



*REPORT OF THE  
COMPTROLLER GENERAL  
OF THE UNITED STATES*

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MWD-76-95  
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More Action Needed To Insure  
That Financial Institutions Provide  
Equal Employment Opportunity

Departments of the Treasury and Labor  
Equal Employment Opportunity Commission

Treasury has made limited progress in insuring that financial institutions follow equal employment opportunity practices. The program's credibility has been seriously impaired by Treasury's record of nonenforcement--even in instances of financial institutions' deliberate refusal to comply with requirements.

GAO is making several recommendations to the Secretary of the Treasury to improve the administration and strengthen the enforcement of the contract compliance program for financial institutions.

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JUNE 24, 1976



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-167015

The Honorable William Proxmire  
United States Senate

Dear Senator Proxmire:

As you requested on November 8, 1974, we have reviewed the Department of the Treasury's administration of the contract compliance program for financial institutions.

The contract compliance program is intended to insure that Government contractors follow equal employment opportunity principles and practices. Most financial institutions, including banks and savings and loan associations, have established contractual relationships with Treasury and are subject to the program's requirements. Treasury is responsible for administering the program for financial institutions in accordance with guidelines prescribed by the Department of Labor.

We are making several recommendations to the Secretary of the Treasury to improve program administration. In two previously issued reports, we made several recommendations to the Secretary of Labor to improve the administration of the program (MWD-75-63, Apr. 29, 1975, and MWD-75-72, Aug. 25, 1975).

Officials of the Departments of the Treasury and Labor and of the Equal Employment Opportunity Commission have commented on a draft of this report, and their views have been considered. We have also obtained comments from the financial institutions discussed in the report.

As your office agreed, we are sending copies of this report to interested Members and Committees of the Congress, agency officials, and the financial institutions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James A. Steeds".

Comptroller General  
of the United States

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ABBREVIATIONS

AAP	affirmative action program
EEOC	Equal Employment Opportunity Commission
GAO	General Accounting Office
OFCCP	Office of Federal Contract Compliance Programs

COMPTROLLER GENERAL'S REPORT  
TO THE HONORABLE  
WILLIAM PROXMIRE  
UNITED STATES SENATE

MORE ACTION NEEDED TO INSURE THAT  
FINANCIAL INSTITUTIONS PROVIDE  
EQUAL EMPLOYMENT OPPORTUNITY  
Departments of the Treasury  
and Labor  
Equal Employment Opportunity  
Commission

D I G E S T

The contract compliance program is intended to insure that contractors and subcontractors provide equal employment opportunity.

Treasury is responsible for administering the program at financial institutions, including banks and savings and loan associations. (See p. 1.)

Treasury, however, has made limited progress in assuring that financial institutions have acceptable affirmative action programs and comply with the Executive order establishing the program. (See p. 5.)

Each year, Treasury reviews only about 1 or 2 percent of the estimated 16,500 financial institutions subject to the Executive order. (See p. 6.) These reviews are not meeting Labor's standards for examining contractors to determine compliance with equal employment opportunity requirements. (See p. 8.)

Treasury headquarters officials do not have sufficient management information to effectively manage and administer the program. (See p. 12.) Not all financial institutions subject to program requirements have been identified. (See p. 14.) Treasury is not consulting with the Equal Employment Opportunity Commission (see p. 16), nor is it enforcing the program according to Labor guidelines. (See p. 19.)

Treasury has approved financial institutions' affirmative action programs that do not meet Labor guidelines. The guidelines require a comprehensive written analysis of a contractor's work force, employment practices, and planned affirmative action measures to improve job opportunities for minorities and women.

(See p. 22.) Recent actions to enforce the program's requirements were taken only after financial institutions' extended failure to comply. (See p. 28.)

The program's credibility has been seriously impaired by Treasury's record of nonenforcement--even in instances of financial institutions' deliberate refusal to comply with requirements. Treasury should invoke stronger enforcement measures against noncompliant institutions. (See p. 31.)

In previous reports, GAO made several recommendations to Labor to improve its monitoring of and guidance to Treasury and other compliance agencies.

#### RECOMMENDATIONS

The Secretary of the Treasury should require responsible officials to:

- Insure that financial institutions are reviewed according to Labor's standards and procedures.
- Establish a management information system to accurately identify, at least (1) which institutions have been reviewed and when, (2) which institutions have been notified of compliance or noncompliance with the program's requirements and when, and (3) which institutions' compliance statuses have been withheld pending corrective action.
- Emphasize to the field staff the importance of reporting accurate management information in accordance with Labor guidelines so that Treasury can report accurately to Labor.
- Use information available from the Federal Reserve banks and the Social Security Administration to maintain a current listing of financial institutions subject to Executive Order 11246 and coordinate identification efforts with Labor.

--Consult with the Equal Employment Opportunity Commission as required by the memorandum of understanding. (See pp. 17 and 18.)

--Enforce the contract compliance program according to Labor guidelines by (1) keeping to time limitations and (2) initiating sanctions when institutions are not complying, rather than relying on moral suasion, technical assistance, and voluntary compliance.

The Secretary of the Treasury should direct appropriate officials to take full enforcement measures against financial institutions with long histories of noncompliance with substantive program requirements. Actions should be taken particularly against those which refuse to comply. Those measures should be kept in effect until the institutions implement equal employment opportunity and affirmative action principles and practices. (See p. 32.)

#### AGENCY ACTIONS AND UNRESOLVED ISSUES

Treasury said the report generally identified many deficiencies it had previously noted and sought to correct prior to receiving the report. Treasury also said the report does not provide adequate recognition to the significant improvements which have been instituted during the past 18 months. Treasury also cited a number of circumstances which it believes should be considered in assessing its over-all performance. Treasury's comments resulted in a number of unresolved issues. GAO has considered these comments but believes that Treasury should act on the recommendations in this report. (See p. 42.)

The Department of Labor did not provide us with formal comments. Labor officials made verbal suggestions for clarifying the report, and these suggestions have been incorporated into the report where appropriate. (See p. 53.)

The Equal Employment Opportunity Commission expressed concern that the report may violate a law prohibiting it from publicly disclosing information relating to discrimination

charges. GAO does not believe, however, that the report violates the confidentiality provisions of the law. (See pp. 53 and 54.)

The financial institutions discussed in the report generally said they tried in good faith to comply with program requirements. They denied any discriminatory conduct. (See p. 54.)

## CHAPTER 1

### INTRODUCTION

The Federal contract compliance program was established to carry out Executive Order 11246, which was signed by the President in 1965 and amended in 1967. The order (1) forbids employment discrimination by Government contractors and subcontractors on the basis of race, color, religion, sex, or national origin and (2) requires Government contractors to take affirmative action to insure equal opportunity in all aspects of employment. The program is divided into two segments--construction and nonconstruction.

The Secretary of Labor is responsible for administering the Executive order and has delegated overall program responsibility--except for the authority to issue general rules and regulations--to the Director of the Office of Federal Contract Compliance Programs (OFCCP) of the Employment Standards Administration. OFCCP guides and monitors other Government agencies' implementation of the program. The Director of OFCCP delegated primary responsibility for enforcing the program at nonconstruction contractors' facilities to 11 Federal agencies: the Departments of Agriculture, Commerce, Defense, Interior, Treasury, Transportation, and Health, Education, and Welfare; the Energy Research and Development, General Services, and Veterans Administrations; and the Postal Service.

Effective April 1976, Labor reduced the number of compliance agencies responsible for nonconstruction contractors from 11 to 10 by transferring the Postal Service's compliance responsibility to the General Services Administration.

These designated agencies are responsible for reviewing nonconstruction contractors within industries assigned by OFCCP primarily on the basis of standard industrial classification codes. Under this system, the Department of the Treasury is assigned compliance responsibility for financial institutions, including National and State banks, mutual savings banks, and savings and loan associations. Most of these institutions are subject to program requirements because they have established a contractual relationship with the Government to act as depositaries of Federal funds or to issue and pay U.S. savings bonds and notes. Treasury has no responsibility under the construction program.

The Secretary of the Treasury has designated the Assistant Secretary for Administration as the contract compliance

officer for Treasury. The Assistant Secretary has assigned the Office of Equal Opportunity Program to administer the contract compliance program for financial institutions but has retained the responsibilities of issuing "show cause" notices and approving conciliation agreements. Within the Office of Equal Opportunity Program, the Director and five field offices have responsibility for enforcing the Executive order in accordance with Treasury and Labor guidelines. Treasury has regional offices in Atlanta, Chicago, Los Angeles, Houston, and Washington, D.C. During fiscal year 1976, Treasury initiated action to establish an additional regional office in New York City.

Guidelines issued by Treasury and Labor provide that each financial institution, subject to the program and having 50 or more employees, must write an affirmative action program (AAP) for each of its establishments that hire, promote, and separate personnel. The AAP must contain specific data, including:

- A "utilization analysis" for all major job groups at the facility, with explanation if minorities or women are currently being "underutilized" in any groups. "Underutilization" is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability.
- An analysis of other aspects of the contractor's employment policies--recruitment, hiring, placement, promotions, terminations, and training--to determine whether they adversely affect minorities or women.
- An analysis of the wages and salaries paid a sampling of minorities and women to determine whether an incumbent's race or sex has any relationship to differences in salaries or rates of pay.
- Goals and timetables for improving employment opportunities of minorities and women in those areas where the contractor is found deficient.

During compliance reviews (including preaward reviews, initial compliance reviews, followup reviews, and complaint investigations), compliance officers are required to comprehensively analyze each aspect of contractor employment policies, systems, and practices, to see if they are meeting nondiscrimination and affirmative action requirements. If the compliance agency finds that the contractor has not prepared a required AAP, has deviated

substantially from an approved AAP, or has an unacceptable program, a show-cause notice must be issued, giving the contractor 30 days to explain why enforcement procedures should not be instituted.

According to an OFCCP official, the show-cause deadline can be postponed when a compliance agency assesses the contractor's good faith and requests such an extension from OFCCP. If the contractor does not (1) show good cause for failure to comply with the program or (2) take corrective action, appropriate sanctions will be initiated, after the contractor has a chance to request a formal hearing. The sanctions include contract cancellation, termination, complete or partial suspension, and debarment from future Government contracts.

The Equal Employment Opportunity Commission (EEOC) also has responsibility for contractors under title VII of the 1964 Civil Rights Act, which prohibits discrimination in hiring, upgrading, and other conditions of employment on the basis of race, color, religion, sex, or national origin. EEOC investigates charges of discrimination against employers, labor organizations, and public and private employment agencies. If it finds reasonable cause to believe that a charge is true, EEOC will seek a full remedy through conciliation. The Equal Employment Opportunity Act of 1972 gave EEOC the authority to initiate a civil action when conciliation fails.

#### SCOPE OF REVIEW

As Senator William Proxmire requested (see app. I), we evaluated Treasury's administration of the program. We reviewed the Executive order and related rules and regulations issued by Labor and Treasury. We examined bank compliance files, reports, correspondence, and other records for September 1970 through November 1975 at Treasury's Office of Equal Opportunity Program and Labor's OFCCP. We also reviewed the actions taken by Treasury, OFCCP, and EEOC on specific discrimination complaints.

Our review was performed at

--Treasury's headquarters office in Washington, D.C., and regional offices there and in Chicago,

--Labor's headquarters office in Washington, D.C., and

--EEOC's headquarters office in Washington, D.C., and district offices there and in Baltimore and Chicago.

We met with selected representatives of Chicago financial institutions and discussed Treasury's contract compliance program. We also talked to some complainants and obtained information on their complaints against financial institutions.

We previously issued two reports containing recommendations to the Secretary of Labor to improve this program.

1. "The Equal Employment Opportunity Program for Federal Nonconstruction Contractors Can Be Improved" (MWD-75-63, Apr. 29, 1975) and
2. "More Assurances Needed That Colleges and Universities with Government Contracts Provide Equal Employment Opportunity" (MWD-75-72, Aug. 25, 1975).

## CHAPTER 2

### ADMINISTRATION OF THE CONTRACT COMPLIANCE PROGRAM FOR FINANCIAL INSTITUTIONS NEEDS IMPROVEMENT

Treasury estimates that 16,500 financial institutions in the United States were subject to Executive Order 11246 and related guidelines as of June 1975. Treasury's program has made very limited progress in insuring that these institutions are in compliance.

More specifically:

- In fiscal years 1971-75, Treasury reviewed less than 10 percent of the institutions. Treasury's policy is to review only those financial institutions with 50 or more employees. Since there are about 6,000 such institutions, this policy excludes about 10,500 financial institutions that are subject to the Executive order.
- Treasury has not consistently complied with standards established by Labor to improve compliance reviews.
- Treasury does not have reliable information identifying which financial institutions have been reviewed and when their compliance or noncompliance with the Executive order was determined. Such information is necessary for effective management of the program.
- Treasury has reported inaccurate and incomplete compliance review information to Labor. This misinformation is used by Labor in monitoring Treasury's program and assessing the progress of financial institutions in improving employment opportunities.
- Treasury has not identified all financial institutions which are subject to the Executive order and guidelines. There are sources of information which could be used to identify such institutions, as well as those required to prepare affirmative action programs.
- Treasury has not consulted with the Equal Employment Opportunity Commission before making compliance reviews as required by the Labor-EEOC memorandum of understanding issued in 1970 and revised in 1974.

SMALL PERCENTAGE OF  
FINANCIAL INSTITUTIONS REVIEWED

Treasury is not reviewing an adequate portion of the financial institutions subject to the Executive order. In fiscal years 1971-75, it made compliance reviews at only a small percentage of these institutions.

Treasury has followed a policy of reviewing only those financial institutions employing 50 or more. There are about 6,000 such institutions; therefore, Treasury has systematically excluded about 10,500 institutions estimated to be subject to the Executive order. Treasury and Labor officials said Labor guidelines by implication do not require that a compliance agency review contractors employing fewer than 50 persons because the guidelines require that compliance reviews begin with a review of the contractors' affirmative action programs. Labor guidelines are not specific on this issue, however, and other compliance agencies routinely review contractors with fewer employees. We believe that contractors employing fewer than 50 should not be immune from review and that Treasury should review such contractors on a sample basis to achieve necessary coverage.

The following table shows for fiscal years 1971 through 1975 the percentages of both the 16,500 total institutions and the 6,000 employing 50 or more reviewed by Treasury.

<u>Fiscal year</u>	<u>Number reviewed</u>	<u>As a percentage of</u>	
		<u>Total estimated institutions (note a)</u>	<u>Institutions employing 50 or more (note a)</u>
1971	158	1.0	2.6
1972	323	2.0	5.4
1973	378	2.3	6.3
1974	364	2.2	6.1
1975	<u>200</u>	<u>1.2</u>	<u>3.3</u>
<b>Total</b>	<b><u>1,423</u></b>	<b>8.6</b>	<b>23.7</b>

a/Since many institutions were reviewed more than once, the actual percentage reviewed is lower. (See app. II.)

