond the informal process. Most of these cases and complaints are due to poor management and poor management decisions. Perhaps we should include in the accountability portion a requirement to have managers' pay for these costs.	-Agencies pay for them out of their individual budgets now. Managers are accountable for the cost within their organizational unit.	Ira Hobbs, Director, Office of Operations	
Is there a system in place to protect against hiring people who have charges filed against them?	No.	Secretary Glickman	

QUESTION	RESPONSE/ COMMITMENT	RESPONDENT	TIME FRAME
Is it true that informal EEO process is going to be taken out of the service centers and returned to the agencies? If so, when is this going to happen?	It's something that's under consideration.	Secretary Glickman	
What are you going to do about under representation of women at higher grades?	We continue to try to improve on our ability to reach and change the representation.	Evelyn White, Director, Human Resources Management	
Why are specific groups allowed to have special observance months when I (White Male) do not have one?	No response.		
What does the Department recommend doing to hold Forest Service managers accountable for retaliation?	No definitive response but rather a lengthy discussion regarding reprisal and retaliation by FS (pages 226-236 of transcript).	Jack Ward Thomas, Chief, Forest Service	
Why can't the Department reduce all special observances to one month and call it "ethnic diversity month"?	Will take recommendation under advisement	George Robertson, Acting Director, Civil Rights	
Is there a possibility of losing the informal EEO process back to the agencies? Will the service centers get part of the investigatory and adjudication functions?	Those decisions have not been made.	Ira Hobbs, Director, Office of Operations	
How do you plan to utilize employee groups and their wealth of knowledge when planning and reviewing EEO and civil rights policies for the agencies?	Will continue to meet with groups to consider their input.	Don Bay, Administrator, National Agricultural Statistics Service	
How will you follow up on suggestions and recommendations made today?	Provide increased resources for EEO complaints processing. Meet with employee groups to address issues not addressed. There will be a follow up forum.	Secretary Glickman	
When will the Department as a whole recognize Tribal Governments' rights to impose TERO requirements on the reservation and not just RD?	Will meet with person with question	Secretary Glickman	

QUESTION	RESPONSE/COMMITMENT	RESPONDENT	TIME FRAME
As to no-fault resolutions, where do we find ourselves with regards to individuals being held accountable in that type situation?	Settlements in USDA are generally entered into because both parties agree to do so. And, in doing so, both parties acknowledge that the purpose iis about settlement, not necessarily about saying who did what to whom, and that becomes the essence of the record.	Ira Hobbs, Director, Office of Operations	

IMPORTANT NOTES

The office of the Assistant Secretary for Administration, under the direction of Rob Tucker, Special Assistant to the Assistant Secretary, is taking a leadership role in addressing these questions.

QUESTIONS FROM THE CIVIL RIGHTS FORUM
MAY 14, 1996

1. Women are underrepresented in the Department. What is the Department doing to provide increased women representation in the higher grades?

2. Is the Administration trying to stop playing "musical chairs" with employees that are committing discriminating acts, such as regional employees that get written up somehow get shifted to the Washington area until the smoke clears or vice versa?

3. We do not get our programs to those most in need because we (RD) do not have sufficient outreach. Housing in particular deliberately stay away from any national organization that could deliver the RD housing programs to minority, mostly black populations. In fact, when I tried to get the 1890s school involved for a second year in housing and related areas, I was told that black people did not have to care about black folks as that was the responsibility of the local RHS office. RSH historically both SFH and MFH have deliberately <u>not</u> participated with black organizations. There so-called stakeholders are 99% white.

4. With regards to special emphasis programs, only while males or a white gay person found these programs objectionable. These person need to realize the special emphasis programs are commemorative as a national historical designation. If we are going to build bridges we need to respect and appreciate the contribution of person who are not only white males. It was interesting to hear a white gay male object to having a "women's history" special emphasis activity. If people want tolerance they should reciprocate and be tolerant of ethnic groups.

5. I found the comment about the Redskin football material as negative; however the same person felt to have half naked Dallas Cowboys cheerleaders display as an okay pictorial of women. Does this employee understand double standards. If it slanders ethnicity, it also slanders and renders women as creature on display for sex.

6. Why was the question about "accountability" never answered with a clear statement, especially in relation to reprisals, hostile work environment and elimination because a person files a discrimination complaint. The complainants case follows him, but the mangers' liability and responsibility is never discussed or documented.

7. Mr. Secretary, it was stated earlier that there is a need to have people detailed to help with the back log of cases. How would a person go about offering their services?

8. No training has been given to the field personnel who will be responsible for doing the preliminary inquiries for program discrimination complaints on the ag credit side. We have several hundred active complaints sitting out in the states, becoming more delinquent daily, while we beg for (and are refused) civil rights training to enable these complaints to be processed. And then management wonders why farmers and Congressional staffs think USDA is merely "talking" instead of "doing" something about alleged civil rights violations.

9. FSA was to absorb the farmer program civil rights section of FmHA, FCIS and FAS into the old ASCS office. Cross training was to be done and the office would operate as one unit. To date, the FSA civil rights office is rigidly divided. The old FmHA people work only on "Ag Credit" cases and are not encouraged to mingle with anyone else. They are given no cross training and are working with a person who has no background or education in either civil rights or Ag credit loan programs. The old ASCS staff still do "business as usual." At least they have an "Acting Branch Chief" who knows the program. FCIC is still maintaining a separate civil rights program, doing Risk Management, and maintain their own SEP managers. This is allegedly to give the person in "nominal" charge (of one staff member and the collateral duty SEPs) a promotion to a GS-14. The FAS civil rights office is still alive and well, maintaining their own program entirely separate from the rest of FSA.

10. Mr. Secretary, why has civil rights abandoned its black male training sessions which we opened for all USDA employees?

11. Mr. Secretary, why hasn't the Office of Civil Rights issued an action plan for 1995 and 1996 on what direction the administration is headed?

12. How many Jewish persons work at USDA and how many are in SES positions? I believe the number is lower than other minority groups.

13. I am concerned about white females in my agency (FS) are promoted and upgraded at a greater rate than Afro-American women. I would like this investigated. Too much ole boy network not enough accountability for managers and supervisors that discriminate.

14. Why are no-fault agreements subject to "gag orders" prohibiting any discussion of the case or subjecting the issues to being returned to the former position prior to settlement? Why can't each side answer questions concerning their side of the story if asked? Why can't the employees enter into agreement with the feeling that they can at least acknowledge they participated in a no-fault agreement without subjecting them to have the agreement rendered null and void? As a minimum the latter should be permitted.

15. Why is it that nearly every provision of the performance appraisal regulations are violated, from failure to set Agency goals and objectives before the fiscal year begins, to failure to measure work accomplishments using objective standards, to failure to periodically review compliance even after being ordered to do so by the Under Secretary of Rural Development nearly a year ago based, in part, on employee surveys?

16. When evaluating the delivery of federal programs in a fair and equal manner why do we continue to include those we cannot serve in the universe such as the above moderate income residents and urban residents?

17. Mr. Secretary, resource allocation is my question. From a perception perspective two civil rights conditions exist in USDA: (1) USDA agencies are downsizing but mission area leadership is not decreasing in size. Therefore resources are decreasing as one goes down the organizational chart. But the work is increasing as required from the top management. Most employees have at least 3 inboxes and a computer and desk and chair. Its a slap in the face for the President to say the federal workforce is decreased and the level of output work is the same.
Mr. Secretary, the work just isn't getting done! (2) The perception is that minority employees are provided half the resources to perform two times the work of nonminorities.

18. If a 90 day temporary employee has a grievance filed against them should they be terminated? The grievance was for being hostile and causing unsafe work environment for others. Verbal abuse towards another employee.

19. Why are there employees setting side by side performing the same duties, having the same job description and series being paid at a different grade level?

20. When an employee works in different positions within the same agency moving career wise through upward mobility why is it that when they apply for a vacancy within their own agency for a job they have been doing but at a lower grade level, the supervisor goes outside the agency to hire someone that he felt was more qualified. Doesn't on the job training experience count?

21. What do you propose to do about the hard core resistance on the part of white males to any progress or leadership on the part of women and minorities in USDA?

22. What do you propose to do about the bitterness constantly expressed against the progress made by "white" women?

23. Why were parking spaces on the Mall reserved for the use of lower level political appointees three to four years ago? I can see the need for reserved parking for SES and Secretaries, but for Confidential Assistants? Why can't they take Metro like everyone else? Shouldn't we be looking at conserving energy?

24. Why can't reserved parking be "sold" to the highest bidder to subsidize Metro riders who are conserving resources?

25. Why are some employees at USDA so privileged they never have to show an ID card to enter on Jefferson Drive nor do they have to sign out? Aren't we all Americans and USDA employees so why the double standard?

26. Why are the new elevators always broken?

27. Why do the xerox machines fail so much?

28. Why are the LANS down so much? This place is falling apart.

29. What will be done to improve communication to POC-FMD employees not management? It seems that we (FMD) are always left out i.e., ADR never heard of it till today hard minute we do not have LAN.

30. FSIS has about 16% of Asian Americans at the GS-12 level (154 out of 951 employees). Only one is at the GS-15 level, as a settlement to a complaint. How can FSIS rectify this situation?

31. There are managers at various levels within APHIS subverting EEOC requirements for hiring and promoting individuals for job vacancies as a result of preferential treatment and preselection. These managers have a proven history of repeated violations spanning many years. When will USDA, but specifically APHIS, ever address cronyism and provide true equal opportunity?

32. What specific steps will you take to show your commitment towards educational excellence for Hispanic Americans and to ensure equitable sharing of USDA employment, resources and programs for the Hispanic community?

