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**Testimony**

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**EEOC: FEDERAL  
AFFIRMATIVE PLANNING  
RESPONSIBILITIES**

Statement of Nancy Kingsbury, Director,  
Federal Human Resource Management  
Issues, General Government Division



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## EEOC: FEDERAL AFFIRMATIVE PLANNING RESPONSIBILITIES

Summary of Statement by  
Nancy Kingsbury, Director, Federal  
Human Resource Management Issues

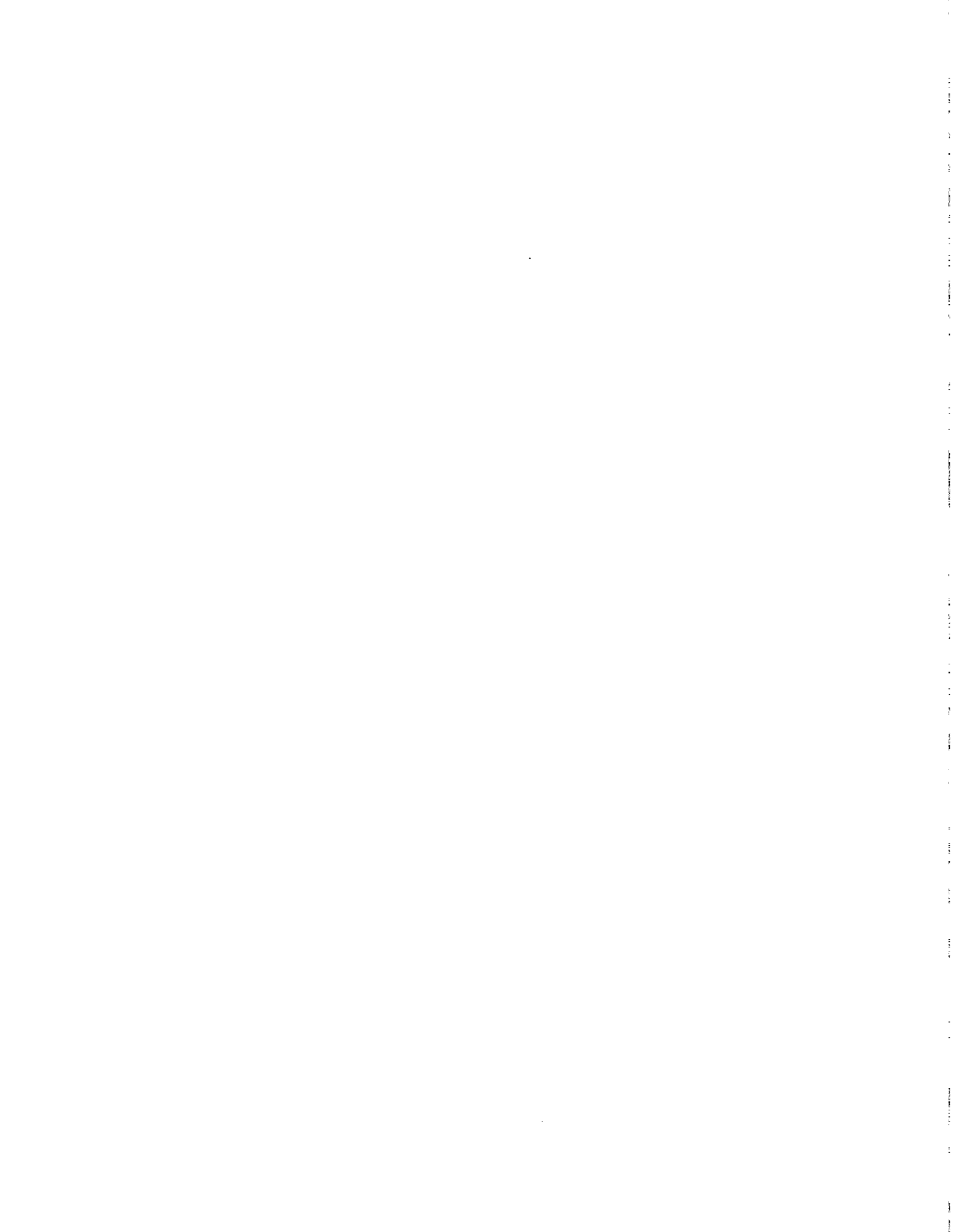
This testimony reviews GAO's work on the role of the Equal Employment Opportunity Commission (EEOC) in creating a federal workforce that is discrimination free and reflective of the nation's population. In the federal sector, EEOC responsibilities include providing guidance on affirmative employment programs and approving agencies' affirmative employment plans.