In an October 24, 1974, memorandum to the heads of all agencies, the Office of Federal Contract Compliance Programs said it had reviewed the compliance agencies' resource requests for fiscal year 1976 and had sought to obtain increases for agencies that were not reviewing adequate portions of their universe. OFCCP also stated that coverage

by compliance agencies of less than 20 percent of their assigned workload was clearly inadequate.

As shown above, Treasury has reviewed about 1 or 2 percent of its total estimated institutions in any fiscal year. Further, only 23.7 percent of institutions employing 50 or more were reviewed in fiscal years 1971-75--an average 4.7 percent a year. At this rate, Treasury would take about 21 years to review all such institutions, assuming that each was reviewed only once.

The Secretary of Labor recommended to the Secretary of the Treasury an increase of 17 staff-years for Treasury's contract compliance program for fiscal year 1976. The Secretary of Labor stated that these additional resources would enable Treasury to (1) increase its coverage of the estimated 6,000 financial institutions having 50 or more employees and (2) establish a New York regional office because 26 percent of its estimated universe is located in the northeast, with a large concentration in New York City. However, Treasury officials said their contract compliance program has been budgeted an increase of only 5 staff-years for fiscal year 1976 and that a New York regional office consisting of a regional manager and two compliance officers has been approved.

In selecting financial institutions for review, Treasury relied on informal internally developed criteria which included such factors as a history of slow compliance with program requirements, the minority population in the geographic area served by the financial institutions, and whether discrimination complaints were received. Also, because of periodic constraints on travel funds, selection has sometimes been based on the institutions' proximity to other financial institutions and to Treasury's five field offices rather than on the potential for improving job opportunities for minorities and women.

In addition to these selection criteria, in July 1970 Treasury established an objective of reviewing the Nation's 300 largest financial institutions. Since these 300 employ about one-half of all persons working in financial institutions, officials believed these institutions offered the most potential for improving job opportunities. As of July 1975, however, Treasury had yet to review 42 of these institutions.

Treasury's reviews of financial institutions  
to improve job opportunities for women

In its fiscal year 1975 budget submission, Treasury noted that, although women represent about 65 percent of the total banking work force, their talents were not being fully utilized. Reports submitted by financial institutions show that women employees are concentrated in office and clerical jobs rather than executive and professional positions. (See app. III.)

Effective December 1971, the Labor Department's guidelines were revised to require contractors to analyze the employment of women and, as a part of the AAPs to set goals and timetables for improving their job opportunities. In April 1972, Treasury implemented Labor's guidelines and began considering the employment of women as a part of compliance reviews. Thus, the status of job opportunities for women has not been determined at those financial institutions not reviewed since April 1972.

Our analysis shows that as of July 1, 1975, 105, or 35 percent, of the Nation's 300 largest financial institutions had not yet been reviewed to evaluate job opportunities for women. These 105 consist of the 42 institutions which Treasury had not yet reviewed and 63 institutions which were reviewed before April 1972.

TREASURY REVIEWS NOT MEETING LABOR'S STANDARDS

In June 1974 Labor reported to Treasury on an evaluation of its contract compliance program and cited patterns of underutilization of minorities and women in certain segments of the banking industry.

Labor stated, in part, that:

"We have noted that women (including minority women) tend to be concentrated in operating units containing the teller, secretarial and other office, clerical and administrative classifications. Male minorities tend to be concentrated in the messenger, chauffeur, janitorial and other related classifications and are not utilized to a great extent in the teller classification, particularly in those locations outside the central city. Further, and most importantly, minorities and women tend to be excluded from those specific classifications within professional and executive job categories. Where they are employed in such positions they tend to be excluded from those departments or units such as trusts, investments, corporate loans and

others which offer the most potential in terms of pay, status and related benefits."

Labor found no indication that Treasury's compliance reviews were identifying such patterns. In examining Treasury's written compliance review reports, Labor found indications that many financial institutions' AAPs were deficient. For example, some AAPs accepted by Treasury contained utilization analyses based on nine broad job categories (e.g., officials and managers and professionals) or job groupings too general to permit the identification of potential deficiencies, including possible affected-class discrimination. 1/ Labor stated that, unless Treasury's compliance reviews disclosed the full extent of this apparent underutilization and exclusion of minorities and women by financial institutions, the requirements for goals and timetables and appropriate remedies for affected-class situations cannot be applied in accordance with Labor guidelines.

The report advised Treasury that procedural weaknesses and inadequate resources were resulting in superficial compliance reviews at financial institutions. Labor stated, in part, that:

"We have repeatedly noted, for example, that compliance reviews of major banking institutions have in the past been conducted within a timeframe which is not sufficient to conduct the thorough analysis and resulting conciliation and enforcement processes necessary to achieve compliance with the requirements of the Executive order.

"In other aspects, Treasury's compliance program tends to emphasize education, persuasion and public relations at the expense of thorough on-site analysis and enforcement."

Finally, Labor said it had issued standardized compliance review procedures for identifying apparent violations of the Executive order, to assist compliance agencies in promptly achieving full employment potential for minorities and women. These procedures require compliance agencies to complete the following five steps within 60 days of receiving a contractor's AAP, unless Labor extends this period for good cause.

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1/An affected class includes those who suffer present effects of past discrimination.

1. Perform a desk audit 1/ of the AAP (except in special circumstances requiring an immediate onsite review) to determine if the contractor has made a "good faith" effort to prepare its AAP according to Labor guidelines.
2. Perform an onsite review, comprehensively evaluating each aspect of the contractor's employment practices and policies, unless the desk audit finds the AAP acceptable and an onsite review has been conducted within the last 24 months.
3. Perform an offsite analysis when needed to evaluate possible deficiencies or violations.
4. Write a compliance review report and issue a compliance letter when the contractor is complying or issue a notice requiring a contractor within 30 days to show cause why enforcement proceedings should not be instituted.
5. Forward a "coding sheet" to Labor, stating the date the contractor's AAP was accepted and the number of employees by race and sex in each of nine job categories (e.g., officials and managers and professionals), so Labor can assess women's and minorities' job progress.

We found that Treasury was not consistently following Labor's compliance review procedures. The individual bank files maintained at Treasury headquarters for financial institutions in Chicago; Washington, D.C.; and Maryland showed that 20 reviews had been made in Chicago and none in the other locations from July 1973 through December 1974. None of Treasury's 20 reviews at financial institutions in Chicago had followed all of Labor's procedures.

The reviews lacked:

	<u>Number</u>
Desk audits	13
Compliance reports	15
Compliance letters	4
Coding sheets	15

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1/A desk audit is a review of a contractor's AAP conducted at the compliance agency's office before the onsite review.

Among the 13 compliance reviews lacking adequate desk audits, we found 6 instances where Treasury did not ask the financial institutions to submit their AAPs for desk audit. Instead, Treasury instructed them to prepare their AAPs for an onsite review. For the other seven compliance reviews, Treasury did not perform a desk audit because six financial institutions submitted incomplete AAPs and one submitted no AAP. 1/

Treasury compliance officers also failed to submit written compliance reports to Treasury headquarters and to write letters informing financial institutions of their compliance with the Executive order. The individual bank files showed that for 15 of the 20 Treasury reviews, its compliance officers did not prepare compliance reports on deficiencies identified in AAPs nor evaluate corrective actions planned or taken.

In 13 instances, Treasury issued compliance letters to institutions based on onsite reviews, even though desk audits were not performed or compliance reports were not prepared. The bank files at Treasury headquarters also showed that in four instances, Treasury did not notify the financial institutions of their compliance with the Executive order, though required to by Labor guidelines.

Our analysis of the 20 individual Chicago bank files showed that Treasury forwarded the required coding sheets to Labor for only 5 of the 20 reviews. (See p. 14.)

Treasury officials say they are improving their reviews and assuring that Labor's guidelines are followed. For example, in July 1975 each regional office began training compliance officers and officials of financial institutions in the preparation of AAPs. Also, in July 1975, all Treasury regional offices began using a newly developed operational handbook and booklet entitled "Standardized Compliance Review Report Format" to assist its compliance officers in reviewing financial institutions and preparing Labor's compliance reports. However, Treasury officials have not established a system for insuring that all coding sheets are forwarded to Labor.

During March and June 1975, Labor commented on Treasury's progress, stating that its evaluations of compliance reviews performed during fiscal year 1975 showed that

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1/See p. 22 for a more detailed discussion of AAPs not meeting Labor standards.

Treasury was becoming more thorough. However, Labor noted that Treasury was inadequately considering the possibility of affected classes.

#### INADEQUATE MANAGEMENT INFORMATION

Treasury has not adopted a management information system that would enable officials to effectively manage and administer the contract compliance program. We recognize that in any program area responsible officials must be allowed certain discretion in determining what programwide information is needed for informed management decisions. However, certain information is clearly needed, such as

- which financial institutions are subject to the program (see p. 14),
- where and when compliance reviews have been performed,
- which institutions have been notified that they were or were not complying with program requirements, and when, and
- which institutions' compliance statuses have been withheld pending corrective action.

We found that Treasury's management information system does not reliably cover these minimal requirements. At the outset of our review, the management information available to Treasury headquarters on the contract compliance program was limited to individual files containing such items as correspondence relating to reviews of the banks, the banks' employer information reports, and AAPs. The files were incomplete and did not contain all pertinent information relating to reviews of some banks. Moreover, Treasury headquarters had no files on some banks it had reviewed. In October 1975 Treasury headquarters sent its files to the responsible regional offices as part of an overall plan of decentralizing responsibility for the program.

At our request, Treasury officials prepared a chronological listing of financial institutions reviewed during fiscal years 1971-75. This list included (1) the name and location of each financial institution reviewed, (2) the dates of each review, and (3) the dates each institution was found in compliance with the Executive order.

However, the list was inaccurate. For example, it shows for May 1974 that, of 15 institutions reviewed, 4 were later found in compliance. However, other records showed

that 10 of the 15 institutions reviewed during May 1974 were later notified of their compliance.

Treasury's list did not include the names and locations of all financial institutions reviewed. For example, it showed that one of Treasury's regional offices made two compliance reviews during February 1975, but compliance files revealed that five financial institutions were reviewed by that regional office during February.

The list also reported more reviews than were actually performed in some instances. For example, it showed that during May 1974 one of Treasury's regional offices reviewed seven financial institutions and that six of these seven were reviewed at various other times during fiscal year 1975. Compliance files showed that each of the six institutions had been reviewed during fiscal year 1975 but not in May 1974.

As of October 1975, Treasury headquarters' only record of the compliance reviews performed and the compliance status of financial institutions was this listing prepared at our request. Considering the inaccuracy of this listing, Treasury should review its records and correct the omissions and errors.

#### INACCURATE REPORTING TO LABOR

Labor is responsible for monitoring compliance agencies to insure that they are performing in accordance with the Executive order and its own guidelines. Labor requires compliance agencies to submit monthly progress reports showing the number of AAPs reviewed and approved and letters issued informing contractors of their compliance status.

We found that Treasury's monthly progress reports submitted to Labor were inaccurate. For example, during fiscal year 1975, Treasury reported 231 compliance reviews. Other records show, however, that only 200 reviews were performed.

Officials at Treasury headquarters stated that the inconsistencies between its reports to Labor and other Treasury records were caused partly by misunderstanding Labor guidelines. They explained that some regional compliance staff incorrectly considered the desk audit and the onsite review of the same financial institution as two separate reviews.

During fiscal year 1975, Treasury's monthly progress reports also showed 141 compliance letters sent to financial institutions. However, other records show only 121 such letters. A Treasury official said this discrepancy was due to inaccurate reporting by some regional offices.

As of October 1975, Treasury had not yet established an adequate system for assuring accurate compliance review information from its regional offices. For example, during the first quarter of fiscal year 1976, Treasury reported to Labor 29 more compliance reviews than were actually completed.

Labor has adopted a system to measure Federal contractors' progress in improving the employment of minorities and women. Since March 1973, compliance agencies have been required to submit coding sheets to Labor after each compliance review, showing employment data by nine basic job categories, such as officials and managers, professionals, and laborers. When collected and processed, the data would summarize Federal contractors' work forces, goals, and achievements in employing minorities and women. This system is designed to allow Labor to evaluate individual compliance reviews, as well as the compliance agencies' overall efforts.

According to Labor it could not use 539, or 79 percent, of the 684 coding sheets submitted by Treasury during March 1973 through June 1975 because they were inaccurate or incomplete.

FINANCIAL INSTITUTIONS SUBJECT TO THE  
EXECUTIVE ORDER NOT IDENTIFIED

Labor guidelines provide that each compliance agency is responsible for assuring that the assigned contractors comply with the Executive order and its implementing rules and regulations. However, Treasury has not identified all the financial institutions subject to the Executive order or all the institutions required to prepare AAPs. Without such identification, Treasury cannot systematically select institutions for review. Additional sources of information could be used to identify institutions subject to the Executive order, as well as those required to prepare AAPs.

Treasury's attempts to identify financial institutions, employing 50 or more and subject to the Executive order, have not been entirely successful. During fiscal years 1972 and 1973, Treasury obtained from EEOC the joint Labor-EEOC reporting forms (employer information reports) filed with EEOC by financial institutions with 100 or more employees throughout the Nation. Until January 1975 all employers with 100 or more employees and subject to title VII of the Civil Rights Act of 1964, as amended, or Executive Order 11246 were required to submit the reporting forms yearly. Using these forms, Treasury was able to identify only 1,414, or about 9 percent, of the institutions estimated to be subject to the

Executive order. In January 1975 the reporting requirements were expanded to cover Federal Government contractors employing 50 or more instead of 100.

In September 1974 Treasury obtained from the Federal Deposit Insurance Corporation a computer listing of the names and addresses for about 19,000 financial institutions, including most commercial banks, savings and loan associations, and savings banks, in the United States and its territories. However, this listing does not identify which institutions are subject to the Executive order, nor does it always identify the number of persons employed.

Treasury's recent attempts to identify financial institutions subject to the Executive order have concentrated on a project for expanding the information obtained from the Federal Deposit Insurance Corporation. The project's objective is to create an automated data base of (1) all U.S. financial institutions employing 50 or more that are subject to the Executive order and (2) current data on each institution's work force by race and sex. This project will involve mailing the joint Labor-EEOC employer information report forms to 6,416 financial institutions identified from the Federal Deposit Insurance Corporation listing.

However, Treasury officials said the information to be provided may be delayed due to a shortage of forms. They also suspect that not all financial institutions will return the forms as requested. Moreover, when complete, this data base will not identify financial institutions with fewer than 50 employees.