33. You talk of not discriminating against people due to race, sex, age, and etc. What about some of the most discrimination that occurs? Grade level and time in government is there anything that prevents this?

34. With such emphasis being put on diversity, cultural sensitivity and minority outreach activities, why is there no action plan nor budget for implementation of special emphasis activities?

35. Why has there been a decline in the participation of 1890 and historically black colleges in the USDA summer intern program?

36. Under the restructuring, agencies were required to consolidate. Why are some agencies allowed to continue to operate independently?

37. GS-5-7 secretaries are not allowed to leave their desk at lunchtime to attend free training, seminars or group meetings. Can mangers' begin to manage and plan phone schedules for their offices to free the tied down secretaries from their desks in obedience with labor laws?

38. The reorganization of USDA was supposed to consolidate agencies and streamline functions to eliminate unnecessary duplication of services. Why, then, is the following true? RECD was to absorb all REA civil rights functions into the old FmHA civil rights office. Why does a separate office for REA, staffed by a temporary GS-14 "Acting Director" and a GS-12 exist? They have separate functions from the RECD staff, still maintain their own Special Emphasis Programs staff and are housed separately from the rest of the RECD staff. Everyone on the RECD staff has been promoted to a GS-13 level, even though USDA is supposed to be cutting mid-level positions. Another case of all Indian Chiefs and no Indians.

39. The Departments spends at least $6,000 per case contracting out an investigation agency to investigate cases/complaints that go beyond the informal process. Most of these cases and complaints are due to poor management and poor management decisions. Perhaps we should include in the accountability portion a requirement to have managers pay for these costs.

40. What is the Department doing to reinstate training which previously existed for African American males, women, Hispanics and others? For instance, last year we had several training sessions for women, at least two for African American males and two for Hispanics. Please reinstate these as soon as possible.

41. What consideration has been given to restructuring existing lower graded positions to incorporate needs for future skills? For example, training existing secretaries as transcribers or court reporters rather than paying expensive note taking costs.

42. The Secretary has committed to resources to Civil Rights Operations to meet the mission, how will resources be allocated to ensure Civil Rights Policy (Compliance Reviews) can do their mission?

43. Who is on the Secretary's team that will be giving him advice that he spoke of and that he recently met with? Please tell me organization and racial composure.

44. In the area of reorganization and downsizing, will students of 1890 colleges and universities be given more consideration as candidates for employment? Currently, these students are treated differently than HACU students from Hispanic colleges and universities in that the Hispanic students receive better employment opportunities than 1890 students from black colleges and universities. The Hispanic students also receive free housing and transportation but 1890 students do not.

45. We need to stop having so many meetings and taskforces to meet on the meeting and start doing something and stop burying your head in the ground like we don't have real problems at USDA (the home of the "last plantation")

46. Mr. Secretary, since you came to USDA, how much of the resources are allocated for preventing EEO related problems, and how much are spent on taking care of the inherited problems?

47. If a selecting officer in any USDA agency tries to bypass the existing Equal Opportunity Laws, specially when it comes to selecting or promoting an Asian Pacific American, then what does the management do to correct the situation?

48. What are you doing to ensure full timely due process for USDA line and staff officers who have been charged with discrimination?

49. Blue Ribbon Taskforce recommends discipline of management officials prior to completion of investigations/due process and you've indicated approval of the recommendation. What message do you think that sends to supervisors/managers who work for you and are trying their best to meet an overwhelming number of USDA/mission goals/funding/downsizing initiatives?

50. Why is it that in many cases, the agency promotes/rewards supervisors, etc. for their discrimination acts?

51. Why is it that when discrimination issues are raised, management avoids that employee because he doesn't want to talk to the employee?

IMPORTANT NOTES

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

MEMORANDUM

TO: Wardell Townsend, Jr., Chair, and Members, Blue Ribbon Task Force on Equal Opportunity and Diversity
Civil Rights Leadership Council
All Employees of USDA

Date: May 8, 1996

FROM: Secretary Dan Glickman

RE: Decisions in Response to the Report of the Blue Ribbon Task Force on Equal Opportunity and Diversity

In late November 1994, former Secretary Espy established the Secretary's Blue Ribbon Task Force on Equal Opportunity and Diversity (Task Force) to address concerns that employees raised in the areas of equal opportunity and diversity at USDA. The Task Force, comprised of a majority of the USDA Subcabinet, utilized input from the Civil Rights Leadership Council (Council) and submitted its report, including recommendations, to me on May 3, 1996. A copy of the Report is attached to this memorandum.

Secretary Espy in his Equal Employment Opportunity and Civil Rights Policy Statement of April 15, 1993, stated:

> My goal is to make the Department of Agriculture a place where equal opportunity for all Americans is assured and where promoting civil rights is essential to employee and managerial success. Ours is a diverse society. Diversity is a source of strength for USDA as we tap the talents, creativity, and energy of all Americans who desire to serve, or who have an interest in the programs and services that we provide.
>
> To ensure these results, we must first improve our system of accountability. In line with this policy, managers and supervisors will be evaluated for their performance in EEO and civil rights. Success in this vital area will be an important factor in the performance assessment of every employee. . . .

3. The Secretary should require each mission area to include civil rights directors in civil rights policy issue discussions by issuing a statement reaffirming the need for inclusion of civil rights directors in civil rights matters before policy decisions are made where there is a possible effect on reinvention, downsizing, and/or reorganization.

4. The Secretary should require that appropriate disciplinary action be taken where discrimination is found by (a) directing each subcabinet official to issue a statement to their agency heads reinforcing the requirement that appropriate action should be taken against any employee who is found to have discriminated; and (b) directing the Assistant Secretary for Administration to issue a biannual report to each mission area on the disciplinary actions taken within their agencies. This summary report would respect the privacy rights of the parties involved, but include descriptions of actions which have been found to be discriminatory so that employees and managers will know that those who discriminate are subject to disciplinary action.

I accept and endorse all of the Task Force recommendations on accountability.

UNDER REPRESENTATION /UNDERUTILIZATION

In the area of under representation/underutilization, the Task Force has made two recommendations:

1. The Secretary should take action to implement plans to address under representation and diversity by directing the Assistant Secretary for Administration to issue to each Under and Assistant Secretary guidance on existing statutes and regulations executing the affirmative employment plan (AEP) program, as well as the Secretary's policy on diversity.

   The Secretary should direct the Assistant Secretary for Administration to issue to each Under and Assistant Secretary an official semi-annual report on each agency's compliance with its AEP.

   The Secretary should direct each Subcabinet Official to issue a statement to their agency heads mandating compliance with their AEP.

2. The Secretary and all USDA managers should advocate diversity on all internal task forces, committees, and advisory groups by issuing a statement similar to Departmental Regulation 1041-1, which states that: "To ensure that the recommendations of the committee have taken into account the needs of the diverse

groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities".

I accept and endorse all of the Task Force recommendations on under representation and underutilization.

COMPLAINTS MANAGEMENT

In the area of complaints management, the Task Force made one recommendation.

The Secretary should require agencies to develop a complaint prevention program. Through the use of educational materials, training, and other means, agencies can take actions that will help prevent many complaints from being filed every year.

I accept and endorse the recommendation of the Task Force on complaint management.

ADDITIONAL ACTIONS

The Task Force has made a valuable contribution to USDA in its work and recommendations, and, as noted above, I have accepted all of its recommendations. However, I have now been in the Department for just over a year, and I have found additional actions we need to take now to address our difficulties in equal opportunity. I want to take this opportunity to share my decisions on these matters. Some of these actions have already been completed or are in the process of being completed. Others we still need to implement.

In the area of accountability, these actions include:

1. Performance Reviews

Page three of the Task Force Report includes a discussion on the importance of the performance appraisal process whereby top Department officials are held accountable for their overall performance, and the specific importance of the Equal Opportunity/Civil Rights (EO/CR) element in this appraisal system. The discussion particularly emphasizes the importance of "benchmarks" for appraising civil rights performance.

Many executives have frustration about not knowing how to improve their performance on the EO/CR element, and that the approach being used when I arrived at USDA seemed to reward "paper success" rather than real achievement and respect for civil rights.

In response to these concerns, I directed a full review and revision of the senior executive appraisal system. As a result of this review, USDA has changed this system so that it is focused on genuine performance. As part of this change, and at my direction, USDA has now adopted benchmarks for senior executives' performance on civil rights/equal opportunity. These benchmarks will help educate both senior executives and other employees as to expectations for performance on civil rights and equal opportunity. Also, these benchmarks will provide objective bases for measuring performance in these very important areas.

These benchmarks were developed by a group consisting of the Director of Civil Rights, the Director of Operations, and the Director of Human Resources, with assistance from the Task Force on the Senior Executive Appraisal System and the Office of the General Counsel. They are set out in the new chapter on the performance appraisal process in the "U. S. Department of Agriculture Handbook for Senior Executive Service" dated April 26, 1996. This new chapter was distributed to every Senior Executive of the Department on May 2, 1996.

It is my intention that these benchmarks for senior executives will be the first step on individual accountability, and that we will develop similar guidance for every level of employment in USDA.

2. Diversity

Paragraph three of the report also indicates that data on workforce diversity; agency trends in the percentages of minorities and women hired, promoted, or trained; and information demonstrating the number of opportunities an agency may or may not have had to address under representation issues have not been readily available. In terms of department-wide numbers, USDA's diversity of employment has shown steady progress. Since 1990, employment by most minority groups has increased, and significant gains of seven to 15 percent have been made by Native American women, black women, Hispanic women, and Asian men and women. Of the Senior Executive Service hires in the past 3 years, 50 percent were filled by minorities and 50 percent were filled by women.

