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STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON CIVIL SERVICE OF THE
HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE
ON
EQUAL EMPLOYMENT OPPORTUNITY ISSUES

Madam Chairwoman and Members of the Subcommittee:

I appreciate your invitation to appear before the Subcommittee today to discuss equal employment opportunity in the Federal work force. I will briefly summarize what we found in past GAO reports and some current developments on the issues raised.

PROCESSING DISCRIMINATION COMPLAINTS

Very basic to a sound Equal Employment Opportunity (EEO) program is a timely, efficient discrimination complaints processing system which protects employees' rights and, at the same time, protects agencies and supervisory personnel against unsupported allegations of discrimination.



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Among other findings in a 1977 study, we reported that processing of formal complaints was seldom accomplished within the established 180 calendar day standard. 1/

We have not evaluated corrective actions the agencies may have taken but based on limited follow up work, it appears that improvements are still needed.

In October 1980, the Equal Employment Opportunity Commission (EEOC), which now has responsibility for the EEO complaint system, issued a staff report saying

"Extensive delay has been the rule, rather than the exception, and serious questions have been raised as to the levels and adequacy of relief obtained for complainants."

Recent EEOC data on about 50 agencies supports their observation. One agency averaged 757 days to process 115 cases. Another agency averaged 665 days for 166 cases, and a third averaged 528 days for 536 cases. Even when complaints are rejected, some agencies far exceed the 180-day standard. One agency averaged 316 days to reject 49 complaints; another averaged 265 days to reject 32 complaints; and a third averaged 210 days to reject 24 complaints. Our review of a limited sample of case files showed similar times for complaint processing.

EEOC is developing new regulations for the agency's complaint processing systems. However, they are in the early stages of

1/"System for Processing Individual Equal Employment Opportunity Discrimination Complaints: Improvements Needed," FPCD-76-77, April 8, 1977.

preparation and are not likely to be issued before early in fiscal year 1983. While we believe regulations are needed, we also believe action is needed immediately to substantially reduce complaint processing time.

FEDERAL EQUAL OPPORTUNITY
RECRUITMENT PROGRAM

On December 3, 1980, we reported the results of our evaluation of the Federal Equal Opportunity Recruitment Program (FEORP). 1/ We noted that EEOC's definition of Civilian Labor Force (CLF), which they believe is required by statute, would cause difficulties for agencies in implementing FEORP. We also said that using this definition for Affirmative Action Programs would result in unrealistic hiring goals.

Agency officials also told us that first year FEORP plans were delayed because of late OPM program guidance, significant data collection requirements, and the uncertain relationship between FEORP and affirmative action plans. We also found that OPM and EEOC did not fully discharge their responsibilities for evaluating FEORP plans on a timely basis.

OPM and EEOC will coordinate review, monitoring, and evaluation activities. EEOC intends to review FEORP plans to determine whether proposed recruiting and staffing strategies meet affirmative action requirements. EEOC will consult OPM on any deficiencies, and OPM will request modifications or corrections.

1/"Achieving Representation of Minorities and Women in the Federal Work Force," FPCD-81-5, December 3, 1980.

AFFIRMATIVE ACTION

On December 30, 1980, we issued a report on the status of Federal agencies' implementation of affirmative action planning. 1/

At the time of our report, EEOC was developing its multi-year affirmative action plan instructions and was addressing several of the problems we identified.

The multi-year instructions were issued on January 1, 1981, and required agencies to submit affirmative action plans by October 1, 1981, covering fiscal years 1982 through 1986. These instructions, however, did not become official until August because of concerns raised by the National Archives and Records Services (NARS) that the instructions duplicated other data reporting requirements--specifically some of the reporting requirements for OPM's Central Personnel Data File (CPDF).

Because of the delay, EEOC had informed agencies on June 15, 1981, that they would not be required to use the affirmative action plan format established in the multi-year instructions. We were also told agencies have been allowed to

- determine the organizational levels of plan development,
- utilize agency developed work force profile formats,
- utilize alternative availability statistics,
- remove the "doubling concept" in goal setting, and
- omit training and personnel data information.

1/"Implementation of Affirmative Action Planning," FPCD-81-25, December 30, 1980.

Several of the steps taken by EEOC should help alleviate the problems agencies have experienced in setting realistic hiring goals.