As of September 24, 1975, 1,073 financial institutions had not returned the employer information reports. Although not all financial institutions subject to the Executive order will be identified, the project should provide useful data by race and sex on the respondent institutions' work forces.

We believe other sources of information are readily available to help Treasury more accurately identify the financial institutions subject to the Executive order and the number of persons they employ. Financial institutions are subject to the requirements of the Executive order if they establish a contractual relationship with the Government to (1) act as depositories of Federal funds or (2) issue and pay U.S. savings bonds and notes. Under Treasury regulations, all financial institutions acting as depositories of Federal funds must file prescribed agreement forms and pledge collateral security with the appropriate Federal Reserve bank. Also, all financial institutions issuing and paying U.S.

savings bonds and notes must file the prescribed application-agreement forms with the appropriate Federal Reserve bank.

According to Treasury officials, information identifying financial institutions having contractual relationships with the Government is available from the Federal Reserve banks. They also stated that, because financial institutions are required to file the prescribed agreement forms under a variety of circumstances, such as first time application, mergers of institutions, and changes to the institutions' charters, the Federal Reserve banks' information will always be current.

The Social Security Administration has information identifying financial institutions and showing the number of persons employed by those institutions. This information is obtained from the employers' quarterly social security tax reports. A Social Security Administration official said the agency could provide Treasury with current information on the number of persons employed by each financial institution. Thus, Treasury would be able to determine which financial institutions are required to have AAPs.

In a previously issued report (MWD-75-63, Apr. 29, 1975), we made several recommendations to the Secretary of Labor to improve the administration of the contract compliance program. One of our recommendations was that Labor assist compliance agencies to better identify contractors under their responsibility. On July 7, 1975, Labor said it was contracting with a private firm to obtain a listing of firms covered by the Executive order.

Since Treasury can obtain complete and current information from the Federal Reserve banks on financial institutions subject to the Executive order, we believe that Treasury should coordinate with Labor to avoid any duplication of effort or unnecessary expense.

#### LACK OF TREASURY-EEOC CONSULTATION

Labor and EEOC have entered into a memorandum of understanding, approved in May 1970 and revised in September 1974, to reduce the duplication of compliance review activities and provide for the exchange of information. Our review showed that Treasury, acting on behalf of Labor in reviewing financial institutions, did not consult with EEOC before conducting compliance reviews.

The 1970 and 1974 memorandums provide that, before reviewing compliance or investigating complaints against Government contractors, Labor will ask EEOC whether it has

--processed similar or identical charges against the contractor or

--collected information in prior investigations which may have a bearing on the contractor's compliance with the Executive order.

We analyzed compliance files on 49 Chicago and Washington, D.C., financial institutions reviewed by Treasury from January 1972 through December 1974. The 49 files showed no evidence that Treasury had contacted EEOC. During our review Treasury compliance officers in Chicago and Washington said that the memorandum is not being implemented and they do not contact EEOC before performing compliance reviews and determining financial institutions' compliance.

Labor officials said that Labor and EEOC had not developed the necessary systems, procedures, and standards to enable compliance agencies to fully implement the memorandum of understanding. EEOC stated that specific procedures for further implementing the memorandum of understanding are under active discussion.

#### RECOMMENDATIONS TO THE SECRETARY OF THE TREASURY

We recommend that the Secretary require responsible officials to:

--Insure that financial institutions are reviewed according to Labor's standards and procedures.

--Establish a management information system to accurately identify, at least (1) which institutions have been reviewed and when, (2) which institutions have been notified of compliance or noncompliance with the program's requirements and when, and (3) which institutions' compliance statuses have been withheld pending corrective action.

--Emphasize to the field staff the importance of reporting accurate management information in accordance with Labor guidelines, so that Treasury can report accurately to Labor.

--Use information available from the Federal Reserve banks and the Social Security Administration to maintain a current listing of financial institutions subject to Executive Order 11246 and coordinate identification efforts with Labor.

--Consult with EEOC as required by the Labor-EEOC memorandum of understanding.

### CHAPTER 3

#### NEED FOR STRONGER ENFORCEMENT OF THE CONTRACT

#### COMPLIANCE PROGRAM FOR FINANCIAL INSTITUTIONS

Labor guidelines require that immediately upon finding that a contractor has not prepared a required affirmative action program, has deviated substantially from an approved AAP, or has an unacceptable program, the contracting officer, the compliance agency representative, or the Office of Federal Contract Compliance Programs representative shall notify the appropriate compliance agency and OFCCP. The compliance agency is then required to give the contractor 30 days' notice to show cause why enforcement proceedings should not be instituted. Enforcement measures (also called sanctions) include contract cancellation; termination; or suspension, in whole or in part and contractor debarment from future Government contracts.

Labor guidelines provide that, during the 30-day show-cause period, the compliance agency shall make every effort to resolve the deficiencies through conciliation, mediation, and persuasion. If satisfactory adjustments are not concluded, the compliance agency, with the prior approval of the Director of OFCCP, shall promptly commence formal proceedings leading to the cancellation or termination of existing contracts or subcontracts and debarment from future contracts.

Labor guidelines also provide that, when deficiencies in a contractor's AAP remain unresolved at the conclusion of a compliance review, the compliance agency shall make a reasonable effort to secure compliance with the Executive order through conciliation and persuasion. Before the contractor can be found in compliance with the order, it must make a specific written commitment to correct any such deficiencies. The contractor's commitment must note the precise action to be taken and the dates for completion. The time allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval of the contract compliance officer, appropriate deputy, or the head of an agency making such commitment, the contractor may be considered in compliance, on condition that the commitments are faithfully kept.

In a report issued on August 25, 1975 (MWD-75-72), we stated that in some respects Labor's guidelines for enforcing the program were inconsistent and contradictory; we recommended that Labor clarify its guidelines. Nevertheless, we believe the overall thrust and intent of Labor's

guidelines is that compliance agencies should expeditiously review and determine whether contractors are in compliance; if they are found in noncompliance, the compliance agencies should issue 30-day show-cause notices; during the 30-day show-cause period, compliance agencies should confer with the contractors and attempt to resolve deficiencies; and compliance agencies should initiate enforcement measures if the deficiencies are not resolved or if the contractor declines to make a specific written commitment to correct them.

Before June 1974 Treasury emphasized a public relations approach with the banking industry rather than enforcing the program according to Labor guidelines. Under this policy, Treasury approved deficient AAPs and refrained for prolonged periods from issuing show-cause notices and using required enforcement measures against deficient financial institutions. Instead Treasury has relied almost exclusively on moral suasion, technical assistance, and the industry's voluntary compliance.

In June 1974 Treasury began taking actions to enforce the program's requirements. (See p. 28.) However, stronger actions are needed. (See p. 31.)

#### AAPS NOT PREPARED BY FINANCIAL INSTITUTIONS

From January 1972 through December 1974, Treasury reviewed 49 financial institutions in Chicago and Washington, D.C. Eight of these institutions had not prepared required AAPs when Treasury first informed them of the planned compliance reviews. Instead of initiating enforcement actions by sending a show-cause notice to these institutions as required by Labor guidelines, Treasury relied on persuasion and voluntary compliance.

Treasury approved the AAPs subsequently prepared by five of these eight institutions but as of November 1975 had not approved the AAPs of the remaining three institutions. An average of 28 months has elapsed since these three institutions were asked to submit their AAPs, but Treasury has not yet initiated prescribed enforcement actions. For example, one institution was reviewed in June 1973 and had not prepared an AAP. Treasury sent a list of deficiencies to the institution in July 1973 with instructions to forward a written AAP within 30 days.

The institution did not comply with this request, but Treasury took no further action until May 1974 when it again asked for the AAP and threatened to issue a show-cause notice. Soon thereafter, the institution notified

Treasury that it had changed ownership and was developing an AAP. Treasury took no further action until November 1974, when it conducted a second review and found that the institution's AAP did not have a utilization analysis or goals and timetables, which are the initial steps in equal employment progress. In February 1975 Treasury wrote another warning letter to the institution but issued no show-cause notice. As of November 1975 this institution has not complied with the Executive order and has no approved AAP.

Labor guidelines state that Treasury should issue a show-cause notice and forgo a planned onsite review if an institution has failed to prepare an AAP.

The Federal Deposit Insurance Corporation, the Federal Reserve System, and the Comptroller of the Currency periodically review the financial condition of most of the estimated 14,000 commercial banks in the United States. In fiscal year 1971 these Federal bank-examining authorities agreed to require their examiners, as part of their regular examination, to determine whether commercial banks employing 50 or more have written an AAP and have filed their annual employer information reports with Treasury. The bank examiners notify Treasury if a bank has failed to meet either or both of these requirements.

A Treasury representative informed us that when such a notice is received from the bank examiners, Treasury is supposed to forward instructions and forms apprising the bank of its responsibility to prepare an AAP and file an employer information report. According to the Treasury representative, this procedure was designed to inform commercial banks of their equal employment obligations under the Executive order.

Our review showed, however, that the procedure was not being fully implemented. A Treasury official informed us that there is always a backlog of bank examiner notices and notices have been destroyed or filed without processing. Thus, an unknown number of financial institutions without AAPs have not been informed of the requirements of the Executive order and implementing guidelines. For example, Treasury received one bank examiner notice in December 1974 for a financial institution with more than 50 employees but no AAP on file. The examiner's notice also advised Treasury that prior notices had been sent to Treasury after examinations of this bank in August 1973 and March 1974.

Our analysis of all bank compliance files for Chicago, Washington, D.C., and the State of Maryland showed that

bank examiners notified Treasury of 14 financial institutions lacking AAPs. For 7 of the 14, there was no evidence that Treasury notified the institutions of their obligations under the Executive order.

The Director of Treasury's contract compliance program said he was unaware that bank examiner notices were not being processed. He stated action had been taken to insure that all bank examiner notices will be processed and financial institutions will be notified of their obligations under the Executive order. The Director also said the backlog of bank examiner notices has been processed.

#### AAPS NOT MEETING LABOR GUIDELINES

To meet Labor standards for acceptability, an AAP must include specific types of data, including (1) analysis of the contractor's work force to determine the utilization of minorities and women, (2) identification of job groups in which minorities and/or women are being underutilized, (3) goals for improving the employment of minorities and women when a contractor is found to be employing fewer minorities or women than reasonable considering their availability within an area where the contractor could be expected to recruit, and (4) timetables for achieving those goals. According to Labor guidelines, if contractors follow their AAPs, they should be able to increase the utilization of minorities and women at all levels and in all deficient segments of their work forces.

We analyzed individual bank files of those financial institutions reviewed by Treasury in Chicago and Washington, D.C., between January 1972 and December 1974. We found that Treasury reviewed the AAPs of 49 financial institutions during this period and as of November 1975 had approved 34 of those institutions' AAPs.

The AAPs of the remaining 15 institutions had not yet been approved by Treasury. Compliance files showed that only 15 of the 34 approved AAPs were on file with Treasury. An official said some financial institutions request that their AAPs be returned after compliance reviews and Treasury usually honors these requests.

Of the 15 approved AAPs on file with Treasury, none met Labor guidelines. Nine AAPs did not adequately break down job groups. One, for example, showed that the institution employed 50 officials and managers but did not break down the numbers of employees by race and sex in each of the different job groups within the category of officials and managers.

Labor guidelines require AAPs to be based on job groups--defined as one or a group of jobs having similar content, wage rates, and opportunities. AAPs lacking an adequate breakdown of job groups are of limited value. For example, the category of officials and managers typically might include company presidents and keypunch supervisors, which are not jobs with similar content, wage rates, or opportunities. Moreover, if an institution sets a goal of hiring two women as officials and managers, it is not clear whether they will become executives or keypunch supervisors. If the latter, the goal may be ineffective because women may already predominate among keypunch supervisors.

Labor guidelines require that when a contractor's utilization analysis shows an underutilization of women or minorities, the contractor's AAP must establish goals for increasing their employment in each job group found deficient. The goals must be measurable and numerically specific and must include timetables.

None of the 15 deficient AAPs approved by Treasury contained goals and timetables which met Labor guidelines. For example, one financial institution's AAP stated that:

"Establishment of Department or Division  
Goals and Timetables with Respect to  
Percent of Population and Job Classification

- "A. Involve Department Managers in goal-setting process.
- B. Goal should be specific as to planned results and time-tables of completion.
- C. Goal must be targets which are reasonably obtainable through good faith effort.
- D. Goals and objectives should be updated on a yearly basis."

This AAP did not contain goals which were measurable and numerically specific nor timetables and therefore failed to meet Labor's guidelines.

A third type of deficiency noted in all 15 noncomplying AAPs approved by Treasury was the failure of the contractors' work force utilization analyses to meet Labor standards. In an analysis of the utilization of minorities,

for example, the contractor must consider at least the following eight factors:

- The minority population of the labor area surrounding the facility.
- The size of the minority unemployment force in the labor area surrounding the facility.
- The percentage of the minority work force as compared with the total work force in the immediate labor area.
- The general availability of minorities having requisite skills in the immediate labor area.
- The availability of minorities having requisite skills in an area in which the contractor can reasonably recruit.
- The availability of promotable and transferable minorities within the contractor's organization.
- The presence of institutions capable of training persons in the requisite skills.
- The degree of training which the contractor is reasonably able to undertake to make all job classes available to minorities.

None of the 15 deficient AAPs verified that the institutions had considered any of these factors.

Although the remaining 19 financial institutions' AAPs approved by Treasury between January 1972 and December 1974 were not readily available for our review, information in Treasury's files showed that at least 5 of the 19 did not meet Labor standards. The files included compliance review reports analyzing the deficiencies found in the institution's AAPs and correspondence between Treasury and the institutions.

For example, following a review of one financial institution in February 1972, Treasury recommended that it revise its AAP to include goals and timetables. The institution refused to establish goals and timetables because it faced economic uncertainties which might affect the number of new employees hired. Treasury later approved this institution's AAP without goals and timetables.

Treasury reviewed another financial institution in July 1973 and in August 1973 directed it to establish goals and timetables to remedy identified areas of minority and female underutilization and forward them to Treasury within 30 days. In July 1974, almost 1 year later, Treasury received information from the institution that it had:

"\* \* \* established the goal of increasing our percentage of minority employees. The goal established was 15% of our staff of full time employees. Since the turnover at the executive level is minimal, the new minority employees have been exclusively in clerical positions."

Treasury approved this institution's AAP in August 1974. The goals submitted by this institution were deficient in that they did not (1) relate to job groups where underutilization had been identified, (2) provide for increasing utilization of females, or (3) include timetables.