But department-wide numbers do not provide adequate details on the makeup of employment in USDA. More detailed information is critical to understand how we are addressing diversity, particularly in the current environment of downsizing and budgetary constraints.

As a result. I am directing the Assistant Secretary for Administration to establish a data base that contains this crucial information which will enable managers to extract the necessary workforce diversity information to guide their actions.

3. Downsizing (MG)

Many employees at USDA are deeply fearful of the consequences downsizing will have, particularly for minorities and women, who compose a large portion of our most recently hired employees. Through extensive use of the "buy out/early retirement" approach, we have largely minimized adverse effects on our employees. To date, our statistics show that there has not been a negative impact on these groups and they have, in fact, increased their employment levels in the Department.

As we move into the next phase of downsizing, we need to be particularly sensitive to the impact various approaches to downsizing may have on minorities and women, while striving to minimize the effects on all employees. It is for this reason that I have personally directed that the Civil Rights Forum "Building Bridges for a Better USDA," scheduled for May 14, 1996, present workshops on strategies for retaining diversity during this time of downsizing and budget restraints.

4. Civil Rights Impact Analyses

I also believe that accountability can be significantly strengthened by conducting appropriate and accurate civil rights impact analyses for agency reorganizations. I have been advised that guidance on materials or information to be included as part of this civil rights impact analysis has not been developed or provided to the mission areas of the Department.

I therefore am directing the Assistant Secretary for Administration to develop detailed guidance for mission areas and agencies that would become a permanent part of Departmental Regulation 1010-1. This guidance will describe the format and expectations for a reorganization civil rights impact analysis and give mission areas and agencies directions on precisely how to do such an analysis. These guidelines will be reviewed by the Office of the General Counsel for legal sufficiency and submitted to me for decision no later than June 30, 1996.

Further, for the major reorganization actions taken as a result of the October 1994 Department of Agriculture reorganization legislation, I am directing the Assistant Secretary for Administration to carefully review the mission area civil rights impact analyses developed in support of the Department's reorganization. If it is found that such analyses are deficient, the Assistant Secretary is directed to: a) report such information to the Deputy Secretary in the semi-annual report of the Assistant Secretary for Administration on the implementation of the reorganization; and 2) prepare the appropriate documents for the Deputy Secretary's signature to ensure appropriate action.

Finally, I am directing the Assistant Secretary for Administration to refuse to grant approval for any new reorganization plan that does not include a comprehensive civil rights analysis.

In the area of complaints management, I continue to be deeply concerned about the backlog of discrimination complaints, and have felt since I came to USDA that we needed to act aggressively to address this problem. Delay in dealing with complaints is unfair to both those who feel they have suffered discrimination and to those charged with discriminating. Also, we must ensure that the adjudicatory process is fair and objective. I believe we have acted and must continue to act aggressively on this matter.

I have taken and am taking the following additional actions to address the problems with complaints adjudication.

L. Complaints Adjudication

As the Task Force Report states, the complaint adjudication system in USDA has had a substantial backlog for some time. This is an intolerable situation, as both complainants and those complained against deserve to have these matters decided in a timely fashion. We have taken and continue to take a number of actions in this area.

First, we have established, for the first time, standard operating procedures for the processing of EEO complaints, and are in the process of finalizing standard operating procedures for program complaints. Second, we have also published a proposed rule to establish a separate section in the Code of Federal Regulations on program complaints. Finally, a single adjudicator will be assigned to each complaint "from cradle to grave", so that adjudicators can have the satisfaction of addressing and solving problems from beginning to end and so their managers can hold those adjudicators who do not effectively and expeditiously handle cases accountable for their failure to do so.

As part of the new "cradle to grave" assignment of cases, I have directed the Office of Operations Employment Complaints Adjudication Division Staff to send a letter to each complainant telling him or her the status of his or her complaint and the name and telephone number of the adjudicator responsible for handling that complaint. These letters are to be sent to each complainant before the end of June.

Also, because of the tremendous number of open cases faced by the Employee Complaints Adjudication staff, I have asked the Deputy Administrators for Management for each Mission Area to provide additional resources to the Office of Operations until these backlogs are eliminated and the case load is current.

As a result of our actions to date, the open cases have already been reduced from approximately 1,800 in December 1995, to 1,636 as of May 1, 1996. On the other hand,

we still face many challenges in expeditiously handling both old and new cases, and it is important for our employees to understand that it will take some time before we have a real handle on this problem.

2. Compliance with Settlement Agreements and Court or EEOC Orders

Though not addressed by the Blue Ribbon Task Force, I have discovered a problem with agency compliance with their own settlement agreements on EEO and program complaints. Many times, it appears that the agreements have literally not been worth the paper they are written on, or performance on the agreement is unconscionably withheld for long periods of time. Further, in some cases, agencies have failed to comply with court or Equal Employment Opportunity Commission (EEOC) orders.

I am directing each Under and Assistant Secretary immediately to conduct a survey of any outstanding settlement agreements and court or EEOC orders. Each Under and Assistant Secretary must fully comply with those agreements. Under and Assistant Secretaries are to report to me no later than June 30, 1996, on the status of compliance with settlements under their responsibility. Most of these settlements were handled as part of the resolution of a complaint by the former Office of Civil Rights Enforcement or its new successor, the Office of Operations (OO) Civil Rights Enforcement and Adjudications Staff. As a result, this staff will be able to help the members of the Subcabinet identify most outstanding settlements. It is important to note, however, that some settlements have been and are handled wholly outside the complaint processing system of OO, so agencies must survey each of their managers who have settlement authority.

3. Reports on Elimination of Adjudication Backlog

I am directing the Assistant Secretary for Administration to report to me on the backlog situation every 30 days. If additional significant progress in reducing the backlog is not evident, I will take further steps by detailing additional USDA employees to this work effort.

4. Model Complaint Prevention Program

I believe we need to do more than expedite the resolution of complaints. We need to create an environment in USDA where there are far fewer complaints to resolve. Therefore, I am directing the Assistant Secretary for Administration to develop a model complaint prevention program for use by USDA mission areas. Once developed, mission areas would be required to implement the model program or a program tailored for the mission area. This program is to be developed by the Assistant Secretary no later than September 30, 1996.

In addition to the specific actions listed above, it has been obvious to me since I arrived at USDA that we had serious problems on civil rights and equal employment policy and in handling employment and program discrimination complaints. This was obvious for many reasons, including the huge backlogs in answering mail on cases, deciding complaints, and complying with settlement agreements. In fact, I had been at USDA only a few weeks when the Equal Employment Opportunity Commission called my office to say USDA was the only Department that had not filed one of the annually required reports on equal employment opportunity.

As a result of these concerns, I approved on February 8, 1996, the reorganization of Departmental Administration. This reorganization is now getting off the ground and should be a major step forward in addressing these problems. It provides a more focused approach to the resolution of cases while at the same time allowing a greater emphasis on creating a better environment on civil rights by helping us identify and address systemic problems.

CONCLUSION

The implementation of the recommendations of the Task Force will clearly move us closer to the desired results of accountability, improved representation and utilization, and a more effective complaints process and management system.

Taken in total, I believe the actions I am taking today on the basis of the recommendations of the Task Force and on other matters to address equal opportunity and diversity in USDA are significant steps forward in achieving the goal that former Secretary Espy and I share. I ask that the Task Force monitor compliance with these decisions and report to me by January 1, 1997, on our success in implementing them. While I do not wish to dictate an unreasonable time frame for implementation, please understand that I am most anxious to move ahead and make USDA a better place for all of our employees.

Lastly, I wish to thank the members of the Task Force and the Council for their hard work. We all stand to benefit from the success of these efforts.

Attachment

DEPARTMENT OF AGRICULTURE

OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION

WASHINGTON, D C 20250-0100

ROUTE TO:

☐ SECRETARY
☑ DEPUTY SECRETARY

☐ CA	☑ GF	☐ SM
☐ DB	☐ JG	☐ EO
☐ MG	☑ MG	☐ MP
☐ TC	☐ SG	☑ JP
☐ BO	☐ MH	☐ CRAY
☐ MD	☐ FJ	☐ CR
☐ PD	☐ AK	☐ KS
☐ JD	☐ JK	☐ TY
☐ ___	☐ ___	☐ ___

MAY 0 3 1996 D96-229

MAY 0 3 1996
5:30pm-MG

DECISION MEMORANDUM FOR THE SECRETARY

FROM: Wardell C. Townsend, Jr.
Chair, Secretary's Blue Ribbon Task Force on
Equal Opportunity and Diversity

SUBJECT: Recommendations of the Secretary's Blue Ribbon Task Force on Equal Opportunity and Diversity

ISSUE:

The Secretary's Blue Ribbon Task Force on Equal Opportunity and Diversity met on September 7, 1995, to discuss the recommendations and issues presented by the Civil Rights Leadership Council and decisions were made on each recommendation. This memorandum is to transmit those recommendations for further action.

BACKGROUND:

The Secretary's Blue Ribbon Task Force on Equal Opportunity and Diversity (Task Force) was formed by former Secretary Espy to address the concerns that employees raised during his tenure in the areas of equal opportunity and diversity at USDA. In order to have these issues discussed at the highest levels of the Department, all Subcabinet officers, except the Assistant Secretary for Congressional Relations, were appointed to this Task Force, and began to give these issues serious consideration. The Task Force utilized the Civil Rights Leadership Council (Council), which consists of the Mission Area Civil Rights Directors and representatives of each civil rights related employee organization, as a source of input on the issues that they believe are important to the employees and agencies within USDA. On June 21, 1995, the Task Force met with representatives of the Council to discuss the issues and recommendations they presented, which were in four (4) categories: Accountability, Under representation/Underutilization, Complaint Management and Resources/Structure.