Agencies are still required to submit their affirmative action plans by October 1, 1981. However, the Director of EEOC's Office of Government Employment told us he is uncertain how many plans will be received.

EEOC has not yet implemented a program to monitor compliance with affirmative action plans although it planned to develop and implement such a program during fiscal year 1980.

EEOC's Executive Director told us at the time of our review that the planned program had been premature. The proper scope of such reviews had not been agreed upon, and the size of the staff that would be needed to perform these reviews had not been determined.

EEOC's Director of the Office of Government Employment told us that his staff is currently working on guidelines for providing technical assistance to Federal agencies in developing affirmative action plans. These guidelines for monitoring Federal agencies' plans are to be used by EEOC regional office staffs. He emphasized that the purpose of the monitoring is to identify areas in which agencies need technical assistance in developing and implementing affirmative action plans.

FEDERAL EXAMINING PROCEDURES

In view of the controversy and litigation involving the Professional and Administrative Career Examination (PACE), we are

looking at possible alternatives to that examination. Our work is far from complete, but I will mention our early findings.

Alternative examining procedures have been developed and used by two agencies--the Social Security Administration (SSA) and the Federal Deposit Insurance Corporation (FDIC). Two other agencies--the Department of Defense and the Immigration and Naturalization Service--have also developed alternative procedures and have either just started or will soon begin using them. Of four other agencies which have been delegated authority to do their own examining, two will not be hiring in the affected occupations for the foreseeable future; one is still working on instrumentation; and we have no information about the other one.

Preliminary information on the procedures used for the Claims Representative Examination for Social Security (CRESS) indicates these procedures have no adverse impact on Blacks and Hispanics, while PACE screened out disproportionately large numbers in these two groups. For example, 26 percent of the CRESS applicants and 25 percent of the hires were Black; 9 percent of the applicants and 15 percent of the hired were Hispanic.

On the other hand, the CRESS examination appears to have a much greater adverse impact than PACE on females, is considerably more expensive to use, and produces less satisfactory hires than did the PACE exam. The adverse impact on females appears to be from the application of veterans' preference. While 15 percent of the applicants were veterans, 85 percent of the hires had seen military

service. On the other hand, while 62 percent of the applicants were women, they represented only 20 percent of the hires.

SSA estimates that it has cost at least \$2 million--and perhaps as much as \$4.3 million--to develop and use CRESS. The cost is high largely because of the numbers of applicants screened, and the manner in which they were screened. SSA received almost 70,000 applications during the week the CRESS competition was open and had to detail about 70 staff members to review those applications. Over 500 supervisors and managers were needed to interview about 13,000 applicants whom SSA felt were still qualified after various screenings.

There has been no attempt to develop the type of thorough evaluation research for CRESS that was used in validating PACE. However, the summaries of comments from field management and the turnover data which appear in records furnished us by SSA indicate that CRESS hires, as opposed to PACE hires,

- learn at a slower rate and require more remedial training;

- have high turnover; and

- are unable to conduct SSA interviews as well.

If these trends continue, the cost of the productivity loss to the Federal Government due to CRESS could far exceed the estimated cost of test development.

According to senior officials responsible for human resources, management, and program evaluation at SSA, CRESS procedures were primarily to blame for the poor hires. Rather than testing for cognitive skills or recently-demonstrated ability to learn, the

examination emphasized work experience and skills at "meeting and dealing" with others. Consequently, high scorers were often much older than the recent college graduates who were typically hired from the PACE registers. They were no longer familiar with formal learning situations in which they were expected to absorb and retain large volumes of difficult information. (Adding support to this view is the fact that a number of CRESS hires indicated, during exit interviews, that they were leaving SSA because they found the claims representative job to be very complex.)

Because of their dissatisfaction with the results of CRESS, SSA officials hope that they will be able to select claims representatives using both an interview to measure interpersonal skills and a cognitive abilities test being developed by OPM for another SSA occupation with similar learning requirements.

The preliminary information we have on the alternative examining procedures used to select bank examiners at FDIC, in many respects, paints just the opposite picture as that painted by CRESS. The FDIC procedures do not stand up as well in terms of impact on minorities (14 percent of the white applicants were hired while only 7 percent of the minority applicants were hired). However, they did have less impact on females (17 percent of the male applicants were hired as compared to 12 percent of the female applicants). This was perhaps because only 18 percent of the hires were veterans. The cost of development and use of these procedures was also relatively small in part because there were only about 1,400 applicants as opposed to 70,000 for CRESS. Agency

figures indicate development and use of these procedures cost approximately \$210,000. Anecdotal feedback on quality of hires indicates they were just as good, if not better than, the PACE hires. FDIC officials we spoke with want to keep using the alternative procedures.