We believe that the primary reason for approving AAPs not meeting Labor guidelines is Treasury's emphasis on moral suasion, technical assistance, and voluntary compliance, rather than enforcement measures. Treasury has been remiss in carrying out its enforcement responsibilities; it has approved unacceptable AAPs rather than impose sanctions.

#### REVIEWS NOT COMPLETED PROMPTLY

Except when it approves delays for good cause, Labor requires a compliance agency to complete its review and either approve a contractor's AAP or issue a show-cause notice within 60 days after receiving the AAP and supporting documentation. We found that Treasury seldom complies with this requirement. Between September 1974 and April 1975, Treasury performed a total of 150 compliance reviews nationwide. Only seven of these reviews were completed within Labor's 60-day limit.

Time Required To Complete Reviews Begun  
Between September 1974 and April 1975

<u>Region</u>	<u>Days</u>					
	<u>Total reviews</u>	<u>60 or less</u>	<u>61 to 90</u>	<u>91 to 120</u>	<u>121 to 150</u>	<u>More than 150</u>
Atlanta	32	1	5	8	8	10
Chicago	36	5	13	7	2	9
Houston	44	-	9	19	6	10
Los Angeles	14	-	-	1	2	11
Washington, D.C.	<u>24</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>14</u>
Total	<u>150</u>	<u>7</u>	<u>29</u>	<u>38</u>	<u>22</u>	<u>54</u>

Note: Time required to complete 104 of the reviews was based on time elapsed from the date the AAPs were received to the date the institutions were notified of their compliance status. However, the duration shown for 46 of the 150 reviews began on the dates of the onsite reviews because data was not readily available showing when AAPs were received.

Of the 54 reviews shown above as having taken more than 150 days, 34 were incomplete as of August 15, 1975.

Our review of Treasury headquarters compliance files showed that 49 reviews were performed of institutions in Chicago and Washington, D.C., between January 1972 and December 1974. Thirty-four of them were finished, and the institutions had been formally notified of their compliance status, as required by Labor guidelines. As of November 1975, the remaining 15 reviews were incomplete; that is, compliance was not determined and the institutions were not notified.

Completed reviews

The following data shows the time required for the 34 completed reviews.

Time Required for Reviews Completed  
Between January 1972 and December 1974

<u>City</u>	<u>Days</u>					
	<u>Total reviews</u>	<u>60 or less</u>	<u>61 to 90</u>	<u>91 to 120</u>	<u>121 to 150</u>	<u>More than 150</u>
Chicago	26	5	4	3	4	10
Washington, D.C.	<u>8</u>	<u>7</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>-</u>
Total	<u>34</u>	<u>12</u>	<u>4</u>	<u>3</u>	<u>5</u>	<u>10</u>

As the above data shows, 21 of the 26 Chicago institutions required more than 60 days to review.

Following is an example of Treasury's failure to complete reviews promptly. In January 1973 Treasury's Chicago office received for desk audit an AAP which did not contain a utilization analysis or goals and timetables. In February Treasury requested the institution to submit an acceptable AAP. The institution later submitted a copy of its 1972 employer information report filed with the Equal Employment Opportunity Commission but not the missing information. Treasury reviewed the financial institution in April 1973 and, instead of taking required enforcement action against the institution for failing to submit requested data, sent the institution a list of deficiencies in May, requesting it to submit goals and timetables within 30 days. However, the institution did not comply. Again, in July Treasury asked for the goals and timetables within 30 days. At the institution's request, Treasury granted a 90-day extension in August. Finally, in October 1973 Treasury received goals and timetables and in February 1974 found the institution in compliance with the Executive order. Thus, 13 months elapsed from January 1973, when Treasury received the institution's AAP for desk audit, until February 1974, when Treasury notified the institution of its compliance status.

In another case, a Chicago financial institution was reviewed by Treasury in June 1973 and found to have deficiencies in its AAP. Treasury sent a list of the deficiencies to the institution in July 1973. The institution submitted additional data in December 1973 and January 1974. Finally in February 1974, 8 months after Treasury's onsite review, the institution was found in compliance with the Executive order.

#### Incomplete reviews

In 13 of the 15 incomplete cases, more than 2 years had elapsed since Treasury's compliance reviews.

For example, Treasury reviewed an institution in February 1973 and identified several deficiencies in its AAP. Treasury sent the institution a list of these deficiencies in March 1973. The institution replied in April 1973 expressing a willingness to correct the deficiencies but stating that it did not know how. In May 1973 Treasury sent instructions for correcting the deficiencies; the institution acknowledged receipt of the instructions and said it would take action. However, the institution did not forward to Treasury the information to correct

the deficiencies in its AAP, and Treasury did not follow-up on the institution's commitment.

Treasury scheduled this financial institution for another compliance review in March 1975. Upon receiving the institution's AAP, Treasury found that it still did not meet Labor guidelines. Treasury performed an onsite review in April 1975 but did not determine the institution's compliance status. Thus, from February 1973 through April 1975, Treasury reviewed this institution twice without determining whether it complied with the Executive order.

#### RECENT TREASURY ACTIONS TO ENFORCE PROGRAM REQUIREMENTS

A Treasury official said the Department issued its first show-cause notice in late June 1974. The official stated that up until that time Treasury's philosophy had been to use public relations and rely on voluntary compliance instead of taking enforcement measures. Since May 1974 Treasury officials have alerted the banking industry that the Department plans to adopt a stronger enforcement posture. In addressing a group of Chicago bankers in May 1974, a Treasury official stated, in part:

"Treasury must become more enforcement oriented in any case than we have been in the past. The idea of a solid working relationship and rapport is certainly important but if we are to be criticized for our performance to date, it is that we have perhaps leaned too far toward the public relations image. For example, we have yet to withdraw federal deposits from any major bank because of non-compliance. While this may not be in fact a valid indication, it at least gives the appearance that we have not been tough enough."

A Treasury official addressing the American Bankers Association National Personnel Conference in September 1974 stated that

"\* \* \* I would like to talk about a stronger enforcement posture on the part of the Treasury Department. If the Treasury is to be criticized for its performance as a major compliance agency, it may be because we have not been tough enough; or at least in the eyes of some critics we have not evidenced our toughness by issuing show cause letters or cancelling a bank's federal depository status. \* \* \*

\* \* \* \* \*

"This past week, for example, you may have read about the recent GAO investigation prepared for Congresswoman Martha Griffiths' Joint Economic Subcommittee, which apparently shows that federal compliance offices have frequently allowed contracts to be awarded without determining if the companies have complied with non-discrimination regulations. According to GAO, of some 120 affirmative action plans accepted by government agencies, almost half did not meet criteria established by the Labor Department's Office of Federal Contract Compliance.

"GAO concluded that the Labor Department has been lax in its performance of implementing the Executive Order and that most Federal agencies are reluctant to enforce sanctions against companies that do not conform to the regulations. \* \* \*

\* \* \* \* \*

"It should be noted that GAO's audit was concentrated at the Labor Department and two of the largest compliance agencies, the General Services Administration and the Department of Defense. Nonetheless, there is a clear message for the Treasury Department and all of you gathered here that if anything, our efforts to enforce the EEO and civil rights acts must be conducted with increasing vigor."

Between June 1974 and September 1975, Treasury issued show-cause notices to six financial institutions for noncompliance with the Executive order. We reviewed the files relating to four of the six cases and found that the institutions had long histories of noncompliance.

For example, Treasury sent a show-cause notice in September 1975 to a financial institution that had been reviewed four times since 1970. Treasury records showed this institution had a long history of noncompliance against which no enforcement actions had been taken. Following is a chronology of Treasury's efforts to bring this institution into compliance.

June 1970

Treasury's first review of the institution concluded that it was not in compliance with the Executive

order. However, Treasury did not notify the institution of its non-compliance and no enforcement actions were taken.

October 1971

Treasury's second review concluded that the institution needed to update its AAP and include a minority utilization analysis and goals and timetables.

November 1971

Treasury found the institution in compliance with the Executive order, even though the missing information was not submitted with its updated AAP.

July 1973

Treasury performed a third review and notified the institution of deficiencies which included the lack of goals and timetables.

August 1973

The institution refused to set goals and timetables.

October 1973

Treasury wrote a letter warning the institution that failure to cooperate could result in enforcement actions.

December 1973

Treasury informed the institution that a favorable compliance determination would be withheld until January 1975, pending receipt of satisfactory quarterly progress reports during 1974.

April 1974

Treasury warned the institution that its poor progress could jeopardize its status as a Federal contractor and depository of Federal funds.

January 1975

Due to the institution's poor progress reports, Treasury did not find it to be in compliance with the Executive order. However, enforcement actions still were not taken.

February 1975

Treasury began a fourth review, but could not complete it because of the institution's inadequate preparation of work-force analysis, utilization analysis, and goals and timetables.

March 1975                      The institution refused to develop the work-force and utilization analyses, goals, and timetables requested.

May 1975                        Treasury told the institution that the specified data was necessary for its review and to forestall formal enforcement measures.

June 1975                       Treasury officials and representatives of the institution met to discuss Labor's requirements. The institution agreed to submit required data.

July 1975                        The institution submitted unsatisfactory work-force and utilization analyses and again refused to establish goals and timetables.

September 1975                 Treasury issued a show-cause notice to the institution.

Treasury's unsuccessful efforts to bring this institution into compliance with the Executive order spanned over 5 years.

#### CONCLUSIONS

Treasury has been remiss in fulfilling its equal employment responsibilities under the Executive order. Although it has recently issued some show-cause notices, we believe that stronger enforcement action is necessary if the contract compliance program is to achieve its full potential for improving job opportunities for minorities and women in financial institutions.

The program's credibility has been seriously damaged by Treasury's past record of abstaining from enforcement measures against noncompliant institutions, even those which refused to comply. The contract compliance program for financial institutions is intended to compel them to implement equal employment opportunity and affirmative action principles and practices which they might not otherwise undertake. If financial institutions are not committed to these principles and practices and realize that enforcement measures will not be imposed, they cannot be compelled to comply with program requirements.

To restore the credibility of the contract compliance program for financial institutions, Treasury must invoke stronger enforcement measures. Specifically, it should

administer the program fully in accordance with Labor guidelines, imposing enforcement measures when warranted. Also, in the case of financial institutions with long histories of noncompliance and particularly those which refuse to comply with substantive requirements of the program, Treasury should take strong enforcement measures and keep them in effect until deficient institutions implement equal employment opportunity and affirmative action principles and practices.

RECOMMENDATIONS TO THE  
SECRETARY OF THE TREASURY

We recommend that the Secretary require officials to enforce the contract compliance program according to Labor guidelines by (1) keeping to time limitations and (2) initiating sanctions when institutions are not complying, rather than relying on moral suasion, technical assistance, and voluntary compliance. We further recommend that the Secretary direct appropriate officials to take full enforcement measures against financial institutions with long histories of noncompliance with substantive program requirements. Actions should be taken particularly against those which refuse to comply. Those measures should be kept in effect until the institutions implement equal employment opportunity and affirmative action principles and practices.

## CHAPTER 4

### STATUS OF TREASURY'S ENFORCEMENT OF THE CONTRACT

#### COMPLIANCE PROGRAM AT SELECTED FINANCIAL INSTITUTIONS

In his request (see app. I), Senator William Proxmire referred to charges of sex discrimination filed against Peoples National Bank of Maryland and asked us to determine why Treasury had not reviewed this bank and whether Treasury had made any efforts to apprise this bank of its equal employment responsibilities. He also referred to charges of discrimination filed against major Chicago banks and asked us to examine Treasury's administration of the contract compliance program at those banks.

#### SEX DISCRIMINATION CHARGES FILED AGAINST PEOPLES NATIONAL BANK OF MARYLAND

In October 1974 two women employed by Peoples National Bank filed charges with the Equal Employment Opportunity Commission alleging that the bank (1) denied them equal opportunity for promotion as part of a pattern and practice of discrimination against women as a class and (2) unlawfully dismissed them from their jobs in retaliation for seeking equal opportunity.

After receiving their discrimination charges, EEOC informed the women that its heavy workload would preclude an investigation of the charges in the near future. Subsequently, a private attorney representing the two women filed a motion for a preliminary injunction requesting the U.S. District Court for the District of Maryland to (1) reinstate the women in their jobs with backpay and interest, (2) prohibit the bank from taking any retaliatory measure made unlawful under title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.), and (3) require the bank to pay the women's attorney fees. After a hearing for a preliminary injunction, the women and the bank agreed to settle the case informally. The women withdrew their charge of unlawful dismissal, and in return the bank reinstated the women to their jobs with backpay. In addition, the bank promised not to take any retaliatory measures against the women. Bank officials said the judge ordered the record of hearings sealed.

The bank said that, because of the pendency of the women's charges, it was unable to reply to the women's allegations other than to deny any discriminatory conduct.

EEOC representatives said:

- EEOC was working to resolve the women's charge that they and other qualified women had been denied promotion by the bank.
- EEOC investigated this charge from December 1974 to November 1975 and attempted to reach an agreement acceptable to the two women and the bank.
- EEOC could not make public the status of its investigation of the bank at this time due to restrictions on the disclosure of such information by title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-5(b)).
- EEOC and/or the women may bring the charge before the courts for litigation.

Peoples National Bank of Maryland is a Federal contractor and subject to the Executive order. Also, the bank employs more than 50 employees and is required to have an affirmative action program. Our review showed that:

- After receiving notification in February 1972 that the bank had not prepared an affirmative action program, Treasury did not inform the bank of its obligation under the Executive order.
- Before August 1975, Treasury did not review the bank for compliance with the Executive order.
- As of March 31, 1976, Treasury had not yet completed its review which was initiated in August 1975.
- Treasury considered issuing a show-cause notice to the bank when it submitted a deficient AAP for desk audit in August 1975, but did not as a result of the bank's subsequent submission of an AAP which Treasury accepted.

Treasury's compliance files for Chicago, Washington, D.C., and Maryland showed that 14 bank examiner notices were received by Treasury. (See p. 22.) One of these notified Treasury in February 1972 that Peoples National Bank of Maryland did not have a written AAP. Treasury records contained no evidence that the bank was informed of its equal employment obligations under the Executive order and Labor guidelines which require Federal contractors with more than 50 employees to prepare an AAP.

Treasury acknowledged that before August 1975 it had not performed a compliance review of Peoples National Bank of Maryland because of limited staff and funding. An official stated that Treasury's resources allow only a limited number of financial institutions to be reviewed each year. Peoples National Bank of Maryland is only one of many which have never been reviewed. (See p. 6.)