On September 7, 1995, the Task Force met and discussed each of the issues and is making recommendations on ways to address these concerns. Each issue and the recommended action is addressed as a separate item. During this meeting, each issue and recommendation was given consideration, and this document represents the unanimous decisions of the Task Force members. The Task Force will prepare the necessary materials to implement the recommendations that are approved.

DISCUSSION:

ISSUE 1: ACCOUNTABILITY

Since Secretary Lyng, every Secretary of Agriculture has placed the issue of accountability at the forefront of the Department's Civil Rights agenda. Even so, some employees still feel that top managers are not being held fully accountable for their performance, particularly performance with respect to the Equal Opportunity/Civil Rights activities. This perception, which is widely shared by civil rights advocacy organizations in the Department, is buttressed by objective evidence.

At USDA there has been a long standing problem in the demographic breakdown of our employee profile. Many individuals believe that this stems from a lack of commitment to accountability. Based on the defined categories of employees there still is under representation and underutilization of minorities, women and persons with disabilities, especially at GS-13 and above job levels in many of the USDA Agencies. Additionally, some of the processes used to determine compliance with a variety of civil rights related activities, such as the senior executive performance appraisal process used, until recently, a system that allowed "written accomplishments," without special verification procedures. Another problem has been the lack of any visible disciplinary actions against managers for discriminatory activities. This may be due in part to compliance with personnel regulations relating to the release of personnel information. Finally, there has been an absence of any serious consideration by some top managers of the Agency Affirmative Employment plans, which were written and devised by the agencies, to help accomplish many of the goals of diversity that we all strive to meet, and which is the primary tool mandated by Congress to address under representation within the Federal work force.

The most recent evidence of many of these issues is highlighted in the General Accounting Office's (GAO) September 1995 report on Equal Employment Opportunity at Interior, Agriculture, Navy and State. This report studied the compliance of each of these agencies with the laws and regulations that are mandated to help achieve diversity. The Federal agencies are required by law to have an affirmative employment program plan, which is designed to help eliminate under representation of women and minorities where it exists. Additionally, each agency is to conduct affirmative recruitment for these under represented occupations and pay grades. Affirmative employment plans require agencies to conduct comprehensive program analysis of their workforce composition, recruitment and hiring, promotions, separations, discrimination complaints, organization and resources, and program evaluation, and to identify barriers and develop objectives to overcome them.

GAO noted that "accountability suggests that goals will be established, performance will be measured and reported, and that this information, in turn, will be used to monitor progress towards achieving agencies' EEO objectives. However, *at present, no formal mechanisms are in place to evaluate agency heads on the results of their agencies' EEO/affirmative employment programs.*" (emphasis added)

Also, the report found that affirmative employment plans are considered "paper exercises" done to fulfill Equal Employment Opportunity Commission (EEOC) requirements. It appeared that senior managers and officials do not actively participate in their preparation, and that "line managers and senior officials with authority to make personnel decisions regarding employment, job assignments, training, promotions, and terminations were rarely involved in the process of identifying barriers and actions to improve the representation of women and minorities in their agencies." One likely result of this inattention by senior managers to affirmative employment is the proliferation of discrimination complaints at the Department based on nonselection due to race, gender or other defined class.

The senior executive performance appraisal process is the primary mechanism whereby top Department officials are held accountable for their overall performance. Each senior executive is required, as part of this process, to have a civil rights element which is the successful pursuit and is critical to their performance. Failure to "meet fully successful" in a critical element can be grounds for removal from the Senior Executive Service. Over the years, this rating exercise was used as a way of justifying the actions of each individual senior manager, based upon a written justification, that was prepared by the supervisor of the employee, or in some cases, by the employees themselves. Until 1993, the Department had no mechanism to verify the accuracy of "written justifications" which formed the sole basis for senior executive performance in the civil rights area.

Written accomplishments, as GAO noted, may have no relationship to agency affirmative employment plans. It is also difficult for reviewers to determine the scope of a senior executive's responsibility in the equal opportunity area for a variety of reasons. For example, data on workforce diversity, agency trends in the percentages of minorities and women hired, promoted or trained along with information demonstrating the number of opportunities an agency may or may not have had to address under representation issues has not been readily available. This information is critical to understand how a manager has performed in the current environment of downsizing and budgetary constraint.

Further, managers are unclear as to performance benchmarks. Many have asked, "what must I do to exceed, or even to meet fully successful?" The absence of a definitive response to this question, *before the performance cycle begins,* hinders the ability of managers to perform and raters to fairly rate their performance. The perception, again, is that managers are simply given a "meets fully successful" simply because there is a lack of understanding of the benchmarks.

The lack of accountability and a misunderstanding at the senior executive level has created the perception that managers at all levels are not always held accountable for their actions. Indeed, with no overall agency plan that anyone will be held accountable for, it is difficult for managers at any level to know what's expected of them during any performance cycle, or to be held accountable if they fail to achieve agency goals and objectives.

Finally, there is a perception, among some employees, that managers who discriminate face little if any disciplinary action, which, if true, would be another indicator of the lack of accountability. A lot of this perception stems from subjective data. Employees involved in sometimes bitter complaints against managers rarely note any efforts by upper management to discipline or even counsel the person they perceive to be the discriminating official. This may be more acute in instances where a settlement agreement has been signed. These agreements, sometimes referred to as "no-fault" settlements, are perceived by some managers as vindication, and thus, no disciplinary actions are warranted. While this perception exists, factual actions do contradict some of the beliefs about the process. With respect to all cases that contain evidence of discriminatory actions against another individual, the Agency which employs the person is required, by law, to take positive steps to remedy the situation. In some instances, these actions are not seen by anyone other than the discriminating officials supervisors because of Privacy Act compliance. Therefore, the employee who has been discriminated against may feel like nothing has changed, and that the discriminating official has not been penalized. These issues are central to the perception, but steps can be taken to correct the belief that no actions are taken, regardless of the facts or the merits of the case which was settled.

In summary, there is a widespread belief among many employees, which is generally supported by evidence, that managers in the Department are not being held accountable for their performance in civil rights. Even though civil rights is a critical element, and agencies are required by law to implement affirmative employment plans to address under representation issues, senior managers often pay little attention to these plans. The perception is also widely shared that managers who do discriminate are not subject to disciplinary actions. These perceptions undermine the confidence of employees and managers that civil rights enforcement is a priority issue at the Department.

<u>ISSUES:</u>

1) **Reiterate that each mission area is to conduct a civil rights impact analysis when initiating a reorganization.**

The Council believes that some mission areas are not complying with the requirement to conduct a comprehensive civil rights impact analysis on their reorganization proposal even though the Department currently has a policy that requires each mission area to do so.

4

IMPORTANT NOTES

Evaluation Responses from the May 14, 1996 Civil Rights Forum						
Question	1 *not of value*	2	3	4	5 *valuable*	Total Respondents
To what extent was this forum of value to you?	1	5	12	15	22	55
To what extent do you feel that your concerns were expressed?	0	5	15	18	16	54

Comments Regarding the May 14, 1996 Civil Rights Forum

1. More time is needed to address the questions of the employees. 5,5*

2. The presentations were rated a 5 the question sessions degenerated somewhat. Disseminate information about representation by group in various activities to educate that "every other group" is not getting more than your group. I was concerned that many people expressed their belief of unequal treatment/representation, when statics were offered later that dispelled the myths.

   Continue to emphasize "reasonable accommodation". Too many groups expressed they thought they had a right to positions based solely on their group status. Qualified minorities do not deserve selection just for being a minority. All factors that make a candidate highly qualified as well as some subjective factors are more important. We just need to ensure opportunity is not denied or provided strictly based on group status.

   I would like someone to discuss the value of moving selections to a third party. People tend to select people most like themselves. I think this alone help perpetuate the white male dominance in higher graded positions. It also raises their concerns about selecting people unlike themselves who then will pick more people like themselves. 3,3*

   Comment by: Alice Thaler, FSIS, 720-3219

3. Suggestions for future sessions: Confronting office gossip and innuendo in regards to potential Civil Rights violations. More workshop forums regarding issues concerning non-supervisory or non management employees. 5,5*

4. More notice- ahead of time. More employee participation. 5,5*

5. The forums need to be longer with respect to days. Two to Three days is more reasonable. The LAN use for questions to be addressed was a good idea. 3,3*

6. Will the Secretary follow up on any the suggestions, comments, etc. ? 5,5*

7. Need break out sessions with authorities. There were no administration personnel in room 3501 workshop. Procurement, lawyers etc., however administrators need to be in workshops. We need more forums that resolve and implement problems. Where's the accountability? Who's doing what on what time frame? How are policies given to branches to lead them meaningfully in no reprisal or underhanded supervisory techniques of removing employees who demand their working rights? 2,2*

8. Mr. Cassellas was great! 5,5*

9. Thought the forum was well organized and attended. The guest speakers were good. Thought the panel also did a good job in replying to the questions from the audience and call-in questions. 3,3*

10. In comparison to many at USDA, I have been employed by USDA for eight years, this is the first Civil Rights forum that I'm aware of being held here at USDA, being opened to all. I feel that follow-up must be with management (SES) managers, first line supervisors regarding the importance that discrimination of any kind will not be tolerated nor hostile work environments. This needs to be a session held by the Secretary informing what the penalties would be for noncompliance and accountability. 4,4*

11. The real value of the forum will be determined by the action and results accomplished by USDA as a result of the forum. When no substantive changes are made, this typ of activity can actually serve as negative reinforcement because USDA talks but does not change.