To find out how far federal agencies have come in increasing employment of women and minorities, GAO compared today's federal white-collar workforce with the workforce in 1982 and with the civilian labor force. Although there were general increases, some groups, for example, Hispanic men and women, are not fully represented in the federal workforce as a whole. All groups of women and minorities have gained in representation relative to white men at all grade levels. Still, women and minorities are more likely to be in lower grades than in upper grades.

EEOC requires agencies to prepare 5-year affirmative employment plans. In examining the plans of 35 agencies, GAO found that many agencies were late, some very much so, in submitting plans. A critical analysis in affirmative employment plans is the analysis of representation of women and minorities in key jobs, that is those jobs that can lead to higher level and management positions. Agencies often did not perform these analyses. Nonetheless, EEOC approved the tardy or incomplete plans.

GAO also found that (1) EEOC sometimes mandates the use of out of date data for affirmative employment planning; (2) EEOC does not sufficiently encourage agencies to analyze trends in hiring, training and development, promotion, and separation, that would provide additional information useful for achieving affirmative employment goals; and (3) neither EEOC nor the Office of Personnel Management helps agencies collect information on the minority and gender composition of the applicant population, information that would assist in focusing recruiting activities to increase workforce diversity. GAO has brought all of these issues to EEOC's attention and it has agreed to act on our recommendations.

EEOC must provide stronger leadership in assisting agencies in affirmative employment planning. Although stronger leadership from EEOC is essential, the President and the Congress need to emphasize to agency heads that they must have assertive affirmative employment programs in place and hold their senior managers accountable for achieving a representative workforce, particularly at higher grade levels.



Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the Equal Employment Opportunity Commission's (EEOC) role in creating a federal workforce that is discrimination free and reflective of the nation's population. An important element of that role is to provide leadership and guidance to federal agencies in their affirmative employment activities, and I will focus on this element in my testimony today.

My observations are based on the work we have completed over the past several years (see attachment). On the basis of that work, we believe that EEOC must provide stronger leadership in assisting agencies in affirmative employment planning. It must work with federal agencies to better identify and address barriers to the entry and progression of women and minorities. Although stronger leadership from EEOC is essential, the President and the Congress need to emphasize to agency heads that they must have affirmative employment programs in place and hold their senior managers accountable for achieving a representative workforce, particularly at higher grades.

#### BACKGROUND

The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the workforce. In addition, the Civil Service Reform Act of 1978 clearly stated for the first time in law that federal personnel management provide a competent, honest, and productive federal workforce that is reflective of the nation's diverse population.

EEOC plays an important leadership role to help bring about a workforce reflective of the nation's population. It is responsible for

- providing agencies with guidance on their affirmative employment programs,
- approving agencies' affirmative employment plans,
- monitoring agencies' implementation of affirmative employment policies and programs, and
- processing employment discrimination complaints filed by federal employees and job applicants.

Since 1981, EEOC has issued two management directives to guide executive agencies in their affirmative employment planning for women and minorities. The latest of these, Management Directive 714, was issued in 1987 and under this directive, agencies must develop multiyear affirmative employment plans and prepare annual

updates and annual accomplishment reports. We understand that EEOC is working on a directive to replace Management Directive 714.