A Treasury official said a compliance review of the bank began on August 4, 1975, when the AAP was received and a desk audit was completed in October 1975. Treasury found the bank's AAP unacceptable because it did not meet Labor guidelines. The bank said its original AAP submitted to Treasury for desk audit lacked some of the elements of an acceptable AAP, because it did not receive sufficient instructions for preparing an acceptable AAP under the complex Labor guidelines. The regional manager of Treasury's Washington regional office informed us that, in keeping with customary Treasury practice, he told a bank official in November 1975 that Treasury intended to issue the bank a show-cause notice due to the bank's failure to prepare an acceptable AAP. However, instead of issuing a show-cause notice, he met with a bank representative on the following day, explained in detail the deficiencies in the bank's AAP, and granted the bank a 5-day extension. The bank later submitted an AAP containing the required utilization analysis, as well as goals and timetables.

Before its onsite review of the bank in January 1976, Treasury coordinated its review efforts with EEOC in November 1975 and January 1976.

A Treasury official said the decision not to issue the bank a show-cause notice will not preclude Treasury from doing so, if necessary, in the future.

#### DISCRIMINATION COMPLAINTS FILED AGAINST SEVEN CHICAGO FINANCIAL INSTITUTIONS

In May 1974 representatives of Treasury's Chicago regional office met with members of a public interest group of Chicago working women, which includes employees of various financial institutions. The women's group asked Treasury to initiate compliance reviews of some major financial institutions in the Chicago area. Also, the group accused Treasury of failing to (1) perform regular compliance reviews of major Chicago financial institutions and (2) enforce equal employment opportunity laws prohibiting discrimination.

Representatives of the women's group informed us that in September 1974 they filed sex discrimination charges with EEOC, alleging that Continental Illinois National Bank and Trust Company of Chicago and First National Bank of Chicago discriminated against female employees in hiring, paying, promoting, training, and other employment terms and conditions. In addition, the representatives stated that the women's group presented EEOC with complaints alleging that these two banks and five other Chicago financial institutions practiced widespread employment discrimination based on sex, race, and age. The other five Chicago financial institutions discussed in the women's group report were the American National Bank and Trust Company of Chicago, Bell Federal Savings and Loan Association, Central National Bank, Harris Trust and Savings Bank, and Northern Trust Company.

In September 1974 Treasury learned of the complaints against the seven Chicago financial institutions and notified EEOC that it had reviewed two of the banks--Bell Federal Savings and Loan Association and Central National Bank--in August 1974 and had scheduled the remaining five banks for review in November 1974. EEOC deferred its investigation of the charges against First National Bank of Chicago so that Treasury could review the institution as scheduled. EEOC furnished Treasury with a copy of the women's report and other materials considered relevant to Treasury's review. At the request of Continental Illinois National Bank and Trust Company of Chicago, Treasury deferred its review to allow EEOC to investigate the charges filed by the women's group.

Labor guidelines provide that a complaint may be filed by any employee of any contractor or applicant for employment, by himself or an authorized representative. Complainants may file with the appropriate compliance agency or with the Director of the Office of Federal Contract Compliance Programs. Labor guidelines provide that a complaint must be in writing and should include the name and address of the complainant and the contractor, as well as a description of the acts considered to be discriminatory.

Labor guidelines also require a compliance agency to institute a prompt investigation of each complaint filed with it or referred to it. Within 60 days from receipt of a complaint by the compliance agency, or within such additional time as may be granted by OFCCP for good cause shown, the compliance agency shall process the complaint and submit to OFCCP a summary report, which details the complaint investigated, a brief summary of the findings, and a statement of the agency's disposition of the complaint, including any corrective action taken or recommended and any sanctions or penalties imposed or recommended.

On November 12, 1974, Treasury representatives met with members of the women's group to discuss the allegations of discrimination and promised to investigate their complaints. During November and December 1974, Treasury performed reviews at five of the seven financial institutions. In December 1975 Treasury was reviewing Central National Bank and had tentatively scheduled Bell Federal Savings and Loan Association for review during the second half of fiscal year 1976.

Our review showed that Treasury:

- Approved the AAPs of Harris Trust and Savings Bank and Northern Trust Company, although they did not meet standards of acceptability established by Labor guidelines.
- Did not issue a show-cause notice to Harris Trust and Savings Bank nor withdraw approval of the bank's AAP after being notified that Labor had found it unacceptable.
- Had not completed its review and investigation of the complaints against American National Bank & Trust Company of Chicago. Labor guidelines require that a compliance agency must either find a contractor in compliance or issue a show-cause notice within 60 days of receiving an AAP for review.
- As of December 1975, had not finished investigating the women's group's complaints against Bell Federal Savings and Loan Association and Central National Bank. Labor guidelines require a compliance agency to promptly investigate each complaint filed or referred to it.

#### Harris Trust and Savings Bank

Treasury's review of Harris Trust and Savings Bank in November 1974 showed that the bank's AAP was deficient, primarily because its goals and timetables did not meet Labor guidelines. Treasury investigated allegations that the bank's female employees were an affected class and found the allegations untrue. In January 1975 the bank forwarded its revised goals and timetables as requested by Treasury. On February 28, 1975, Treasury determined the bank's AAP to be in compliance with the Executive order.

Labor guidelines provide that a contractor's AAP shall be considered accepted by the Government at the time the appropriate compliance agency accepts it, unless within 45 days thereafter Labor disapproves the AAP.

On March 31, 1975, after carefully analyzing the bank's Treasury-approved AAP, Labor found it unacceptable and so notified Treasury. Labor's analysis of Treasury's compliance review showed that Treasury (1) approved the bank's AAP although its utilization analysis and goals and timetables did not meet Labor guidelines and (2) performed inadequately in reviewing the AAP and investigating the complaint of an affected class problem. However, Treasury did not notify the bank that its AAP was disapproved.

On May 1, 1975, Labor directed Treasury to issue a show-cause notice to the bank because of inappropriate job groupings and goals and timetables in the bank's AAP. Treasury did not comply with this directive and, instead, held several meetings with the bank in May 1975, during which Treasury and the bank agreed that the bank would (1) promptly correct the deficiencies identified by Labor's analysis and (2) make an affected-class study to determine whether female employees constituted an affected class.

A Treasury official stated that Treasury did not issue a show-cause notice to the bank as directed by Labor on May 1, 1975, because the notice would have had to be withdrawn on the basis of the bank's revisions.

In June 1975 Treasury determined that the bank had sufficiently revised its AAP. Labor found the bank's revised AAP improved, but it was still deficient because it lacked an analysis of affected-class problems. However, Treasury stated that Labor did not inform it of the deficiencies in the revised AAP. In June and August 1975, the bank requested extensions for completing its affected-class study, and on August 5, 1975, Treasury granted the bank a final 30-day extension. On September 5, 1975, the bank informed Treasury that the study was still incomplete. The bank also stated that (1) its study had not successfully identified an affected class among its female employees hired in the last 6 years and (2) if an affected class problem did exist, it would likely involve women employees possessing more than 6 years' tenure with the bank. The bank further informed Treasury that it was willing to discuss additional affirmative action to correct underutilization of its female employees.

According to a Treasury official, at a meeting of the bank, Treasury, and Labor in October 1975, Labor officials asked the bank for permission to complete the study. The bank agreed and turned over all relevant material to Labor. On March 5, 1976, Treasury informed us that Labor had not completed the affected-class study or determined whether an affected class existed.

### Northern Trust Company

Treasury began a compliance review of Northern Trust Company during November 1974. On February 14, 1975, having completed its review of the bank's AAP and its investigation of complaints against the bank, Treasury notified the bank of compliance with the Executive order.

During April 1975 Labor analyzed Treasury's compliance review. According to a Labor official, Labor's analysis showed that (1) Treasury approved the bank's AAP although its utilization analysis and goals and timetables did not meet Labor guidelines and (2) Treasury's review of the bank's AAP and investigation of the complaints against the bank were inadequate.

A Labor official said Treasury was notified orally of the deficiencies in its review. However, he stated that Labor did not direct Treasury to resolve the deficiencies because the 45-day period, during which Labor may reject AAPs approved by a compliance agency, had elapsed.

A Treasury official said that Northern Trust Company is tentatively scheduled for another review between January and June 1976. He also said Treasury would contact the women's group before the review to get more current information on their complaints.

### First National Bank of Chicago

Treasury began a compliance review of First National Bank of Chicago in November 1974. Treasury discovered several deficiencies in the bank's AAP, including the existence of a possible affected class comprising some of its female employees as alleged in the complaint. According to a Treasury official, by June 1975 the bank had resolved all the deficiencies except the alleged affected-class problem. He said the bank agreed in June 1975 to study whether such a problem existed.

On November 24, 1975, Treasury found the bank in compliance with the Executive order even though the question of an affected-class problem had not been resolved, because, according to a Treasury official, the bank sent a letter of commitment to continue its affected-class study even though it did not believe there was an affected class among its female employees.

American National Bank &  
Trust Company of Chicago

Treasury began reviewing American National Bank & Trust Company of Chicago during December 1974. However, Treasury did not complete its review nor adequately investigate the complaints against the bank.

According to a Treasury official, the review of the bank was not completed and the bank was not found in compliance because (1) the bank submitted inadequate information to correct deficiencies in its AAP, (2) the method it used to establish goals and timetables was questionable, and (3) the complaints made by the women's group against the bank were not completely resolved.

A Treasury official said Treasury began a new review of the bank in September 1975 rather than complete the first compliance review. He stated that Treasury asked representatives of the women's group for additional information to assist its new investigation. According to the official, the women's group would not submit the names of aggrieved women employees to Treasury because bank management had warned all employees not to talk to Treasury compliance officers. The bank denied this allegation and said it had fully cooperated in arranging for Treasury representatives to interview bank employees.

Bell Federal Savings and Loan Association  
and Central National Bank

As of December 4, 1975, Treasury had not yet investigated the complaints against Bell Federal Savings and Loan Association and Central National Bank.

Bell Federal Savings and Loan Association was reviewed and found in compliance with the Executive order on September 10, 1974, before the women's complaints against the financial institution were received from EEOC. Treasury did not investigate the complaints against Bell Federal Savings and Loan Association because it had already been found in compliance. An official stated that Bell Federal Savings and Loan Association is tentatively scheduled for another review between January and June 1976 and Treasury would contact the women's group before the review to get more current information on the complaints.

Treasury's review of Central National Bank was not completed when it received the women's complaints against the bank.

Treasury records show it found Central National Bank in compliance with the Executive order on February 28, 1975, without investigating the complaints received in September 1974. According to a Treasury official, Central National Bank is currently being reviewed and Treasury has contacted the women's group to obtain additional information.

Thus, in the cases of Bell Federal Savings and Loan Association and Central National Bank, Treasury did not follow Labor guidelines which require a prompt investigation of complaints filed with it or referred to it.

Continental Illinois National  
Bank and Trust Company of Chicago

In November 1974 Treasury began a review of the Continental Illinois National Bank and Trust Company, but the bank requested Treasury to defer its review so EEOC could complete its investigation of the bank's overall employment practices. During December 1974 Treasury withdrew from its review with Labor's approval.

EEOC officials said they could not make public the status of their investigation of the bank due to restrictions on the disclosure of such information imposed by title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-5(b)).

Treasury last reviewed the bank in December 1970. An official said Treasury did not plan to review the bank in the near future because the bank asked it to postpone any reviews until EEOC's investigation had been resolved. An EEOC representative said its investigation of the bank may not be completed for 3 years.

## CHAPTER 5

### AGENCY COMMENTS AND UNRESOLVED ISSUES

The Departments of Labor and Treasury, the Equal Employment Opportunity Commission, and other entities discussed in this report have been given an opportunity to review and formally comment on the report. However, officials of the Department of Labor and Central National Bank did not provide us with formal comments.

We have considered the comments of those responding and have made a number of changes in the report to give recognition to the comments. However, the comments give rise to a number of unresolved issues which are discussed below.

#### DEPARTMENT OF THE TREASURY COMMENTS

In commenting on our report (see app. IV), the Department of the Treasury stated that, in general, the report identified many deficiencies it had previously noted and sought to correct. Treasury also stated that our report did not adequately recognize major improvements which had been instituted during the past 18 months.

#### Treasury comment

"The Treasury Department's Equal Employment Opportunity Contract Compliance Program was initiated late 1967, after a determination that financial agents were subject to Executive Order 11246. Three staff personnel were assigned to develop and promulgate a program and conduct surveillance for an entire financial universe of approximately 5,000 of 16,000 banks. The staff level did not increase until FY 1971 from which time it has been gradually augmented to its present level of 30 professionals and 10 clericals."

#### Our analysis

We agree that some of the problems discussed in this report may be related to Treasury's relatively small staff. However, the most significant problem discussed in our report (need for stronger enforcement of the program--see ch. 3) is attributable to Treasury's lack of commitment to using enforcement measures when warranted rather than to inadequate staffing.

### Treasury comment

Treasury said that its former policy of relying primarily on moral suasion had produced positive results and cited statistics showing increased minority employment by financial institutions to support its opinion. According to Treasury, black leadership and numerous bankers throughout the country stated that its program of moral suasion, technical guidance, and the compliance review program were the principal factors leading to improved job opportunities for minorities.

### Our analysis

We recognize that the number of minorities employed by financial institutions has increased. The information supplied by Treasury shows that in 1966 minority employees represented 8 percent of the total work forces of the 1,710 employer facilities filing joint Labor-Equal Employment Opportunity Commission employer information reports and 16 percent of the total work forces of the 3,505 employer facilities filing such reports in 1974. However, not all of this increase is attributable to Treasury's program administration because there are other Federal and State programs which are actively seeking to insure equal employment opportunities in financial institutions. Also, our report shows nonenforcement of the program at financial institutions, and Treasury's comment leaves unresolved the issue of how much better the job opportunities for minorities and women might be if Treasury had enforced the program in accordance with Labor guidelines.

### Treasury comment

Treasury said that, during speaking engagements before representatives of financial institutions, it had emphasized the requirement for preparing and updating affirmative action plans. Treasury also presented numerous workshops on the subject of affirmative action and the requirements for compliance with the Executive order to well over 50,000 bankers. According to Treasury, these workshops help assure that top leaders of the banking industry are aware of their equal employment obligations and promote leadership roles in assuring meaningful results at their banks. Although Treasury acknowledged that enforcement measures were not instituted in some cases where deficiencies were found, it noted that in almost all instances financial institutions agreed to take affirmative action for hiring and upgrading minorities.

### Our analysis

We agree with Treasury's practice of meeting with representatives of the banking industry to inform them of their

affirmative action responsibilities. We do not agree, however, that this practice eliminates the need for the use of enforcement measures when warranted. Treasury approved deficient affirmative action programs during compliance reviews between January 1972 and December 1974. While a deficient AAP does not, by itself, indicate that a financial institution is not committed to the equal employment opportunity program, developing AAPs which contain adequate utilization analyses and set goals and timetables is the initial step in improving the financial institutions' positions.