    As for follow-up sessions, if USDA knows through some real means that major areas of concern have been changed, perhaps no forum is needed. If the Secretary is not sure what has changed, perhaps additional forums are needed. <u>However</u>, many people with problems would not be stupid enough to air their concerns when their superior is watching. There are vast problems that people fear retaliation. USDA is a mess- Where is Accountability? 5,4*

12. Wonderful effort and commitment by your administration to unite USDA! Suggestions: A) Provide a list of positive practices to enhance equal opportunity, B) Follow-up with each mission area to see what they have achieved in the EEO CR area (both staff and supervisors), C) Dialogue with the coalition monthly to ascertain which elements are working and which need to be changed or readdressed, D) make each divisions accomplishments known via HP Desk or other vehicles to promote harmony E) recognize persons who have made significant contributions to achieving a goal of zero tolerance. 5,5* *Comment by: Linda Epstein*

13. I feel that there should be some type of action taken against any type of discrimination not just race, sex, age, religion and etc. There are other types of discrimination that need to be addressed. The way you look, your weight, time in service, grade level. These types of discrimination needed attention because it does happen. These types of discrimination need to be taken serious. 3,3*

14. Be prepared to review and calcify the answers given at this session before dealing with new questions at a later session. Give an accounting of actions taken or actions being considered as a result of this forum. Thought should be given as to ways to get concerns of whites expressed, if USDA is going to truly be a mirror the U.S.A. The department's EEO staff should mirror the U.S.A. If all employees are to have a sense of fairness in dealing with EEO. A team at USDA should mirror the USA.

My breakout session was video taped. I suggest the taped session be reviewed. The one I attended, workshop VI, did not do a very good job dealing with the subject matter. 4,3*

15. Suggest the Secretary considers holding a few of these sessions in the field. 5,5*

16. If the Secretary feels he needs to be educated further about employee concerns, he may want to hold additional sessions. Perhaps he should hold some with the agencies that appeared to have the most serious problems. Otherwise, this sort of session does not seem worthwhile. It appears that the most important follow-up is to fix the complaints process. That need seems to have been recognized, so the things is to follow through. 2,2

17. I especially enjoyed the speakers. However, I felt that the open forum focused too heavily on EEO issues, and only minimally touched the subject matter of the forum, which was CR. As a public servant, I was hoping to gain insight into how well we are serving our customers and program recipients, and what the administration expects from its employees in this area. Addit. nally, I was hoping to provide input and gain knowledge in how we can better server our customer. My expectations were not met. 2,2*

18. A lot of facts are interpreted in a way to justify an end result. For instance, there are a lot of Latinos in this country & that total is used to show a lack of compliance on the percentage employed. What should be used is the number and or percentage that are citizens and the number that have at least a high school diploma that make them eligible for employment as a USDA employee. Without these figures I can't trust your analysis. Now having said that, I did learn a lot & enjoyed the presentations. 4,4*

19. The day went very well. 5, no response*

20. Keep the open forum sessions! Suggest that mission Agencies communicate in the like manner about Civil Rights and EEO management to all employees. Excellent beginning process of dialogue. 5,3*

21. Schedule more time for the breakout session. Continued follow up of the entire forum as we move forward. 5,4*

22. TAKE SOME ACTION! It's great to have these forums but they don't do any of us any good unless we move on some of the recommendations suggested-today. 4,5*

23. No comments. 3.5, 4*

24. I really respect Glickman and the Subcabinet and Department folks for sitting on the hot seat for a good 6 hours. Very refreshing and gutsy. Would like to see more of the same. 4,4*

25. No comments. 4,4*

26. What is wanted is full participation at All levels. 5,5*

27. The extent that my concerns were expressed was rated at 4 whether they are resolved remains to be seen. This was the most needed forum. A follow-up should report actions taken at the Department level on A) reprisal to employees and actions taken on managers who do this B) real statistics on minority retention by Agencies and Department. Also on upward mobility success stories and opportunities for more of these upward mobility bridging experiences. 4,4*

28. Repeat similar forums once a year. Use in other administrative areas that affect all USDA employees. Excellent opportunity and method to communicate with the head/leader of the Department. Very impressive that the Secretary would spend 3/4 of a day to hear from employees. A first, welcomed & thanks.

    Pleas follow-up! If not personally through missions areas Under and Assistant Secretaries. 5,4*

29. No comments. 3,3*

30. Need to continue to have workshops for managers/supervisors on diversity, fairness and sensitivity training. 5,5*

31. With regard to the workshop "Managing the workplace to ensure fairness to all employees" I expected to resolve specific instances but the topic is not of use to me. The speakers weren't very impressive. 4,4*

32. We clearly need some sort of both public follow-up- we could have gone on 2 more full days with the Secretary; it was extremely valuable to have his participation but also group follow up especially representative/bargaining /planning meetings with the Secretary present on behalf of special emphasis interests- to plan for positive actions on behalf of the Department to rectify employment/training/hiring/selection/ participation disparities. 5,5*

33. More on alternative dispute resolution methods within the agencies/department. 4.3*

34. Provide managers more training to be managers. More workshops like the ones offered today. 5,4*

35. Perhaps a 2-day forum is needed to address all employee and manager concerns. 3,4*

36. Need agency focus for larger agencies. I continue to be amazed and discouraged at the lack of progress to date on the complaint process. 3,3*

37. If you use projected graphics make sure they can be seen. 4,3*

38. The breakout session #6 was of the most interest. It focused less on the minority vs white issue than the first half of the day. 2,2*

39. Do not allow 2nd and 3rd questions from persons with an ax to grind. More-workshop opportunities with more participation interaction. P.S. I really appreciate the fact that Secretary Glickman, Under Secretary Rominger and the CR Staff were present and participated in the entire forum up to the workshops. 3,3*

40. Communication vehicle for informing employees of actions taken as a result of suggestions/questions raised. Opportunities for employees to participate in solving problems management faces, rather than having solutions imposed top-down on employees. 5,5* *Comments by: Teri Thrash, ERS?ISD 219-0750.*

41. More clarity with respect to its connection to implementation of CR Policy in the Department. Presentations of general interest but not enough relationship back to the purpose of the CR forum. More design focused on achieving audience participation. 2,4*

42. Agency discussion with implementation on TQM/GPRA. 1-day work shop. 4,4*

43. Management should remember- as questions demonstrated here- actions (positive actions) do (and will) speak louder than words. 5,5*

44. Focus on specific implementation of Sec. Glickman's comments on using real performance evaluations to hold managers accountable. 1,2*

45. No comments. 4,4*

46. Discussions were a little lengthy 8:30-4:30. Not to lengthy for follow-up sessions recommended. 5,3*

47. This forum was very valuable, if some action follows the rhetoric. I hope that we can begin to act on the ideas that were shared. I am very interested in fairness for all people. 4,4*

48. Need more time and able to participate directly on specific. I would like to work on a team. 5,5*

49. This was a good start. Have a follow-up session 9 months from now as a progress report on what's gone right and what's gone wrong. 3,3*

50. The complaint system discussions were key points of the forum. I think that the Department could probably do its on" performance review" and change the things that make the system ineffective-like the backlog. No one follows-up with complaints-who is

managing it??

51. Workshops with employee/management groups help to work and resolve issues. 5,5*

52. If this CR forum at USDA is repeated again in the future and the same format is used, I personally suggest that the after-lunch question and answer open forum be changed so that employees attending the forum be broken up into small groups (such as was done for the 7 workshops) by mission area so that agency heads and the Under Secretary would be in the same room with their mission area employees responding only to concerns or specific questions applicable to their mission area only. This set up would allow each group to focus only on subjects (with more time allowed for discussion) of interest to each mission area. 4,4* *Comments by Rafel Sanchez, NASS, OA*

53. All employees distribution of information obtained from forum and proposed resolutions. Survey conducted across the board may be another tool. Mandate agencies to develop Alternative Dispute Resolution. 3,4*

54. Future sessions should build on this one, i.e, notify us of improvements, changes or updates that come about due to this Forum. Provide employees with information regarding corrective actions taken against personnel who have been found to have discriminated against employees. Employees need to know that corrective steps are being taken. 5,5*

55. We need to have these more frequent maybe twice a year. We need to hear problems as well as successes to be able to become a stronger more effective organization. Thanks for having it. 4,4*

Indicates the individual response to questions number 1 and 2 respectively, on the evaluation form.

IMPORTANT NOTES

OPTIONS:

OPTION 1: The Secretary issue a statement which reaffirms the need for each mission area to comply with this requirement.

PROS: Each Mission Area is already required to conduct a civil rights impact analysis. A statement by the Secretary on this issue would send a strong signal that reorganization should not proceed without a clear understanding of the impact on women and minorities in the department, and without proactive efforts on the part of managers to consider alternative actions which may minimize the effects of a reorganization onthese groups. Such a statement would heighten each top managers sense of accountability for these analyses. A statement would also send a strong signal to employees that this issue is a priority for the Secretary as reorganization proceeds. There is no budget impact for this recommendation.

CONS: None, this would reinforce the current requirements of the department.

OPTION 2: The Secretary request a briefing from all Agency Heads which will include a status report on the civil rights impact statement for each Agency.

PROS: Each Mission Area would be forced to provide whatever data currently existed on their reorganizations.

CONS: Incomplete data will be compiled that may be misconstrued by people outside of the briefing. Additionally, there would not be the public message sent that this is of importance to you, and that every Mission Area is expected to comply with the requirement to complete a civil rights impact statement.

RECOMMENDATION:

The Task Force recommends option 1.

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

2) **Clarify standard complaint settlement language to ensure that corrective actions are taken against discriminating officials, where appropriate**

The Council believes that "no-fault" settlement agreements have been used by some agency officials to settle claims before a formal finding of discrimination is made. Additionally, some managers are trying to use settlement agreements to preclude disciplinary actions against employees who have committed proven discriminatory actions. Settlement agreements should make clear that execution of the settlement agreement does not preclude an agency from taking appropriate disciplinary action if warranted. The Secretary should reaffirm the policy that appropriate disciplinary actions should be taken in the case of any employee who has committed proven discriminatory acts.