EEOC's Office of Federal Operations is responsible for helping agencies prepare their affirmative employment plans, for reviewing those plans during EEOC's approval process, and for monitoring their implementation.

The office also has discrimination complaint responsibilities. It manages EEOC's federal sector pre-appellate complaint processing program. Under this program, EEOC administrative judges hear employment discrimination complaints of federal job applicants and employees--about 6,900 hearings were requested in fiscal year 1992--and recommend decisions to agencies. It staffs an appellate review program that reviews employment discrimination decisions made by agencies or the Merit System Protection Board or through grievance and arbitration proceedings. About 6,000 cases were appealed in fiscal year 1992, most of which were employees/applicants appealing agencies' decisions.

The Office of Federal Operations also monitors compliance with EEOC's decisions and orders, such as those requiring agencies to take corrective actions. And it oversees federal agency complaint processing programs.

My colleague, Linda Morra, described for you last July the EEOC responsibilities that apply to the private sector.<sup>1</sup> These responsibilities, however, are outside of the Office of Federal Operations.

WOMEN AND MINORITY  
REPRESENTATION IN  
THE FEDERAL WORKFORCE

After more than a decade of multiyear affirmative planning and activities, what are the results? How far have federal agencies come in increasing their employment of women and minorities? To find out, we compared today's federal white-collar workforce<sup>2</sup> with the 1982 workforce and with the white-collar civilian labor

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<sup>1</sup>EEOC: An Overview (GAO/T-HRD-93-30, July 27, 1993).

<sup>2</sup>The workforce data, which were as of September 1982 and June 1993, were of full-time permanent employees employed in cabinet-level and most other executive branch agencies. The data does not include, for example, the U.S. Postal Service. The Postal Service does not report data to the Office of Personnel Management's Central Personnel Data File (CPDF), which was the source of our data.

force. As tables 1 and 2 show, there have been general increases in representation. For example, eight groups show some increase in representation between 1982 and 1993. However, in comparison to the white-collar civilian labor force there are still some groups, for example, Hispanic men and women, who are not fully represented in the federal workforce as a whole. Other groups, notably black women, are better represented in the federal workforce as a whole than in the civilian labor force.

Table 1: Employment of Women in the Federal White-collar Workforce in September 1982 and June 1993

EEO group	Percent of white-collar		
	Federal workforce in Sept. 1982	Federal workforce in June 1993	Civilian labor force in 1990
White females	32.0	31.6	44.0
Black females	9.5	11.7	5.7
Hispanic females	1.6	2.4	3.1
Asian females	0.9	1.5	1.6
Native American females	0.7	1.0	0.3

Note: The Asian EEO group includes Asian Americans and Pacific Islanders.

Source: CPDF and 1990 census data.

Table 2: Employment of Men in the Federal White-Collar Workforce in September 1982 and June 1993

EEO group	Percent of white-collar		
	Federal workforce in Sept. 1982	Federal workforce in June 1993	Civilian labor force in 1990
White males	46.1	41.8	37.8
Black males	4.9	5.1	3.1
Hispanic males	2.1	2.5	2.7
Asian males	1.1	1.8	1.6
Native American males	0.6	0.7	0.2

Source: CPDF and 1990 census data.

The presence of women and minorities in the federal workforce may also be gauged by where they stand in the government's hierarchy. Even if they were fully represented in the federal workforce, their representation would be incomplete if they mostly occupied the lower ranks of the government's hierarchy. To determine whether women and minority representation increased in the government's higher grades, we determined the number of women and minorities for every 1,000 white men at various grades in 1982 and 1993. We chose white male employees as our benchmark because they have historically predominated in the federal workforce, especially at the upper ranks.

As tables 3 and 4 show, all groups of women and minorities have gained relative to white men in grades 1 through 10, 11 and 12, 13 through 15, and the Senior Executive Service (SES). Still, even with the relative increases, women and minorities are more likely to be in lower grades than at the upper grades.