#### Treasury comment

"The Department of Labor's Director of the Office of Federal Contract Compliance Programs was fully apprised of our emphasis and endorsed continuation thereof on several occasions because it was felt that results were rapid, in significant numbers and most meaningful and served as a better testimonial than a record of toughness and threatened sanctions."

#### Our analysis

An Office of Federal Contract Compliance Programs official informed us that he could find no documentation endorsing Treasury's policy of using moral suasion and technical assistance in lieu of enforcement measures. Our review showed that Labor sent a formal evaluation to Treasury in 1974 criticizing its administration of the program, including criticism of Treasury's emphasis on education, persuasion, and public relations at the expense of thorough onsite analysis and enforcement.

#### Treasury comment

Treasury said it began a review of its management of the program in late 1973, and as a result, it had implemented some reforms and placed greater emphasis on enforcement. Treasury also said many of our findings and recommendations paralleled the problem areas which its review discovered and that Treasury had already implemented corrective action.

#### Our analysis

Treasury's review was completed in December 1973 and contained 22 recommendations covering such matters as the need for improving its organization and staffing and for developing program goals and objectives. For example, one of the recommendations called for Treasury to revise existing administrative directives to assure conformance with organizational objectives. We compared Treasury's 22 recommendations

with those in our report and found only the following two to be similar to ours.

1. Treasury should establish and maintain records on the status of a financial institution's compliance with written instructions, negotiated agreements, or other compliance directives.
2. Treasury should give careful consideration to other data requirements, particularly those of the contract compliance program. Minimum data requirements should be established for the purposes of planning and program development.

We are making a similar recommendation because, at the time of our review, Treasury did not have sufficient and reliable management information and because we believe this to be a serious problem in the administration of the program.

#### Treasury comment

"General Accounting Office accepts Department of Labor compliance opinions as uncontroversial, but Treasury's opinions on how to meet this problem are equally supportable. That Labor seeks to 'crack down' on management, anywhere, is a commonly held view of Labor's decisions. What Treasury has attempted to do is merely to bring banks into contract compliance through cooperative efforts rather than through the heavy hand of authority. Where indicated, Treasury is prepared to take enforcement action even to the extent of terminating Federal depository relationships."

#### Our analysis

The Executive order delegates responsibility to the Secretary of Labor for issuing guidelines to implement the contract compliance program, and the 10 designated compliance agencies are responsible for enforcing Labor guidelines. Treasury has never taken enforcement action to the extent of terminating Federal depository relationships with financial institutions, despite some institutions' failure to comply, and in some instances deliberate refusal to comply, with the program's requirements.

#### Treasury comment

Treasury said our report unjustly criticizes it for not conducting compliance reviews at financial institutions

which are subject to the Executive order but have fewer than 50 employees. Treasury said it was a sound management decision to exclude these institutions from the review process because (1) its small staff has to be allocated to reviewing financial institutions which offer the most job opportunities for minorities and women, (2) Labor guidelines do not provide for reviewing contractors having fewer than 50 employees, and (3) the relatively low number of employees of such institutions would diminish the reliability of compliance review findings which are based on statistical imparities.

### Our analysis

We agree that it is a sound management practice to allocate resources to reviewing the financial institutions that offer the most opportunities for minorities and women. We do not agree, however, that Treasury should never review financial institutions having fewer than 50 employees. The selection system used should provide for selecting such financial institutions on a sample basis. Labor's standardized compliance review procedures are specifically designed for contractors with 50 or more employees. However, Labor guidelines also provide that compliance agencies are responsible for reviewing their assigned contractors, and Labor has not instructed compliance agencies not to review contractors with fewer than 50 employees.

### Treasury comment

Treasury acknowledged that it was not consistently following Labor's compliance review procedures and had accepted AAPs which did not meet Labor guidelines. However, Treasury said our report provides less than an accurate evaluation because it measures Treasury's performance in prior years against current Labor guidelines which vary significantly from the guidelines in effect in prior years. Treasury also said that our report did not note that Labor's compliance review procedures are confusing and that Labor had not developed training courses to instruct compliance officers in implementing the procedures. Treasury further stated that Labor guidelines require that affected-class discrimination analyses be conducted and that such discrimination identified be remedied, but Labor had not yet published guidelines to be followed or the remedies to be used in dealing with suspected affected-class discrimination.

### Our analysis

As noted by Treasury, Labor's compliance review procedures and its guidelines for developing acceptable AAPs were revised on several occasions.

However, in evaluating the 20 reviews performed by Treasury and the 15 AAPs approved by Treasury, we applied Labor's standards in effect when the reviews were performed or when the AAPs were approved. For example, Labor guidelines presently in effect and in effect during the period of our review require compliance agencies to conduct a desk audit of a contractor's AAP before performing an onsite review at the contractor's facility. However, only 7 of the 20 reviews met this standard.

With respect to our evaluations of the 15 AAPs approved by Treasury, Labor guidelines presently in effect and in effect during the period of our review require that, when underutilization of minorities or women is identified, contractors must adopt goals for increasing their utilization. Such goals must be measurable and numerically specific, and timetables must be established for achieving the goals. None of the 15 AAPs we examined met this standard even though Treasury determined that minorities and women were being underutilized.

Inasmuch as the scope of this review did not include an evaluation of Labor's administration of the program, we cannot comment on Treasury's criticisms of Labor guidelines and untimely guidance. However, in our April 29, 1975, report (MWD-75-63), we discussed the need for timely and complete guidance and noted that several of the compliance agencies, including Treasury, had experienced problems in obtaining such guidance. As of March 1976, Labor indicated that actions had been taken to improve its guidance through issuance of (1) proposed guidelines for identifying and remedying affected-class problems, (2) a Federal contract compliance handbook, and (3) an interim guidance memorandum on backpay.

#### Treasury comment

"Although the findings of the draft report are accurate with respect to the quality and accuracy of management information acquired in past years, it is not true for reviews conducted during the past six months. Currently, the Headquarters Office is furnished with the identity and dates of reviews scheduled for all financial institutions six weeks in advance of the calendar quarter in which the reviews are to occur. When a compliance determination is made, the Headquarters Office is provided with a copy of the letter of notification to the financial institution together with the required reports prepared for forwarding to Labor. In addition to the

foregoing, further refinements to our present system for data accumulation and retrieval are well advanced and completion is anticipated in the immediate future."

#### Our analysis

Since Treasury's claimed improvements in its management information system had not been implemented when most of our audit work was performed, we cannot comment on the adequacy of the improvements. However, Treasury's comment does not address what action, if any, it plans for correcting omissions and errors in its management information system for reviews performed before implementing those improvements. As pointed out in our report, Treasury should review its records to correct the existing omissions and errors.

#### Treasury comment

Treasury said some portion of its inaccurate reporting to Labor was attributable to an inadequate management information system; however, it referred to confusion over definitions of various reporting categories used on Labor's report format and said the confusion was a major factor causing inaccurate reporting by all compliance agencies. Treasury said that uncertainty as to Labor's definition of reporting categories, such as reviews planned, completed, and in conciliation, was causing inaccurate reporting to Labor. Treasury stated that variances shown by our report between Treasury and Labor records is the result of "what Labor assumes was completed according to the way they construe the report categories."

#### Our analysis

Our review was limited to Treasury's administration of the program, and we cannot comment on its suggestion that all compliance agencies are submitting inaccurate reports to Labor. We cannot agree that uncertainty as to the definition of certain terms is causing inaccurate reporting to Labor. The meaning of such words as "planned," "completed," or "in conciliation" is apparent. Moreover, we concluded that Treasury's reports submitted to Labor were inconsistent with its other records. (See p. 13.) We did not, as the comment suggests, base our conclusions on "what Labor assumes was completed according to the way they construe the report categories."

#### Treasury comment

"The draft report further asserts that a significant number of coding sheets could not

be used by Labor as they omitted essential data or contained inaccurate information. If so, why were they not returned to Treasury for correction as is called for by present operation procedures?"

### Our analysis

Labor's present operating procedures provide that, when incorrectly prepared coding sheets are received, Labor will contact the appropriate compliance agency official by phone and attempt to obtain the necessary information to make the corrections. Coding sheets are returned to compliance agencies for correction only if phone contacts are unsuccessful. Labor informed us that it does not keep records of phone contacts with compliance agencies but that it had returned 96 coding sheets to Treasury for correction during fiscal year 1974. Labor did not have records showing the number of coding sheets returned during fiscal year 1975.

In our report dated April 29, 1975 (MWD-75-63), we discussed the various problems encountered by Labor in processing coding sheets and in implementing its system to measure Federal contractors' progress in improving the employment of minorities and women.

### Treasury comment

Treasury said, as a result of its 1973 management review which pointed out the need for more accurately identifying financial institutions subject to the equal opportunity program, it had completed arrangements to obtain information identifying financial institutions subject to the Executive order. As of March 5, 1976, Treasury said it had not yet received the information but anticipated receipt of the information soon.

### Our analysis

Treasury has been unsuccessful in its attempts to identify all financial institutions subject to the Executive order, and Treasury's reliance on joint Labor-EEOC employer information reports for identifying its contractor universe will also be unsuccessful. Moreover, since financial institutions with fewer than 50 employees are not subject to joint Labor-EEOC filing requirements, the EEOC employer information reports will not identify the 10,500 financial institutions with fewer than 50 employees, which Treasury estimates are subject to the Executive order. In one of our recommendations, we suggest sources of information readily available to Treasury which can be

used to more accurately identify the financial institutions subject to the Executive order and the number of persons they employ.

#### Treasury comment

Treasury said the need for better coordination with EEOC is a valid criticism; however, it said extenuating circumstances, such as its limited staffing and travel funds, do not always permit the kind of close coordination contemplated by the Labor-EEOC memorandum of understanding. Treasury further stated it would be duplicative to attempt investigation of charges filed with EEOC since EEOC ultimately conducts its own investigations of discrimination complaints.

#### Our analysis

We do not suggest that Treasury attempt to investigate charges filed with EEOC. Rather, we are recommending that Treasury consult with EEOC as required by the Labor-EEOC memorandum of understanding.

In our report dated April 29, 1975 (MWD-75-63), we recommended that the Secretary of Labor coordinate with EEOC at headquarters and regional levels and make periodic tests to insure that (1) complaint data on file with EEOC is considered by compliance agencies during reviews and (2) information is exchanged to minimize duplication of effort. In the memorandum of understanding, Labor and EEOC agreed to continue their efforts to develop consistent systems, procedures, and standards to further the purpose of the agreement. However, Labor officials informed us that Labor and EEOC had been unsuccessful in their efforts to develop such systems, procedures, and standards.

#### Treasury comment

Treasury said it became apparent in early 1974 that it would have to emphasize a stronger enforcement approach because some financial institutions were unwilling to meet their responsibilities under the program. To implement a stronger enforcement approach, Treasury (1) decentralized its operations and established several regional offices headed by experienced managers, (2) conducted a workshop in December 1975 to train its staff, and (3) added five professionals during fiscal year 1975 and planned to hire six more persons during fiscal year 1976 and additional personnel later.

### Our analysis

Most of the cited actions to emphasize stronger enforcement were implemented after our audit work was largely completed. Although these actions should have a beneficial effect, the ultimate test of Treasury's commitment to take a stronger enforcement approach is its willingness to invoke enforcement measures against noncompliant institutions, particularly those with long histories of noncompliance.

### Treasury comment

"During the past year Treasury has attempted to conclude each review, where unresolved deficiencies were identified, with a written commitment to take specific, corrective actions. In cases where contractors have failed to do so we have issued ten show cause notices. It must be remembered that the show cause notice is not an end in and of itself, but only one of many means by which equal opportunity program results are to be achieved. It is ultimately our most effective tool, but premature or over-zealous use of the show cause notice would not only unnecessarily alienate the business community, but it would lose its present shock effect through frequent, repetitive use."

### Our analysis

We randomly selected and examined the files for seven reviews completed by Treasury's Chicago and Houston regional offices during June 1975. In six of those reviews, deficiencies were left unresolved without having obtained the written commitments to corrective actions required by Labor guidelines. For example, one bank was placed in compliance even though it did not provide required goals and timetables.

We recognize that show-cause notices should not be issued indiscriminately. However, when financial institutions have failed to comply with substantive requirements of the program, enforcement measures should be initiated.

### Treasury comment

Treasury said the report accurately documents its difficulty in meeting the 60-day deadline required by Labor guidelines but does not address the root of the problem. Treasury said Labor guidelines require that,

if affected-class discrimination exists, remedies to cure its effects are to be instituted. Treasury said it has insufficient time during a compliance review to make the many analyses necessary to determine the presence of affected-class discrimination. It further stated that Labor's 60-day rule makes no distinction between reviews of small- or medium-sized firms and those which may employ many thousands of persons and require more time to thoroughly review. Treasury also said it was encountering delays because of the infrequent meetings by the institutions' boards of directors which usually must approve costly conciliation agreements.

### Our analysis

We examined 49 compliance files representing Chicago and Washington, D.C., financial institutions reviewed by Treasury from January 1972 through December 1974. We found only 2 of the 49 were prolonged on account of suspected affected-class discrimination and attempted resolution thereof. When Treasury is unable to complete a review of a financial institution within 60 days, either because of the large size of the work force or the infrequent meetings by the board of directors, then it should request extensions from Labor as provided by Labor guidelines.

### Treasury comment

Treasury said the women's group complaints against the seven Chicago financial institutions did not meet Labor's definition of a complaint. According to Treasury, complaint investigations were not conducted at the Chicago financial institutions because the complaints were too broad and general. Treasury said that general allegations, such as those received from the Chicago women's group, are frequently received during a compliance review and serve as a point of focus; however, such allegations are not complaints.

### Our analysis

Treasury representatives met with members of the women's group on November 12, 1974, to discuss the allegations of discrimination against seven Chicago financial institutions and promised to investigate their complaints. During November and December 1974, Treasury reviewed and investigated the complaints against five of the seven financial institutions and prepared summaries for three of the five investigations. Also, during May 1975 Treasury provided us with a list of formal complaints it had

received and processed since 1967. The list included the complaints received on November 12, 1974, against the seven Chicago financial institutions.

OFCCP representatives said that the complaints filed by the women's group met Labor's definition of a complaint.

#### Treasury comment

Treasury said Labor had not communicated its reasons for not accepting the AAP of Northern Trust Company.

#### Our analysis

Treasury was notified orally by Labor of the deficiencies in Northern Trust Company's AAP. During our meeting with officials of this financial institution we were advised that Treasury's Chicago regional manager had orally communicated the deficiencies found in the AAP as a result of Labor's analysis.

#### DEPARTMENT OF LABOR COMMENTS

The Department of Labor did not provide us with formal comments. Officials made verbal suggestions for clarifying the report, and these suggestions have been incorporated into the report where appropriate.