We cannot reach definitive conclusions based on a limited review of only two programs. However, we understand that OPM has recently completed an evaluation of delegated examining authority and is in the process of preparing a revised Federal Personnel Manual policy.

GUIDELINES ON EMPLOYEE
SELECTION PROCEDURES

In February 1978, we reported on the 6-year effort by the Federal Government to determine what constitutes proper use of employment tests in view of EEO law and professional standards and practice. 1/

The Uniform Guidelines on Employee Selection Procedures were finally issued in August 1978. They are not easy to understand. According to standard measures of reading difficulty, comprehension of the Guidelines requires a post-doctoral level of education. To clarify their meaning, the Government issued nearly 100 "Questions and Answers" over the next year and-a-half. Opposition to the Guidelines has now intensified, so we recently talked to

1/"Problems with Federal Equal Employment Opportunity Guidelines on Employee Selection Procedures Need to be Resolved," FPCD-77-54, February 2, 1978.

a number of people about the need to revise them and to determine the extent of Federal implementation.

The central issue is whether the Uniform Guidelines conform to current professional standards. Although intended to be consistent with such standards, the American Psychological Association's (APA) Committee on Psychological Tests and Assessment has stated they "reflect a reliance on and usage of measurement theory that does not represent the current state of research and theory in this area." Minority group representatives contend that revisions should wait until the new APA standards are issued in late 1982. Other issues center on the ability of employees to meet the Guidelines' provisions and the costs and benefits of compliance. Many employers assert that the collection of adverse impact data on all applicants for all employment decisions for all jobs is an impossibility. They further contend that the costs of collecting data, validating tests, and using alternative selection procedures as required in the Guidelines are prohibitive.

The benefits of the Guidelines for women and minorities are difficult to measure. Although no one we spoke with during our work could cite empirical studies demonstrating their effects, proponents argued that major modifications to the Guidelines would severely affect employment opportunities for protected groups.

The four agencies which promulgated the Uniform Guidelines on Employee Selection Procedures appear to be evenly split on the need to revise them. OPM is strongly in favor of revision; EEOC is strongly opposed; the Departments of Labor and Justice have no current position.

Although the Uniform Guidelines have been in effect for 3 years, Federal agencies are only now beginning to collect data on the impact of the selection procedures required as a first step in implementation. There were lengthy negotiations between OPM and OMB before OPM formally authorized collection of these data on January 15, 1980. Approval for collection of data from incumbent Federal job applicants was not given until October 14, 1980. Since that time, Federal agencies have been developing their own agency-specific plans for data collection.

The data collection costs for Guidelines compliance are as high for Federal agencies as for private employers. The Guidelines require collection of adverse impact data on those who express an interest in any employment decision. Last year, the Federal Government processed over 1 million job applications and many more expressed an interest in employment. One Federal personnel manager said there are normally over 1,500 employment decisions in his agency each day, and sometimes 50 or more applicants for each vacancy. One bureau in his agency estimated the costs of maintaining and analyzing the adverse impact data required by the Uniform Guidelines at over \$200,000 a year.

One of the primary recommendations in our 1978 report was that the President and the Congress should be provided with accurate and reliable information on the costs and effects of enforcing uniform guidelines, once adopted. In early 1979, OMB required EEOC to conduct a "practical utility survey" of the Guidelines' recordkeeping requirements. After two extensions of

the deadline for completion of the study, EEOC finally received OMB approval for the survey design in July 1981.

After reviewing a copy of the design, we concluded that the survey would yield little in the way of accurate and reliable information concerning the Guidelines' "practical utility." We conveyed our concerns to OMB and EEOC on August 18, and an independent review by the Bureau of the Census was agreed upon by all parties. That review concluded the survey was inadequate and suggested major changes. At this point, it is unclear whether the survey will be amended to reflect GAO and Census' concerns.

On August 12, the Presidential Task Force on Regulatory Relief announced that the Uniform Guidelines would be among 30 regulations targeted for review. Most of the agency representatives and others we spoke with believe that review will significantly increase the chances for revision of the Guidelines.