We recognize that progress has been made. But it is clear as well that further progress is necessary. We believe the work we have done in the affirmative planning area can provide ways to improve the planning process in order to make further progress.



**Table 3: Numbers of White Females and Minority Females per 1,000 White Men at Different Grades in Federal White-Collar Workforce From September 1982 Through June 1993**

EEO group	Grade							
	1-10		11-12		13-15		SES	
	1982	1993	1982	1993	1982	1993	1982	1993
White females	1684	1797	232	466	88	239	57	128
Black females	523	788	55	122	16	48	9	16
Hispanic females	91	155	8	27	2	9	1	4
Asian females	46	82	7	24	3	11	0 <sup>a</sup>	2
Native American females	40	72	3	10	1	3	0 <sup>b</sup>	1

Note: The numbers shown are relative rather than actual numbers of employees. For each category, the relative number was computed by dividing the actual number of employees in an EEO group by the actual number of white male employees and multiplying the result by 1,000.

<sup>a</sup>There was one Asian female in the SES in September 1982.

<sup>b</sup>There were no Native American females in the SES in September 1982.

Source: CPDF data.

Table 4: Numbers of Minority Males per 1,000 White Men at Different Grades in Federal White-Collar Workforce From September 1982 Through June 1993

EEO group	Grade							
	1-10		11-12		13-15		SES	
	1982	1993	1982	1993	1982	1993	1982	1993
Black males	202	245	62	90	45	57	45	53
Hispanic males	79	99	34	56	20	32	9	16
Asian males	28	47	26	49	20	36	7	10
Native American males	21	28	11	13	6	9	7	8

Note: The numbers shown are relative rather than actual numbers of employees. For each category, the relative number was computed by dividing the actual number of employees in an EEO group by the actual number of white male employees and multiplying the result by 1,000.

Source: CPDF data.

IMPROVEMENTS NEEDED IN AFFIRMATIVE PLANNING

EEOC's Management Directive 714 requires agencies to prepare 5-year affirmative employment plans. The time frames of the plans have been extended because Management Directive 714 is in effect until a new directive is approved by the EEOC commissioners.

Agencies were required by Management Directive 714 to submit their plans to EEOC by one of two dates in 1988. Many agencies were late, some very much so, in submitting the plans. Twenty-nine of the 35 agencies that we reviewed were late; nine agencies were 8 to 12 months late, and six were over 12 months late. In addition, EEOC approved plans even when the required workforce analysis of major occupations was missing, which happened frequently, and took 13 months on average to approve these plans.

Management Directive 714 requires agencies to identify their major occupations and analyze the workforces of these occupations to determine if women and minorities are appropriately represented. However, in examining the plans of the 35 agencies,

we found that agencies (1) often did not perform workforce analyses by key job as required by EEOC, (2) were often confused about the definition of "key job," and (3) did not always identify their key jobs.

The lack of analysis of key jobs is a critical omission. We believe that a fundamental means of enabling white women and minorities to be appropriately represented in middle and upper management is to ensure that they are appropriately represented in agencies' key jobs. EEOC agrees. Officials from EEOC have said that shattering the glass ceiling in the federal government will depend on (1) getting women and minorities into the job tracks that lead to top management and (2) providing them with the necessary training and development opportunities to progress within those job tracks.

Management Directive 714 requires agencies to compare their EEO profiles with the EEO profile of the appropriate civilian labor force. This is done as an initial step to determine whether an EEO group is underrepresented in an agency's workforce. EEOC requires agencies to use decennial census data on the civilian labor force. However, it required agencies to use that data even when the data became outdated and when other alternatives may have been available.

Another method of measuring the government's effort to reflect the nation's diverse population is to look at the personnel events that bring people into and out of the federal workforce as well as their progression in the workforce. These events include recruitment, hiring, training and development, promotion, and separation.

Analyzing such events should help identify barriers to the entry and progression of women and minorities in the federal workforce and help arrive at ways to overcome the barriers. We believe that the need for such analysis will become more critical if the National Performance Review's recommendations for decentralizing the federal personnel system are enacted.

