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BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Further Improvements Needed In EEOC Enforcement Activities

In 1976 GAC reported that the Equal Employment Opportunity Commission's management problems were thwarting its enforcement activities. Since the report, EEOC has made many changes to correct its problems in handling individual charges of employment discrimination filed with it and in developing and investigating self-initiated charges.

Additional steps need to be taken to help ensure that the changes are effective. For example:

EEOC needs to cease settling charges that are without reasonable cause because this undermines its enforcement activities.

The Congress needs to give EEOC authority to sue State and local governments.

In October 1978 EEOC also started to assume enforcement responsibilities transferred to it by the President's Reorganization Plan No. 1 of 1978. Further, the Office of Management and Budget needs to advise the President to consolidate programs now administered by EEOC and the Department of Labor.



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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, DC 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the Equal Employment Opportunity Commission's enforcement of title VII of the Civil Rights Act of 1964 and the transfer to the Commission of other Federal civil rights responsibilities under Reorganization Plan No. 1 of 1978. These laws prohibit employment discrimination on the basis of race, color, religion, national origin, sex, or age in public and private employment.

We are sending copies of this report to the Director, Office of Management and Budget, and to the Acting Chairman of the Equal Employment Opportunity Commission.

Milton J. Auslaw
Acting Comptroller General
of the United States

D I G E S T

The Equal Employment Opportunity Commission (EEOC) has taken steps to correct most of the problems pointed out in a 1976 GAO report. (See p. 6.) However, some of EEOC's actions may be thwarting its efforts to eliminate employment discrimination. (See p. 11.)

EEOC enforces title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin. (See p. 1.) GAO reviews EEOC procedures and practices at its headquarters and 3 of 22 district offices. The three offices were "model" offices which EEOC used to test new procedures before implementing them nationally. (See p. 3.)

After GAO's 1976 report, EEOC introduced the "rapid charge process" to resolve discrimination charges filed with it. This process emphasizes prompt charge resolution through negotiated settlements which are obtained in face-to-face meetings among the charging party (employee), the respondent (employer), and EEOC staff. EEOC was settling about 50 percent of its charges through these negotiated settlements. (See p. 8.)

However, the positive results of this process are misleading. The rapid charge process has over-emphasized obtaining settlement agreements with the result that EEOC has obtained negotiated settlements for some charges on which GAO believes there was no reasonable cause to believe that the charges were true. The settlement agreements for these charges have little substance--they normally provide for employers to remove information related to the charge from the charging party's personnel file--and they distort the results of the rapid charge process by inflating the number of settlements. (See p. 12.)

Negotiated settlements of these charges also undermine EEOC's credibility because

--charging parties and employers said they were pressured into settlements they disagreed with and

--charging parties were led to believe that, since the charges were resolved with settlement agreements, their charges had merit but EEOC handled them ineffectively. (See p. 17.)

GAO recommends that EEOC not obtain settlement agreements for charges that, absent a settlement, would be closed as no cause. When EEOC determines that persons have filed such charges, they should be advised to withdraw them or EEOC should close the charges with a finding of no cause. (See p. 26.)

EEOC is required to refer employment discrimination charges filed with it to State and local agencies that have their own employment discrimination laws. It has agreements with 65 of 91 such agencies and refers a significant number of charges to them, reimbursing them for some of the costs for resolving charges. However, there are more opportunities for EEOC to share its charge workload with these agencies, such as arranging with those 26 with whom it does not have agreements, to resolve charges. (See p. 19.)

EEOC also needs to file suit more timely once this decision has been made. GAO's analyses in two offices showed that EEOC averaged more than 7 months to file suits after informal settlement attempts failed. However, title VII requires charging parties to file suit within 90 days after receiving a notice of right-to-sue from EEOC. EEOC should establish similar time standards for filing suit in Federal court for charges on which it decides to sue, such as 90 days after the decision to litigate, to help expedite relief. (See p. 22.)

EEOC does not have authority to litigate charges filed under title VII of the Civil Rights Act of 1964 against a State or local government, but must refer them to the Department of Justice. Because of limited resources, Justice has not pursued many of these charges. Consequently, EEOC does not emphasize them in its enforcement activities.

Under the equal pay and age discrimination acts, EEOC can sue State and local governments. For consistency with other legislation and to ensure greater attention to this area, the Congress should amend title VII to authorize EEOC to litigate such charges. (See p. 23.)

EEOC has improved its system for addressing patterns and practices of employment discrimination, referred to as "systemic discrimination." Each district office has a systemic unit, which is under the management control of the district office but receives technical advice and direction from the headquarter's systemic unit. GAO found that, in two of four district offices, management generally was not supportive of systemic activities because it used systemic staff to resolve individual charges. Consequently, the systemic program began operating slowly, and district offices averaged only about two systemic cases each by the end of fiscal year 1979. (See p. 32.)

EEOC's systemic program is similar to the Department of Labor's activities to enforce Executive Order 11746, which prohibits employment discrimination by Federal contractors and requires them to take affirmative action to employ minorities and women. Consequently, EEOC either had selected for investigation or was investigating employers even though Labor had recently reviewed them. GAO recommends that the Office of Management and Budget (OMB) advise the President that the two programs should be merged to eliminate duplication. A merger would be consistent with other consolidation changes made by President Carter under Reorganization Plan No. 1 of 1978, which was used to reorganize Federal enforcement programs dealing with employment discrimination. (See p. 34.)

GAO recommends that EEOC make other improvements in the systemic program, such as obtaining more complete data from employers about their employment of minorities and women and aggressively monitoring employers' compliance with conciliation agreements and consent decrees. (See pp. 36 and 37.)

AGENCY COMMENTS AND
GAO'S EVALUATION

EEOC disagreed with some of GAO's conclusions and recommendations and stated that it was taking actions related to others. EEOC disagreed, in part, because it said that GAO's draft report was not clear in its use of certain terms related to rapid charge processing. GAO has clarified this in the final report, but believes that further improvements are needed. (See pp. 26 and 39.)

OMB said it generally concurred with GAO's findings that EEOC had made progress since GAO's 1976 report. (See p. 30.) But OMB did not agree with GAO's recommendation to consolidate EEOC's and Labor's programs, as well as some of GAO's recommendations to solve problems identified. GAO believes its recommendations will improve the Federal equal employment opportunity program. (See p. 39.)