However, it should be noted that the proposed review is to be conducted by officials at EEOC, with OMB oversight. EEOC submitted a plan for OMB approval on September 9, the centerpiece of which was the "practical utility survey." This raises concerns not only about the adequacy of the data, but also about the appearance of conflict of interest. The agency most strongly committed to the continuance of the Guidelines is charged with conducting a review of its administration and regulatory burden.

SPECIAL EMPHASIS PROGRAMS

Special emphasis programs were established in Federal agencies because women and minorities perceived that their needs were

not being adequately considered or met in existing EEO programs.

There are five such Government-wide programs:

- The Federal Women's Program.
- The Hispanic Employment Program.
- The Selective Placement Program for the Handicapped.
- The Minority Outreach and Upward Mobility Program.
- The Veterans Employment Program.

Other special emphasis programs have been established within individual agencies.

In August 1980, we reported that special emphasis programs hold the promise of being an effective means of advising agency management on the special need of underrepresented groups. 1/ However, we also reported that the roles and duties of program managers were not defined; the cost and goals of the program were not specific; cost accountability and effectiveness evaluations were limited or nonexistent; and top management commitment varied. We urged that agency management promptly address these issues.

OPM generally agreed with our findings, conclusions, and recommendations and expressed its belief that our report would contribute to strengthening special emphasis programs in the departments and agencies. OPM said it had begun and would continue to take steps to carry out our recommendations as resources permitted.

1/"How To Make Special Emphasis Programs an Effective Part of Agencies EEO Activities," FPCD-80-55, August 27, 1980.

At your request, we recently surveyed all executive departments and OPM to determine whether changes had taken place or were planned since January 1981 in the staffing, functions, level of reporting, organization, or resources of their special emphasis program. We also asked for similar information on any changes made or planned in their internal EEO offices.

Six departments reported they had made no changes in their special emphasis programs or EEO offices. The remaining departments reported that in some cases, resources have been added, but, in others, positions have been or will be eliminated, consolidated, transferred to other operating units, or will be filled on a collateral duty rather than a full-time basis. We did not evaluate or verify the information provided.

EFFECT OF REDUCTIONS-IN-FORCE
ON WOMEN AND MINORITIES

One of the areas of interest you mentioned in announcing this hearing was how the current reductions-in-force (RIFs) will affect women and minorities. You also asked what is being done to help women and minorities during this period of contraction.

We have begun work on RIFs in specific agencies but have no information thus far on their impact on particular groups.

We suspect, however, that women and minorities will comprise a sizeable portion of the terminated employees. Women and minorities fill a sizeable percentage of the other than full-time positions in Federal agencies. If agencies decide to cut these positions first, women and minorities would be particularly hard hit. Also, because women and minorities often have less tenure

in their positions, they may be low on retention registers. Moreover, most women are not eligible for veterans' preference which again makes them more vulnerable during a RIF.

Displacement assistance to all employees, including women and minorities, affected by a RIF is administered by each Federal agency, by OPM, and now by the Department of Labor's U.S. Employment Service. None of the programs is designed to specifically help women and minorities.

Each agency has responsibility for providing what is referred to as positive placement assistance. This can include early efforts to reassign affected employees to vacant positions in the agency, assistance to improve the employees' marketability, and interagency coordination and referrals. Also, each agency is required to maintain a Reemployment Priority List which lists employers in the commuting area.

OPM recently started the Voluntary Interagency Placement Program which is essentially designed to expand the positive placement efforts of individual agencies. They also administer the Displaced Employees Program that has been the main assistance program of OPM.

Because of the high volume of displacements in fiscal year 1981, the Department of Labor is providing assistance to displaced employees through the U.S. Employment Services' Interstate Processing Service. This is a job marketing service, set up under the authority of the Wagner-Peyser Act of 1933, to assist non-Federal persons seeking jobs in State and local government and

the private sector. The system is now accepting, on a test basis, information on displaced Federal employees and Federal job vacancies. Federal employees registering in this system can also be matched with State and local government and private sector job vacancies that the system contains.

We recently initiated a review to assess the operations and effectiveness of these assistance programs. In addition, we have started an evaluation of the Part-Time Career Employment Act of 1978 in which we plan to examine the effects of RIFs on part-time employees.

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Madam Chairwoman, that concludes my prepared statement. My colleagues and I will be pleased to respond to any questions the Subcommittee may have.