Generally, EEOC's requirements for collecting and analyzing personnel events are much less stringent than for measuring representation standings. In contrast to measuring representation, EEOC, through Management Directive 714, lets agencies decide what to analyze and report regarding employee hiring, training and development, promotion, and separation. Consequently, our review of agencies' multiyear plans showed they included mainly anecdotal information with limited supporting analyses.

Another personnel event that has not been thoroughly analyzed is recruitment. Agency recruiting efforts establish pools of applicants for given jobs. Data that identify the gender, race,

and ethnic origin of job applicants, referred to as applicant flow data, are commonly acknowledged to be critical in enabling agencies to determine the extent to which women and minorities are applying for jobs and, where underrepresentation exists, whether their recruiting or hiring efforts are a cause for the underrepresentation.

Applicant flow data are not being adequately collected. During the early 1980s, the Office of Personnel Management (OPM) and EEOC required agencies to collect the data using an OPM form. However, authorization for the form expired, and OPM did not seek reauthorization from the Office of Management and Budget. In 1989, EEOC proposed a directive that would have required agencies to collect EEO applicant flow data, but, at OPM's request, did not issue the proposed directive. We found that some agencies collect the data, but others do not.

We have brought all of the items we have reported here to EEOC's attention, and EEOC has agreed to act on our recommendations to resolve these issues.

MANAGERS MUST BE HELD  
ACCOUNTABLE TO ACHIEVE  
EEO PROGRESS

After data have been analyzed, agencies must set forth reasonable affirmative employment objectives, establish time frames, and hold managers accountable for meeting them. Agencies frequently do not set measurable affirmative employment goals, although the plans have been approved by EEOC. For example, a plan may simply say that the agency will try to increase the number of women and minorities in the applicant pool. Although the Civil Service Reform Act of 1978 enacted into law a requirement that SES performance contracts include achievement of EEO and affirmative action goals, at agencies we have reviewed, SES performance work plans do not specifically hold managers accountable for meeting affirmative employment objectives. For example, the plan may contain a vaguely written statement that the manager will support the agency's EEO/human resources program. Specificity is needed to truly gauge how successfully the executives are carrying out their affirmative employment responsibilities.

The Vice President's National Performance Review report contains a recommendation to "improve accountability for equal opportunity goals and accomplishments." This moves in the direction of the kind of specificity we believe is needed. However, the mechanisms for achieving this accountability have not yet been presented.

EEOC cannot stand alone in achieving a representative workforce. We believe that keeping an affirmative employment program functioning in a healthy and progressive manner requires the

commitment of managers at all levels of government and continued monitoring of the government's affirmative employment efforts. Recently, for example, there has been press coverage of a situation at the Immigration and Naturalization Service (INS) where black employees have alleged a severe lack of opportunity. INS created a task force, which issued a scathing report. It said, "Managers follow the example set by the Commissioner and implemented by the Management Team. The 1988 [affirmative action plan] sets forth a number of action items which have not been accomplished by INS top management. The 1988 [affirmative action plan] is an empty promise."

We have not included this statement to single out INS but to underscore our belief that commitment from management is essential to a progressive and healthy affirmative action plan. I also mentioned the need for continuing oversight, and we have several reviews ongoing that address affirmative action planning, women and minority representation, and EEO accountability.

Before leaving today, I want to touch upon two other issues that affect or will affect EEOC's federal sector responsibilities. There are currently bills before the Congress that would give EEOC the responsibility for deciding discrimination complaints filed by federal employees. The complaints are now decided by agency officials and can be appealed to EEOC. The bills were introduced because there is widespread belief that the current system is unfair to employees. In the current system, the investigative and decision authority rests with the agency where the alleged discrimination occurred, and it is alleged that agencies do not adequately investigate complaints. If these bills are enacted, EEOC will need the money and staff to carry out this significant added responsibility.