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION COMMENTS

EEOC suggested some revisions in the report to exclude any possibility that it was divulging that an investigation of Continental Illinois National Bank and Trust Company was in progress.

#### Our analysis

Section 706 of title VII of the Civil Rights Act of 1964 provides, in part, that:

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged

unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission." (Underscoring supplied.) (42 U.S.C. 2000e-5(b))

This provision prohibits EEOC from making charges public and also requires that agency to investigate charges filed. EEOC's apparent concern is that, by disclosing an investigation is in process, this report implies that EEOC has disclosed that discrimination charges have been filed with it.

We would like to point out that on page 36 of the report we state that "Representatives of the women's group informed us that in September 1974 they filed sex discrimination charges with EEOC \* \* \*." We discussed this statement with representatives of EEOC during January and February 1976. At that time these representatives informed us that they did not believe our statement that charges had been filed would violate the confidentiality provisions of 42 U.S.C. 2000e-5(b).

We did not receive the information in the report concerning the charges filed by the women's group from EEOC. Rather, we received this information from representatives of the women's group, the bank, and Treasury. Consequently, we believe that the prohibition contained in 42 U.S.C. 2000e-5(b) against EEOC making filed charges public is not applicable in this situation. Therefore, we see no basis for EEOC's position that we should not divulge the fact that EEOC is conducting an investigation.

#### PEOPLES NATIONAL BANK OF MARYLAND COMMENTS

##### Bank comment

The bank said EEOC's investigation is still pending, and there has not been a finding by EEOC of probable cause to believe discrimination existed or a finding by the courts that the bank engaged in any unlawful conduct.

The bank also said that Treasury had not determined the bank in noncompliance with the Executive order and requested that its case not be discussed in the report because the report will irretrievably prejudice the bank's right to a fair and impartial investigation by EEOC and Treasury.

#### Our analysis

This report does not evaluate the merits of the allegations against the bank; an accurate and objective chronology of Treasury's and EEOC's review and investigative efforts will not prejudice the bank's right to a fair and impartial investigation by Treasury and EEOC.

#### Bank comment

The bank cited the provision of title VII of the Civil Rights Act of 1964, as amended, which states that:

"It shall be unlawful for any officer or employee of the Commission to make public in any manner whatsoever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this subchapter involving such information." (42 U.S.C. 2000e-8(e))

The bank said the intent of this section is to protect respondents in EEOC cases from the damage to their reputation resulting from the Government's publication of unfounded charges of discrimination. The bank believes our report violates this confidentiality by discussing the bank and detailing the charges filed against it.

#### Our analysis

Our report states, in summary, the charges of discrimination as filed with EEOC against the bank by two of its women employees. However, the information contained in this report was not obtained from EEOC records but from the women's pleadings filed with the U.S. District Court for the District of Maryland seeking injunctive relief.

#### Bank comment

The bank believes our report should state that EEOC has not yet determined whether there is probable cause to believe that the bank engaged in any discriminatory conduct.

### Our analysis

EEOC officials advised us that they could not make public the status of its investigation of the bank at this time due to restrictions on the disclosure of such information imposed by title VII of the Civil Rights Act of 1964, as amended. (See p. 34.)

### VEDDER, PRICE, KAUFMAN, KAMMHOLZ & DAY COMMENTS (COUNSEL FOR HARRIS TRUST AND SAVINGS BANK)

#### Bank comment

The bank asked that the report be revised to state it had been reviewed by Treasury prior to November 1974.

#### Our analysis

Treasury records show that it had reviewed the bank on two occasions prior to November 1974--once in April 1971 and again in June 1972.

#### Bank comment

The bank said the report infers that Treasury should not have determined the bank in compliance with the Executive order based on the bank's written commitments to remedy defects in its AAP. The bank said this procedure is authorized by Labor guidelines, and it has seen widespread use in the contract compliance program.

#### Our analysis

Our report does not infer that Treasury is to be criticized for this procedure but states that Treasury did not comply with Labor's directive to issue the bank a show-cause notice. We recognize that Labor guidelines permit a compliance agency to determine a contractor in compliance with the Executive order based on the contractor's written commitments to correct the deficiencies in its AAP. (See p. 19.)

#### Bank comment

The bank said the report suggests that it was remiss in failing to determine if any of its employees were an affected class. The bank stated that it has no such obligation and that the determination of whether an affected class exists is the responsibility of Treasury. According to the bank, its obligation is to cooperate with Treasury by providing sufficient data and it had fully cooperated with Treasury.

### Our analysis

During May 1975 Treasury held several meetings with the bank to resolve deficiencies identified by Labor. At those meetings, Treasury informed the bank that it suspected affected-class problems at the bank and the bank voluntarily committed itself to conduct an affected-class study. Our review did not disclose any evidence that the bank was not cooperating with Treasury and Labor in attempting to resolve the suspected affected-class problems.

### Bank comment

"Finally, as representatives of the Bank discussed with [a GAO representative] during a recent meeting in Chicago, there are agreements between the Bank and the Treasury Department, between the Bank and the OFCCP, and, we believe, between the Treasury Department and the OFCCP that all material submitted and discussions held concerning the affected class analysis and the unresolved status of any 'affected class problems' are confidential. Albeit some of these agreements are oral many have been confirmed in correspondence between the Bank and government officials. Any exposure of the affected class analysis discussions or related material through a GAO report or otherwise would be a violation of these agreements and a breach of faith between those parties.

"Accordingly it is requested that any discussions or references to the Harris Bank's affected class analysis or 'affected class problems' be deleted from the draft report before that report becomes a matter of public record, and that such discussions remain confidential at least until all work is completed and final conclusions established."

### Our analysis

Although Treasury declined to express an opinion as to whether information in this report violates any confidentiality commitment, Labor stated that this report does not violate such commitments. Labor advised us that commitments of confidentiality had been made on specific detailed information obtained from the bank. However, Labor also advised us that the material in this report does not deal in any way with the confidential data. Labor stated that the confidential data was not disclosed to us or to anyone else. Labor also stated that:

"\* \* \* the draft material merely discloses that allegations have been made of an affected class of women at the facility, that Treasury has failed to deal with the matter as required by the Executive Order and the Rules and Regulations pursuant thereto, and that OFCCP has assumed responsibility for making a final determination as to the existence or nonexistence of such affected class or classes.

"OFCCP has made no verbal or written commitments to the effect that the very existence of this affected class issue, or the status of the investigation into it, would be held confidential. There is nothing in the Order or in the Rules and Regulations authorizing such confidentiality; indeed, a requirement of that nature would appear unnecessarily restrictive upon a thorough investigation."

#### NORTHERN TRUST COMPANY COMMENTS

##### Bank comment

The bank denied it was guilty of widespread employment discrimination and stated that it had complied with all Treasury directives and instructions in preparing its AAP and should not be criticized.

##### Our analysis

Our report expresses no conclusions on whether the charges of employment discrimination are valid. The information in this report should not be interpreted as implying criticism of the bank. The bank is primarily responsible to Treasury, and our review showed no evidence that the bank was uncooperative or unwilling to meet its equal employment responsibilities.

##### Bank comment

The bank requested that it not be identified in the report because its identity was not germane to our review of Treasury's administration of the contract compliance program.

##### Our analysis

The information concerning Northern Trust Company and other identified banks is included pursuant to the specific request of Senator Proxmire's office.

## FIRST NATIONAL BANK OF CHICAGO COMMENTS

The bank said that, during an interview with our representative, it was informed that their comments would be held in confidence and that no effort would be made to discuss the merits of any charges or complaints. The bank said the report is not consistent with those assurances.

### Our analysis

This report does not contain any information obtained during the interview with the bank's officials. Moreover, the report does not discuss or assess the merits of the women's group charges and complaints filed against the bank.

## AMERICAN NATIONAL BANK & TRUST COMPANY OF CHICAGO COMMENT

The bank said it questioned whether the women's group allegations against the bank met Labor's definition of a complaint.

### Our analysis

Treasury records show that it considered the women's group allegations against the Chicago banks to be complaints and OFCCP representatives said the complaints met Labor's definition of a complaint.

## BELL FEDERAL SAVINGS AND LOAN ASSOCIATION COMMENT

The association said Treasury should have resolved the women's group complaint in its favor based on information obtained by Treasury during its August 1974 compliance review. The association said it would have welcomed a prompt investigation if the complaint raised specific new areas of concern to Treasury.

### Our analysis

We do not agree that the complaint should have been resolved in the association's favor solely because Treasury had determined the association in compliance shortly before the complaint was received. Labor guidelines require a compliance agency to (1) institute a prompt investigation of each complaint filed or referred to it and (2) follow specific investigatory procedures for resolving the complaint. We agree with the association that it and the complainant are entitled to a prompt investigation and resolution of the complaint.

WILLIAM PROXMIRE  
WISCONSIN

## United States Senate

WASHINGTON, D. C.

November 8, 1974

The Honorable Elmer B. Staats  
Comptroller General of the United States  
General Accounting Office  
441 G Street, NW  
Washington, D. C. 20548

Dear Mr. Staats:

I am initiating an examination of the Treasury Department's Equal Opportunity Program and the effectiveness of its compliance review of Federal depository banks. The General Accounting Office has, I know, recently conducted an investigation of the Federal contract compliance program for the Subcommittee on Fiscal Policy of the Joint Economic Committee. As a member of that committee and of the Senate Committee on Banking, Housing and Urban Affairs, which has oversight responsibility for Treasury regulation of banks coming under its jurisdiction, I request that you expand your original study and investigate Treasury's contract compliance program in detail. The investigation should cover compliance review and follow-up review activities, procedures for approval and updating of affirmative action programs, and use of available sanctions to obtain compliance.

In conjunction with this general investigation, I request that you also look into some specific cases which have been brought to my attention and which appear to indicate inadequate enforcement of EEO requirements by the Treasury Department. Additional materials relating to these cases are enclosed.

The first case concerns a complaint filed with Treasury by the Coalition Against Sexist-Racist Hiring (CASH) and the National Organization for Women (NOW) charging employment discrimination against minorities and women by four major District of Columbia banks. Treasury dismissed the complaint, saying that it was not warranted by the facts and was brought by parties not authorized to bring complaints before the Department. I would appreciate your assessing the merits of Treasury's dismissal of this case, which is still pending before the Equal Employment Opportunity Commission. [See GAO note 1, p. 61.]

The second case involves sex discrimination charges filed against Peoples National Bank of Maryland by two women employees who were denied promotions and then dismissed after making a formal inquiry about advancement policies. A Baltimore District Court judge has granted a preliminary injunction reinstating them in their jobs pending further legal action. According to Treasury officials, no compliance review has ever been conducted at Peoples National, which is a federal depository. I request that you look into the reasons for this omission and determine whether Treasury had made any efforts to apprise this bank of its EEO responsibilities as a Federal contractor.

Finally, I call your attention to charges filed with the EEOC against five major Chicago banks by Women Employed (WE), which appear to have prodded Treasury into planning an on-site compliance investigation. Evidently there has been no compliance review of any of these banks in over three years. I request that GAO examine the reasons for this previous inaction and the findings made in the upcoming investigations, with a view to evaluating the effectiveness of Treasury's contract compliance program to date. [See GAO note 2 below.]

Thank you for giving this request your prompt attention.

Sincerely,



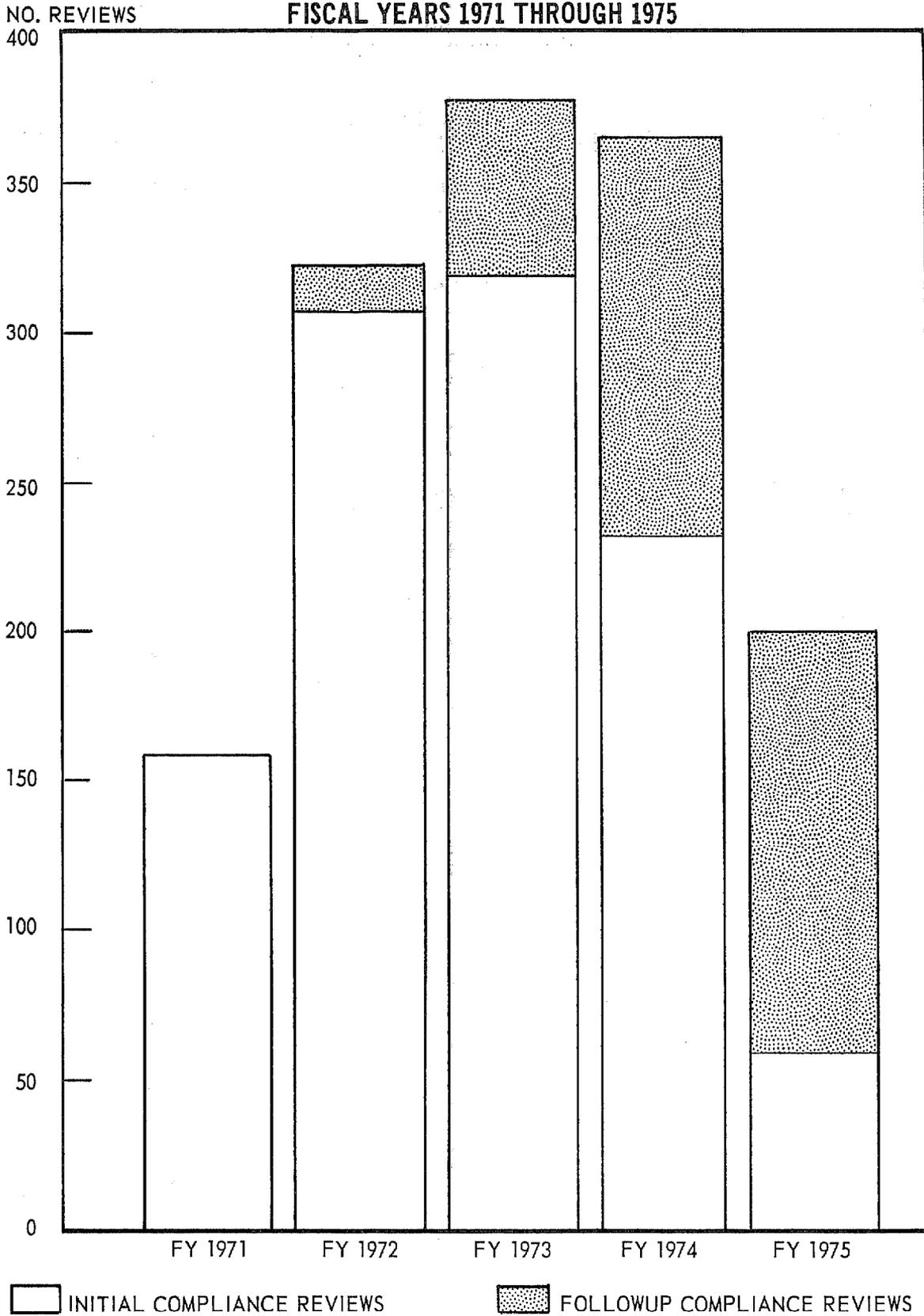
William Proxmire, U.S.S.