OPTIONS:

OPTION 1: The Secretary should direct the Assistant Secretary for Administration and the General Counsel to develop standard language for inclusion in settlement agreements which makes clear that execution of a settlement agreement does not preclude an agency from taking appropriate disciplinary action against an employee if warranted.

PROS: This will help to clarify any discrepancies in the application of the "no-fault" provisions of Agency settlement agreements. Additionally, standardized language will allow for a clearer understanding by all parties as to the meaning of the terms contained in settlement agreements.

CONS: This will require resources from both the Office of General Counsel and the Civil Rights staff.

OPTION 2: Maintain the current system

PROS: This will not require any additional resources to implement.

CONS: There will continue to be confusion as to the meaning of the terms of settlement agreements throughout USDA. Additionally, an opportunity to provide clarity to employees and managers on issues of actions by discriminating officials may be lost.

RECOMMENDATION:

The Task Force recommends option 1.

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

3) Require each Mission Area to include Civil Rights Directors in Civil Rights policy issue discussions.

There is a strong perception within the civil rights community that many of the issues surrounding reorganization, reinvention, downsizing, etc are being made without input from civil rights directors.

OPTIONS:

OPTION 1: The Secretary issue a statement reaffirming the need for inclusion of civil rights directors in civil rights matters before policy decisions are made where there is a possible effect on reinvention, downsizing and/or reorganization.

PROS: By stating specifically that civil rights directors are to be consulted when major policy decisions which impact employees are being made would send a strong message that the Secretary plans to hold managers accountable for their results and also that he expects them to fully utilize the talents of persons who have expertise in how best to proceed on issues critical to our overall success. This recommendation is designed to enhance their involvement in the process up-front. There is no budgetary impact to this recommendation

CONS: There is no apparent downside to this recommendation. Each Under and Assistant Secretary on the Task Force agrees that this is necessary for the success of their Mission Area.

OPTION 2: Maintain the status quo.

PROS: This would require no additional actions by any USDA employee.

CONS: An opportunity for a proactive position in which problems can be avoided through inclusion of the civil rights directors will be lost. Additionally, an opportunity to send a strong message that these issues are important will also be lost.

RECOMMENDATION:

The Task Force recommends option 1.

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

4) **Require that appropriate disciplinary action be taken where discrimination is found.**

The members of the Council are very concerned about the belief among employees that disciplinary action is not taken against individuals who are found to have discriminated. The current process for determining disciplinary action involves the Office of Personnel (OP) and the agency civil rights offices. However, the final determination is made by the Agency Head. Some actions that are taken are not visible to employees, (i.e. letter of reprimand,), fostering the belief that no action is being taken.

During the previous three years, the employment complaint process has undergone many changes which have provided employees with alternative methods of resolving complaints within the Department. However, during this time frame, many employees have also expected that visible actions would be taken in cases where people were found to have discriminated. Personnel regulations and civil rights policies do require that appropriate disciplinary action be taken against offending officials. However, these actions can take many forms, most of which fall short of dismissal from employment with the Department, or other highly visible action.

OPTIONS:

OPTION 1: Each Subcabinet official should be directed to issue a statement to their agency heads reenforcing the policy that appropriate action should be taken against discriminating employees.

PROS: This statement would emphasize that actions will be taken against those officials that are found to have discriminated, even if the actions are not made public. Through these statements, employees will see that each Subcabinet officer is concerned with this issue, and places a premium on complying with personnel regulations, privacy issues, and addressing employee concerns.

CONS: There are no apparent negatives to issuing this type of statement.

OPTION 2: The Assistant Secretary for Administration will issue a bi-annual report to each mission area on the disciplinary actions taken within their agencies. The summary report would respect the privacy rights of the parties involved, but include descriptions of actions which have been found to be discriminatory so that employees and managers know what is occurring at USDA.

PROS: EEOC and other Agencies and Departments have published informational documents that allow managers and employees to learn of situations that have lead to findings of discrimination. These reports are a valuable tool for managers and employees to learn ways to improve the workplace by avoiding mistakes made by others. This type of information also lets all employees learn that discriminatory actions do carry consequences, that range from reprimands to dismissal. The knowledge that a summary report would be issued by the Assistant Secretary for Administration would ensure that this issue would receive the attention of agency heads. Presenting this information in summary form would also provide employees and managers with accurate data in an area of rampant speculation where presently none exists. This would address the perceptions that disciplinary actions are not being taken and also prompt managers who have not exercised effective oversight on this issue to do so.

CONS: There are no apparent negatives to issuing this type of information.

OPTION 3: Maintain the current practice of keeping this information within the Mission area EEO and personnel arena.

PROS: No resources will be needed to develop and provide this information to the Department.

CONS: An opportunity to inform employees of situational facts which have been deemed inappropriate will be lost. This type of information can allow all employees to see that the Department is serious about addressing the problem of discrimination in the workplace.

RECOMMENDATION:

The Task Force recommends options 1 and 2

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

ISSUE 2: UNDER REPRESENTATION/UNDERUTILIZATION

Under representation/underutilization of minorities, women and persons with disabilities in certain job categories and higher level positions exists within the Department. To compound this situation downsizing also threatens to erode the gains which have been made over the past ten years by some of these defined groups within the Department. Members of these same groups are often absent from important task forces and committees which provide the experiences and exposure necessary to advance. This lack of diversity has historically had a negative impact on USDA and its ability to effectively deliver programs to all of its customers.

In general, the overall representation of women, minorities and persons with disabilities within the USDA workforce has increased since 1987, at which point the current Affirmative Employment Plan (AEP) cycle began throughout the Department. Many agencies have programs and activities that have been designed to attract employees who would diversify the workforce, but many opportunities are lost. The AEP program is designed to allow agencies to set targets and goals on employment of defined categories of minorities. These plans have been used for many years, however, certain EEO groups remain under represented in key positions and occupations. Additionally, while the numbers of women, minorities, and persons with disabilities have been steadily increasing across white collar grades and management levels, these groups continue to be under represented in the higher grades (GS 13 and above). The most current USDA workforce data on high grades, senior executive service and professional occupations indicate that women, minorities and persons with disabilities continue to experience what has been described as the "glass ceiling," which starts at the GS-13 level and becomes progressively more severe through the SES level .

Current statutes and EEOC directives, including the Civil Rights Act of 1964, as amended, and EEOC Management Directives 713/714, require the USDA agencies with 500 or more employees to develop a systematic method for affirmative employment programs. These programs place goals and objectives, which are established by the agencies, for employment of minorities, women, and persons with disabilities. The AEP program is designed to accomplish the goals through:

- Management accountability for holding senior managers responsible for achieving agency EEO/Affirmative Employment and Affirmative Action objectives
- Identification and removal of barriers at all levels of the workforce
- Use of prescribed program elements to analyze program needs and a reporting mechanism to monitor progress

- Objectives and actions that lead to positive meaningful results in a number of employment-related areas particularly in the recruitment and promotion of women, minorities and persons with disabilities.

Simultaneously, the development and execution of AEP plans must be carried out in a fashion that is consistent with the principles laid out by the Supreme Court in **Adarand Construction v. Pena.** The goals and objectives described in AEP plans cannot be unconsciously transformed into quotas. While lengthy guidance from the Department of Justice has been issued concerning the principles of **Adarand,** there is a need for more clear and simple guidance that will direct activities of officials responsible for the development and execution of AEP.

Many senior officials, managers and supervisors have had little involvement in formulating their agencies' multi year affirmative employment plans and annual updates. Therefore, the AEP has and continues to be, for the most part, a paper exercise instead of an integral part of the management process as intended by EEOC. As pointed out in the September 1995 GAO Report on Equal Employment Opportunity for Women and Minority Representation at Interior, Agriculture, Navy and State, senior managers, as well as EEO and personnel staff disclosed a number of barriers at USDA ,including:

> "senior managers' apathy to their units affirmative employment goals and objectives; selecting officials' stereotyped thinking...; and absence of penalties for managers and supervisors who fail to maintain an environment free of discrimination."

In addition to AEP requirements, the Government Performance and Results Act will provide for more accountability by requiring Federal agencies, by September 30, 1997, to develop a strategic plan containing a statement of goals and objectives, including outcome-related goals for the agency's major functions and operations. EEO and affirmative employment fall within these categories as part of human resources management and, as such, are an integral part of organizational plans and strategies. In the interim, the National Performance Review has charged "all federal agency heads with the responsibility for ensuring equal opportunity and increasing representation of qualified women, minorities and persons with disabilities into all levels and job categories, including middle and senior management positions." NPR also recommended that the President mandate through an executive order that each agency head build EEO and affirmative employment elements into the agency's strategic business plan and include effective measurements for impact and change.

1) Implementation of plans to address Under representation and Diversity

Currently each agency is required to submit a plan which outlines its goals and objectives in terms of employment of minorities, women and other groups. These plans, while they are specific and provide details of the goals and objectives, are not properly executed by the Department.

OPTIONS:

OPTION 1: The Secretary should direct the Assistant Secretary for Administration to issue to each Under and Assistant Secretary guidance on existing statutes and regulations executing the AEP program, as well as the Secretary's policy on diversity;

OPTION 2: The Secretary should direct the Assistant Secretary for Administration to issue to each Under and Assistant Secretary an official semi-annual report on each agency's compliance with its AEP .

OPTION 3: The Secretary should direct each Subcabinet official to issue a statement to their Agency Head(s) reiterating the need to comply with their submitted plans.