The other issue I want to mention is the downsizing of the federal workforce. Downsizing, rightsizing, reduction-in-force (RIF), what ever you call it, its success depends on workforce planning. Workforce planning permits an agency to examine the impacts of various options for reducing the workforce and make alternative choices if certain impacts--like loss of key expertise or disproportionate effects on women and minorities--are undesirable.

Mr. Chairman, this completes my prepared statement. I would now welcome any comments or questions that you may have.

RELATED GAO PRODUCTS

Hispanic Employment at USPS (GAO/GGD-93-58R, Sept. 3, 1993).

Assessing EEO Progress at INS (GAO/GGD-93-54R, July 15, 1993).

Federal Employment: Inquiry Into Sexual Harassment Issues at Selected VA Medical Centers (GAO/GGD-93-119, June 30, 1993).

Federal Employment: Progress of Women and Minorities in Key Federal Jobs and Handling of EEO Complaints at the Bureau of Alcohol, Tobacco, and Firearms (GAO/T-GGD-93-33, May 26, 1993).

Monetary Payments in Federal EEO Cases (GAO/GGD-93-45R, May 25, 1993).

Information on Black Employment at INS (GAO/GGD-93-44R, May 17, 1993).

Federal Employment: Sexual Harassment at the Department of Veterans Affairs (GAO/T-GGD-93-12, Mar. 30, 1993).

Affirmative Employment: Assessing Progress of EEO Groups in Key Federal Jobs Can Be Improved (GAO/GGD-93-65, Mar. 8, 1993).

Information on EEO Discrimination Complaints (GAO/GGD-93-6RS, Dec. 31, 1992).

Federal Affirmative Employment: Status of Women and Minority Representation in Federal Law Enforcement Occupations (GAO/T-GGD-93-2, Oct. 1, 1992).

Age Employment Discrimination: EEOC's Investigation of Charges Under 1967 Law (GAO/HRD-92-82, Sept. 4, 1992).

Federal Workforce: Agencies' Estimated Costs for Counseling and Processing Discrimination Complaints (GAO/GGD-92-64FS, Mar. 26, 1992).

Federal Workforce: Continuing Need for Federal Affirmative Employment (GAO/GGD-92-27BR, Nov. 27, 1991).

Federal Affirmative Employment: Status of Women and Minority Representation in the Federal Workforce (GAO/T-GGD-92-2, Oct. 23, 1991).

Federal Affirmative Action: Better EEOC Guidance and Agency Analysis of Underrepresentation Needed (GAO/T-GGD-91-32, May 16, 1991).

Federal Affirmative Action: Better EEOC Guidance and Agency Analysis of Underrepresentation Needed (GAO/GGD-91-86, May 10, 1991).

EEO at Justice: Progress Made but Underrepresentation Remains Widespread (GAO/GGD-91-8, Oct. 2, 1990).

ADP Systems: EEOC's Charge Data System Contains Errors but System Satisfies Users (GAO/IMTEC-90-5, Dec. 12, 1989).

Equal Employment Opportunity: Women and Minority Aerospace Managers and Professionals, 1979-86 (GAO/HRD-90-16, Oct. 26, 1989).

Discrimination Complaints: Payments to Employees by Federal Agencies and the Judgement Fund (GAO/HRD-89-141, Sept. 25, 1989).

Equal Employment Opportunity: EEOC and State Agencies Did Not Fully Investigate Discrimination Charges (GAO/HRD-89-11, Oct. 11, 1988).

Equal Employment Opportunity Commission's Charge Data System (GAO/T-IMTEC-88-5, June 24, 1988).

Equal Employment Opportunity: EEOC Birmingham Office Closed Discrimination Charges Without Full Investigation (GAO/HRD-87-81, July 15, 1987).

Equal Opportunity: Information on the Atlanta and Seattle EEOC District Offices (GAO/HRD-86-63FS, Feb. 21, 1986).

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