PROS:(1-3) An effective AEP ensures that USDA is taking the necessary actions to eliminate the under representation of women, minorities and persons with disabilities. This may also help the Department to save through reductions in EEO complaint processing and settlement and court costs by providing opportunities to these groups that have not previously existed. These plans can also help to increase productivity and ensure maximum use of all human resources. Additionally, the development and execution of AEP plans must be carried out in a fashion that is consistent with the principles laid out by the Supreme Court in **Adarand Construction v. Pena.** The goals and objectives described in AEP plans cannot be unconsciously transformed into quotas. While lengthy guidance from the Department of Justice has been issued concerning the principles of **Adarand,** there is a need for more clear and simple guidance that will direct activities of officials responsible for the development and execution of AEP. This guidance will assist every agency with this mission.

CONS:(1-3) Requiring agencies to provide opportunities in these times of dwindling resources and budgets can be perceived negatively by some groups within the workforce. Recently some challenges to affirmative employment activities has occurred. However, AEP plans are still required by law.

OPTION 4: Maintain the current system of reporting for AEP plans within the Department, and place no new emphasis on the issue of employment of under represented groups within the Department.

PROS: This will not place any burdens on the agencies during these times of limited resources.

CONS: USDA will continue to not meet its requirement to implement its AEP plans. This lack of compliance has lead to many groups becoming more aggressive in their pursuit of employment issues within the Department.

RECOMMENDATION:

The Task Force recommends Options 1, 2 and 3.

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

2) **Advocate diversity on all internal task forces, committees and advisory groups.**

USDA is continually establishing task forces, committees and/or advisory groups on a large variety of issues. These groups cover a wide range of activities, and can impact on an employees ability to advance his/her career with the Federal government. While there is a published regulation requiring that USDA consider diversity as part of its appointments to external task forces, committees or advisory groups, no policy currently exists on internal activities.

There is a widespread perception among minority groups that many task forces, committees, etc. are formed at USDA with inadequate or no representation from these groups. Examples usually cited include committees working on issues such as reorganization, procurement, and the farm bill. The perception is that minority interests and viewpoints are not represented at the Department and mission area level.

Clearly, USDA benefits by using all of its resources, including persons who represent the interests of under represented groups throughout the Department. Additionally, many of the assignments are career enhancing and can assist in the development of an employee's career. The recommendation below would address this issue by reiterating the emphasis the Secretary has placed on workforce diversity. By addressing this issue, the Secretary would set forth his expectations that managers to be sensitive to and take into account the make up of all task groups which are playing an increasingly important role at the Department.

<u>OPTIONS:</u>

OPTION 1: The Secretary should issue a statement similar to that contained in Departmental Regulation 1041-1, which states that " To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women and persons with disabilities."

<u>PROS:</u> This will demonstrate the Secretary's intent that diverse perspectives be present during the work of internal task forces, committees and advisory groups. This policy would apply to internal groups the same policy currently applied to working groups which include persons outside the Department.

<u>CONS:</u> There are no obvious negatives to this recommendation.

OPTION 2: The Secretary could require agency heads to report the make up of various task forces and committees over a period of time to the Assistant Secretary for Administration. If over a period of time there appears a basis for concluding that minorities are excluded from these groups, a formal policy could be issued to specifically address this issue.

PROS: This Option would allow for data to substantiate that this is actually a problem that exists at USDA, and requires an action on the part of the Secretary at this time.

CONS: The current environment concerning employment issues is fostering a belief among some managers that diversity and affirmative employment are not important goals and objectives to strive for. This delay may lend credibility to these ideas, and promote an atmosphere that is counter to the current policy on diversity. Additionally, agencies are likely to resist any efforts to report on the racial or gender composition of various task groups without also taking into consideration the mission of the group and the specific skills needed to accomplish the mission.

OPTION 3: The Secretary shall require agency administrators to involve civil rights directors in the process of establishing agency task forces and committees to ensure adequate diversity.

PROS: Some agencies may use this process to promote diversity through the input of civil rights directors.

CONS: All managers are responsible for diversity, and at all levels of an organization. Many decisions on assignments to task groups or other career enhancing experiences, do not involve senior managers at USDA. Therefore, some managers may not be subject to this input form the civil rights directors. Additionally, this may place additional burdens on agencies to comply with this requirement, and slow the process of selection down substantially.

RECOMMENDATION:

The Task Force recommends Option 1.

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

ISSUE 3: COMPLAINTS MANAGEMENT

Historically, USDA has had a varying number of employment discrimination complaints filed each year. In the last three years, the volume has averaged between 500 to 600 cases. This is an increase in EEO activity that has been attributed to many factors, but which has caused a backlog of almost 1800 active cases, as of December 4, 1995. In addition, program complaints, which encompass complaints under Title VI and the Department's nondiscrimination-in-conducted-programs regulations, number about 100 a year . This high volume of complaints has overwhelmed the Department's complaint processing system. In each of the last five years, the Department's backlog or "pending inventory" of complaints has risen, due to the number of new cases, and problems within the centralized processing office, formerly known as the Office of Civil Rights Enforcement. For instance, in 1995, 343 more complaints were added to the unresolved surplus list. It is unanimously agreed that the Department needs to take extra steps to deal with the large volume of cases, and the devastating impact a prolonged and protracted dispute has on employees and programs.

One should note, however, that important improvements in complaint management recently have occurred which may mitigate these facts. These developments include the reorganization of the staff who review and adjudicate complaints into a separate office that will be solely responsible for this activity. This renewed focus, along with the realignment of resources within this office, should yield significant benefits for all parties concerned. This reorganization will allow both remaining entities, the Civil Rights staff within the Policy Center, and the operational entity handling complaints, to provide more effective services through clarity and focus of mission.

Over the last few months the Civil Rights staff has worked to introduce a new computer case-tracking system, *i.e.*, the EEOMAS software. This software is designed to allow access to accurate information on the current status of cases.

These changes will have a major effect on processing complaints, and their resolution time-periods. In addition to these efforts over the past year, some agencies have been moving to implement alternative dispute methods. These actions are an important tool to help each agency manage its complaint processing activities. Using informal methods of mediation and conciliation, and with first-hand knowledge of many of the sub-agency disputes, the DRB (dispute resolution boards) have been able to resolve many complaints at an early stage. This early resolution is a cost effective way of handling disputes, as it allows each party to attempt a resolution in a timely manner, and in a structured setting. These discussions have been helpful in that they allow a discussion of the issues, and helps each side to better understand the factors which led up to the complaint. On the other hand, little effort has been focused on complaint avoidance. Complaint avoidance is a proactive activity which is designed to give managers and employees the

information necessary to prevent their actions from leading to complaints. This effort would involve using such methods as providing both management and staff appropriate educational materials and training, assuring management sensitivity to the goals of and sufficient opportunities for minorities and women, and other enlightened administrative techniques to prevent many of the situations which give rise to complaints each year.

OPTIONS:

OPTION 1: Require Agencies to develop a complaint prevention program. Through the use of educational materials, training, and other means, agencies can take actions that will help prevent many complaints from being filed each year.

PROS: In such a program, an agency will identify and resolve perceived civil rights problems before they develop into unmanageable disputes or formal charges/litigation. A complaint prevention program also puts an agency in an active rather than reactive stance, thereby allowing it to deal quickly with serious or unique disputes, *e.g.*, giving it control over its agenda. Such a program would also fit into and complement the compliance programs being developed by the Civil Rights staff; thus, the agencies' efforts would be supported by activities in the Department. Finally, by actively seeking to prevent complaints, an agency will lessen or reverse the increase in the pending inventory, thus allowing the agency to begin to resolve complaints caught in the backlog. Each Agency would be given the flexibility to create a program through its civil rights staff that meets its needs in this area.

CONS: Such a program could easily be abused by providing management with a cover to discourage employees from filing complaints. A complaint prevention program would require more extensive efforts from an agency staff already overburdened with work, and one faced with budgetary cutbacks.

OPTION 2: Agencies should be required to use alternate dispute resolution techniques.

PROS: Dispute resolution techniques allow for a quick resolution of most complaints, allowing only those issues where unique legal or policy questions have been raised, or where complex disputes are at issue, to go forward to the formal complaint process.

CONS: The Department currently has a centralized DRB process. ADR techniques are very useful for all parties, but should be incorporated into the existing system of complaint processing. Complaint prevention would be an addition to the current system which would complement the process used, not replace it.

OPTION 3: Maintain the current system for processing complaints. Over the last two years, the complaint processing function was consolidated from within the agencies to the former OCRE. During the reorganization of Departmental Administration, this function was placed into the operational unit of the Office of Operations. The consolidated activity is just beginning to function in a way consistent with its design.

PROS: Continuing with the current complaint resolution policies would not have any budgetary or personnel impact; it would not require any new expenditure of funds, additional effort from the staff, or additional staff training.

CONS: The recent improvements in complaint processing should be given time to work before any additional changes are made. However, additional steps are needed to complement this system.

RECOMMENDATION:

The Task Force recommends Option 1.

DECISION BY THE SECRETARY

Approve _____

Disapprove _____

Discuss with me _____

Date _____

Reviewed by _____

ISSUE 4: RESOURCES AND STRUCTURES

The Task Force does not have any recommendations based on the submission of the Council at this time. While the Task Force agrees that resources can be an issue, it was agreed that each mission area is under severe budgetary constraints, and that no recommendation can be made at this level. The structural organizational changes recommended by the Council were also considered to have been previously addressed in the reorganization guidance for each mission area. Therefore, no recommendations are provided on these issues at this time.

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IMPORTANT NOTES

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

1996 MAY 17 P 3:22
OFFICE OF ADMINISTRATION SEC.

MEMORANDUM

TO: Wardell Townsend
Assistant Secretary
for Administration

FROM: Secretary Dan Glickman

SUBJECT: Implementation of the Secretary's response to the Report of the Blue Ribbon Task Force on Equal Opportunity and Diversity

DATE: May 17, 1996

On May 8, 1996, I issued my decisions in response to the recommendations of the Blue Ribbon Task Force on Equal Opportunity and Diversity.

A number of these decisions require your immediate attention, and I am directing you to take action as follows:

1. Effective immediately, include in your weekly report a summary of equal employment opportunity and civil rights program complaints, broken down by mission area.

2. Immediately develop, with General Counsel James Gilliland, standard language for inclusion in all settlement agreements which makes clear that the execution of the settlement agreement does not prevent the agency from taking appropriate disciplinary action against an employee if warranted.

3. Immediately establish a data base to enable issuance of a semi-annual report to each mission area on the disciplinary actions taken within their agencies. This summary report shall respect the privacy rights of the parties involved, but must include a description of actions which have been found to be discriminatory, and a description or listing of the disciplinary actions taken so that employees and managers will know that those who discriminate are subject to disciplinary action. As to respecting the privacy rights of the parties involved, please obtain the approval of the General Counsel for your reporting standards. The first semi-annual report shall be issued on December 31, 1996.

4. Issue guidance to each Under and Assistant Secretary on existing statutes and regulations executing the affirmative employment plan (AEP) program, as well as my policy on diversity (issued on June 7, 1995). Please issue this guidance no later than July 31, 1996.

5. Issue to each Under and Assistant Secretary and staff office a semi-annual report on compliance with the applicable AEP. The first such report shall be submitted to each Under or Assistant Secretary or staff director on July 31, 1996, and should cover the period from January 1, 1995, through June 1996. Please provide me with a full set of these agency reports.

6. Prepare for my issuance a policy statement similar to Departmental Regulation 1041-1 regarding diversity on all internal task forces, committees, and advisory groups no later than May 24, 1996.

7. Establish a data base that contains detailed information on diversity in the makeup of employees of the Department of Agriculture (USDA) on an agency basis. Please complete design of this data base no later than July 31, 1996, and establish this as an operational data base no later than September 30, 1996.

8. Develop detailed guidance and information on how to conduct appropriate and accurate civil rights impact analyses for mission areas and agencies. This guidance will describe the format and expectations for a reorganization civil rights impact analysis and give mission areas and agencies directions on precisely how to do such an analysis. These guidelines should be subject to the usual departmental review and incorporated in Departmental Regulation 1010-1. I expect this to be completed no later than June 30, 1996.

9. Carefully review the mission area civil rights impact analyses developed in support of USDA's reorganization, and, if such analyses are deficient: a) report such information to the Deputy Secretary in your semi-annual report on the implementation of the reorganization; and b) prepare the appropriate documents for the Deputy Secretary's signature to ensure necessary action. Your first report on this matter should be included in your next semi-annual report on implementation of the reorganization.

10. Report to me on the status of the backlog of equal employment opportunity and program discrimination cases on the last business day of every month.

11. Develop a model complaint prevention program for use by USDA mission areas and submit this model no later than September 30, 1996, (you will find it helpful to consult with other departments and agencies that have successfully developed and implemented such programs--and to base USDA's model on such programs).

These actions, which represent a substantial down payment on my commitments at the Civil Rights Forum, will help USDA create a better environment for all of its employees. If you have any questions about how to carry out any of these matters, please let me know. As we have discussed, this is a very high priority for the Department.

Thank you for your assistance in these matters.

cc: General Counsel James Gilliland

IMPORTANT NOTES

8

IMPORTANT NOTES

MATRIX TO THE

SECRETARY'S RESPONSE TO THE BLUE RIBBON TASK FORCE REPORT

MAY 8, 1996

ACCOUNTABILITY

ISSUE	COMMITMENT	RESPONSIBILITY	TIME FRAME*
Strengthen accountability by conducting appropriate and accurate civil rights impact analyses for agency reorganizations	Develop detailed guidance to mission areas and agencies that would become a permanent part of Departmental Regulation 1010-1, Reorganization.	Assistant Secretary for Administration; Director, Civil Rights; Human Resources offices	June 30, 1996
	Review guidelines for legal sufficiency.	Office of the General Counsel	June 30, 1996
	Refuse to grant approval for any new reorganization plan that does not include a comprehensive civil rights impact analysis.	Assistant Secretary for Administration; Director, Civil Rights; Director, Human Resources Management	Ongoing
Clarify standard complaint settlement language regarding corrective actions against discriminating officials	Develop standard language for inclusion in all settlement agreements which makes clear that the execution of the settlement agreement does not prevent the agency from taking appropriate disciplinary action against an employee if warranted.	Assistant Secretary for Administration; Office of the General Counsel	Immediately (define this)
Include civil rights directors in civil rights policy issue discussions	Issue a statement reaffirming the need for inclusion of civil rights directors in civil rights matters before policy decisions are made where there is a possible effect on reinvention, downsizing, and/or reorganization.	Subcabinet officials	Immediately (define this)
Take appropriate disciplinary action where discrimination is found	Issue a statement to agency heads reinforcing the requirement that appropriate action be taken against any employee found to have discriminated.	Subcabinet officials	TBD
	Issue a bi-annual report to each mission area on disciplinary actions taken within their agencies. This report would respect the privacy rights of the parties involved, but include descriptions of actions which have been found to be discriminatory so that employees and managers will know that those who discriminate are subject to disciplinary action.	Assistant Secretary for Administration	December 31, 1996

UNDER REPRESENTATION/UNDERUTILIZATION

ISSUE	COMMITMENT	RESPONSIBILITY	TIME FRAME*
Address under representation and diversity	Issue to each Under and Assistant Secretary guidance on existing statutes and regulations executing the AEP program, as well as the Secretary's policy on diversity.	Assistant Secretary for Administration	July 31, 1996
	Issue to each Under and Assistant Secretary an official semi-annual report on each agency's compliance with its AEP.	Assistant Secretary for Administration	July 31, 1996
	Issue a statement to their agency heads mandating compliance with their AEP.	Subcabinet officials	May 31, 1996
Advocate diversity on all internal task forces, committees, and advisory groups	Issue a statement similar to the Departmental Regulation 1041-1, which states that: "To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women and persons with disabilities."	Assistant Secretary for Administration	May 24, 1996

COMPLAINTS MANAGEMENT

ISSUE	COMMITMENT	RESPONSIBILITY	TIME FRAME*
Develop a complaint prevention program	Develop a complaint prevention program. Through the use of educational materials, training and other means, agencies can take actions that will help prevent many complaints from being filed every year.	Assistant Secretary for Administration	September 30, 1996

Reports on Elimination of Adjudication Backlog	Prepare a status report on the EEO complaints that have been in the system longer than 180 days. Provide additional resources dedicated to processing those complaints that have been in the system longer than 180 days.	Assistant Secretary for Administration; Director, Office of Operations Secretary	Every 30 days, on the last business day of each month As needed

* Time frames indicated are from the Secretary's May 17, 1996, memoranda to Wardell Townsend, Assistant Secretary for Administration, and Members of the Subcabinet

Complaints Adjudication:			
Timely processing of EEO complaints	Establish standard operating procedures for processing EEO complaints..	Assistant Secretary for Administration; Director, Civil Rights	TBD
	Finalize standard operating procedures for processing program complaints.	Assistant Secretary for Administration; Director, Civil Rights	TBD
	Establish a separate section in CFR on program complaints.	Assistant Secretary for Administration; Director, Civil Rights	TBD
	Assign a single adjudicator to each complaint for processing "from cradle to grave."	Assistant Secretary for Administration; Director, Office of Operations	TBD
Reporting responsibilities	Provide additional resources to the Office of Operations Employment Complaints Adjudication Division.	Deputy Administrators for Management	Immediately (define this)
	Include in weekly report a summary of EEO and program complaints, broken down by mission area.	Subcabinet officials	Immediately (define this)
Compliance with Settlement Agreements and Court or EEOC Orders: Failure to comply with settlement agreements and Court or EEOC orders	Conduct a survey of any outstanding settlement agreements and court or EEOC orders. Each Under and Assistant Secretary must comply with those agreements.	Subcabinet officials	June 30, 1996 and Ongoing

ADDITIONAL ACTIONS

ISSUE	COMMITMENT	RESPONSIBILITY	TIME FRAME*
Performance Reviews: Individual accountability for civil rights	Develop benchmarks to measure the EO/CR performance of employees below the Senior Executive level	Assistant Secretary for Administration	TBD
Diversity: Database with detailed work force diversity information	Design a database that will provide adequate details on work force composition in USDA by agency.	Assistant Secretary for Administration; Director, Civil Rights; Director, Human Resources Management	Design: July 31, 1996 Implementation: September 30, 1996
Downsizing: Impact of downsizing on all employees, especially minorities and women	Follow up and build on recommendations made during the "Building Bridges for a Better USDA" forum (May 14, 1996) workshops that retain diversity during downsizing activities.	Assistant Secretary for Administration	TBD
Civil Rights Impact Analyses: Strengthen accountability by conducting appropriate and accurate civil rights impact analyses for agency reorganizations	Develop detailed guidance to mission areas and agencies that would become a permanent part of Departmental Regulation 1010-1, Reorganization.	Assistant Secretary for Administration; Director, Civil Rights; Human Resources offices	June 30, 1996
	Review guidelines for legal sufficiency.	Office of the General Counsel	June 30, 1996
	Refuse to grant approval for any new reorganization plan that does not include a comprehensive civil rights impact analysis.	Assistant Secretary for Administration; Director, Civil Rights; Director, Human Resources Management	Ongoing