WP:ebm

Enclosures: Copy of CASH petition and Treasury response  
Copy of charges filed with EEOC against Peoples National Bank  
and Washington Post article on the case  
Copy of American Banker article on WE charges against Chicago banks

- GAO note:
1. As agreed with Senator Proxmire's office, this report does not discuss the complaint filed with Treasury by the Coalition Against Sexist-Racist Hiring.
  2. Women Employed filed complaints against seven major Chicago banks.

### TREASURY COMPLIANCE REVIEWS PERFORMED AT FINANCIAL INSTITUTIONS FISCAL YEARS 1971 THROUGH 1975



EMPLOYMENT PROFILE OF 3,091 BANKSSUBMITTING EMPLOYER INFORMATION REPORTS IN 1973

<u>Job categories</u>	<u>Total</u>	<u>Women</u>		<u>Minorities</u>	
		<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
All employees	737,081	459,049	62.3	112,355	15.2
Officials and managers	148,041	28,336	19.1	7,364	5.0
Professionals	29,274	7,657	26.2	2,172	7.4
Technicians	16,820	4,269	25.4	2,296	13.7
Sales workers	7,317	3,969	54.2	594	8.1
Office and clerical	495,733	403,105	81.3	88,128	17.8
Service workers	26,483	6,998	26.4	8,505	32.1
Blue collar workers	13,413	4,715	35.2	3,296	24.6



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

MAR 5 1976

Dear Mr. Lowe:

As you may know, the Secretary is currently out of the country and I am therefore responding in his behalf to your letter of February 6, 1976, with which you provided him copies of your draft report on the evaluation of the Department Equal Opportunity Program for our comment.

Your report notes many deficiencies in the administration of the Program which we have noted and had sought to correct even prior to receiving your report.

We are disappointed that your report provides no adequate recognition to the significant improvements which have been instituted by us during the past 18 months. These are accomplishments which are clear evidence of my personal involvement and the Department's commitment to strengthen and improve our Program.

I trust that as you review the accompanying comments, you will take into consideration that we believe it is necessary that these statements of position must be reflected in your final report, thus achieving some needed objectivity and placing the report in more proper perspective.

Sincerely yours,

Warren F. Brecht  
Assistant Secretary (Administration)

Mr. Victor L. Lowe  
Director, General Government Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Enclosure

Treasury's Comments in Response to  
General Accounting Office's Draft Report

The Treasury Department's Equal Employment Opportunity Contract Compliance Program was initiated late 1967, after a determination that financial agents were subject to Executive Order 11246. Three staff personnel were assigned to develop and promulgate a program and conduct surveillance for an entire financial universe of approximately 5,000 of 16,000 banks. The staff level did not increase until FY 1971 from which time it has been gradually augmented to its present level of 30 professionals and 10 clericals.

In order to maximize the effectiveness of the limited staff and to educate an entire industry to its responsibilities under the Executive Order, the Department emphasized a program of technical assistance and moral suasion in dealing with financial agents. The goal was to change the workforce profile in the banking industry by assuring that minorities and women were recruited, hired, trained, and upgraded.

Minority employment in banks prior to 1968 was insignificant and indicated that the industry was "lily white" and almost void of opportunity for minorities. Currently, the record indicates that within the universe of approximately 800,000 employees (as reported to the Joint Reporting system of the EEOC and the Department of Labor), minority employment has risen from below 40,000 in 1968 to over 138,000 in early 1975; for blacks, the increase was from approximately 22,000 to over 88,000 and, for Hispanics, from approximately 12,000 to over 36,000. [See GAO note 1, p. 80.]

We have been advised by black leadership and by numerous bankers throughout the country that the Treasury program of moral suasion, technical guidance, and the compliance review program were the principal factors leading to the rapid changes and the evident results.

Dozens of workshops have been conducted throughout the country by the Department. These have been held in cooperation with various state bankers associations and bank personnel groups. It is estimated that Headquarter's program staff has presented the subject of affirmative

action and the requirements for compliance with the Executive Order to well over 50,000 bankers. Separate meetings have been held with approximately 1,000 of the top leaders of the banks throughout this country to assure awareness of the EEO requirements and to promote leadership roles in assuring meaningful results at their banks.

While it may be true that enforcement programs were not instituted in cases where some deficiencies were found, it should be noted that, in almost all instances, agreements were secured to institute activities and programs for the hiring and upgrading of minorities at the banks.

The Department of Labor's Director of the Office of Federal Contract Compliance Programs was fully apprised of our emphasis and endorsed continuation thereof on several occasions because it was felt that results were rapid, in significant numbers and most meaningful and served as a better testimonial than a record of toughness and threatened sanctions.

It became evident in 1973, through changes at the Department of Labor and new Office of Federal Contract Compliance requirements, that Treasury's program, emphasis and operation required study. Therefore, Treasury instituted its own management review program in late 1973. As a consequence, a central headquarters operation was decentralized into six regional offices with strong staff direction and leadership and with a greater enforcement orientation. Many of the findings and recommendations reflected in the GAO report was discovered by us as problem areas during our own internal management review and many changes have been instituted, particularly during the past year, prior to, but consistent with, the parallel GAO recommendations. The GAO auditors were completely apprised of this action but the report does not reflect the significant changes.

General Accounting Office accepts Department of Labor compliance opinions as uncontroversial but Treasury's opinions on how to meet this problem are equally supportable. That Labor seeks to "crack down" on management, anywhere, is a commonly held view of Labor's decisions. What Treasury has attempted to do is merely to bring banks into contract compliance through cooperative efforts rather than through the heavy hand of authority. Where indicated, Treasury is prepared to take enforcement action even to the extent of terminating Federal depository relationships.

The Department's specific comments on the GAO Draft Report follows:

Small Percentage of Financial Institutions Reviewed (Page 8)

In discussing the number and percentage of financial institutions reviewed by Treasury between fiscal years 1971 and 1975, the draft report conveys the unwarranted and negative impression that Treasury is to be criticized for not conducting compliance reviews at institutions having fewer than 50 employees. Not only is it a sound management decision to allocate one's resources to areas where maximum results can be expected, but also, the Department of Labor's guidelines for the conduct of compliance reviews (Revised Order No. 14) provide no procedures for the review of contractors having fewer than 50 employees, since such small institutions are not required to prepare affirmative action plans in accordance with Labor's guidelines. Further, since the bulk of the evidence acquired during a compliance review to support conclusions of discrimination or an absence of affirmative action is based upon statistical imparities, the low number of employees and the proportionately fewer number of personnel actions which could be expected to occur in a given time frame would diminish the reliability of compliance review findings.

Treasury Reviews Not Meeting Labor Standards (Page 13)

There is merit to the draft report's findings regarding Treasury's inconsistency in meeting Labor standards for the conduct of compliance review. However, the report does not reflect certain mitigating facts that would provide a more objective evaluation. Labor's standards are contained in Revised Order No. 14. This Order first became effective on July 1, 1972, and was further revised on January 23, 1973, May 21, 1973, February 17, 1974, and July 12, 1974. The requirements of the currently effective version of that Order vary significantly from the requirements of earlier versions. Thus, to measure Treasury's performance in prior years against a standard which has only been effective in its current form since July 12, 1974, provides a less than accurate evaluation.

Also unnoted in the draft report is the fact that Revised Order No. 14 contains ambiguous language and provides for evaluation procedures which are, at best, confusing. Further, the draft report does not recognize the fact that Labor has not developed training courses to instruct compliance specialists in the use of the Order, nor have instructional memoranda been issued to clarify its ambiguities.

Finally, Labor's Revised Order No. 4, which specifies the requirements of an acceptable Affirmative Action Program, and Revised Order No. 14, which dictates how the acceptability of an Affirmative Action Program will be measured, require that affected class discrimination analyses be conducted and that identified discrimination

be remedied. Yet to this date, Labor has not published for contractor use the guidelines to be followed or the remedies to be used in identifying and resolving affected class discrimination. This inconsistency is further compounded by the fact that a compliance determination is to be reached within only 60 days from the date a contractor's Affirmative Action Program is received for desk audit purposes. In this regard, we understand that most of the compliance agencies have informed OFCCP (even though its regulations authorize the extension of the 60 days) that the basic 60-day time frame is unrealistic; especially when the contractor's workforce runs into the thousands.

[Inadequate] Management Information (Page 20)

Although the findings of the draft report are accurate with respect to the quality and accuracy of management information acquired in past years, it is not true for reviews conducted during the past six months. Currently, the Headquarters Office is furnished with the identity and dates of reviews scheduled for all financial institutions six weeks in advance of the calendar quarter in which the reviews are to occur. When a compliance determination is made, the Headquarters Office is provided with a copy of the letter of notification to the financial institution together with the required reports prepared for forwarding to Labor. In addition to the foregoing, further refinements to our present system for data accumulation and retrieval are well advanced and completion is anticipated in the immediate future.

Inaccurate Reporting to Labor (Page 23)

Some portion of the inaccurate reporting to Labor would, admittedly, be attributable to an inadequate management information system discussed above; however, a major factor causing inaccurate reporting by all compliance agencies is confusion over definitions of various reporting categories used on Labor's report format. Among other information sought, the report seeks data on the number of reviews "Planned", "Completed", "In Conciliation", "In-Progress-Current Month", and "In-Progress-Prior Month". These reporting categories are further broken down by whether the compliance review is an initial review, a follow-up review or a complaint investigation. Labor has not specifically described the status or characteristics of a compliance review that would permit consistently accurate reporting in the various report categories. Hence, a variance results between what Treasury's completed case records reflect and what Labor assumes was completed according to the way they construe the report categories.

[See GAO note 2, p. 80.]

[See GAO note 2, p. 80.]

The draft report further asserts that a significant number of coding sheets could not be used by Labor as they omitted essential data or contained inaccurate information. If so, why were they not returned to Treasury for correction as is called for by present operation procedures?

[Financial Institutions Subject to the Executive Order Not Identified] (Page 26)

We recognized in our own internal management study the need to more accurately identify financial institutions subject to the Equal Opportunity Program. Arrangements have been completed for the EEOC to furnish computer input tapes prepared for Employer Information Reports (EEO-1) submitted each year by financial institutions nationwide. This listing will be checked against records of the Federal Deposit Insurance Corporation to ensure accuracy of the data base. The EEOC originally advised us that the tapes would be available in October 1975. We have not yet received them but do anticipate their receipt in the immediate future.

[Lack of Treasury-EEOC Consultation] (Page 31)

The need for better coordination with EEOC is a valid criticism; however, there are mitigating circumstances which do not always permit the kind of close coordination contemplated by the memorandum of understanding between Labor and EEOC. With our limited resources it is frequently wasteful of time and travel money to visit a particular EEOC office when both Treasury's Regional Office and the financial institution to be reviewed are located in other cities. Additionally, telephone contacts are seldom productive of helpful information; for example, the fact that EEOC has uninvestigated complaints outstanding against a particular employer scheduled for a compliance review is not conclusive evidence of discrimination. Further, it would be duplicative for Treasury to attempt investigation of charges filed with EEOC, as the Commission will ultimately conduct its own investigations of complaints of discrimination.

Need for Stronger Enforcement  
of the Contract Compliance Program [For  
Financial Institutions] (Page 34)

It became apparent that while a majority of financial institutions had responded favorably to moral suasion, there remained a hard core of institutions whose recalcitrance made vigorous enforcement efforts necessary. Therefore, in early 1974 a number of management decisions were made to emphasize a stronger enforcement approach:

First, an initial decision was made to decentralize day-to-day operations of the Equal Opportunity Program by establishing a number of Regional Offices throughout the nation. These offices are now headed by managers with many years of proven experience in enforcement and administration of the Executive Order program. With one exception, all of these new managers come from other compliance agencies where they had built records of strong enforcement and technical expertise.

To upgrade the technical knowledge of our experienced, and inexperienced staff, we decided to conduct a rigorous workshop in December 1975, tailored to achieving consistency, professionalism, and thoroughness in the entire review process. We believe that this workshop accomplished these objectives. A copy of the agenda followed at that workshop is attached as Appendix I. Examination of this agenda will disclose that it emphasized training in the same areas as have been identified in the GAO draft report as stated deficiencies in Treasury's program.

Concurrent with its planned decentralization program, Treasury added five professional positions to its field offices during fiscal year 1975. In preparation of our FY 76 budget, the funding for our compliance activity had to be considered along with the other priority requirements in the Office of the Secretary -- which were considerable. At the same time, Treasury, like all other Departments, had been asked by the President to make every effort possible to reduce Federal expenditures. Consequently, we were unable to request the increase in staffing that OFCCP recommended. We did, however, include funding for an increase of six positions in the Office of Equal Opportunity Program for FY 76. Five of these positions will be for the compliance function and will permit us to establish a regional office in New York City, (which action has already been initiated). Additionally, we plan to request similar increases in FY 77, FY 78, and the years following, increases which will eventually enable us to attain the level of staffing that OFCCP has recommended. These Department budgeting plans for assiduously meeting our requirements for increased staffing in the contract compliance mission area were communicated by Secretary Simon to then Labor Secretary Brennan in a letter dated November 5, 1974.

[See GAO note 2, p. 80.]

During the past year Treasury has attempted to conclude each review, where unresolved deficiencies were identified, with a written commitment to take specific, corrective actions. In cases where contractors have failed to do so we have issued ten show cause notices. It must be remembered that the show cause notice is not an end in and of itself, but only one of many means by which equal opportunity program results are to be achieved. It is ultimately our most effective tool, but premature or over-zealous use of the show cause notice would not only unnecessarily alienate the business community, but it would lose its present shock effect through frequent, repetitive use.

One last point, Treasury's former policy of relying primarily on moral suasion has produced positive results. The past success of this approach is evidenced by the dramatic increase in minority employment in financial institutions during the period 1968 - 1974. At the end of 1967, black and Spanish-surnamed employment in the nation's banks stood at 6.6 percent. By 1974, that figure had more than doubled, reaching 14.2%; an increase of 115 percent in only seven years. This was accomplished during a period when Treasury's compliance staff grew from three persons at the end of 1967 to a total of 20 professionals in 1974.

Affirmative Action Programs Not Prepared  
by Financial Institutions (Page 35)

The draft report accurately documents the fact that many financial institutions had not prepared Affirmative Action Plans. However, the report conveys the clear but erroneous impression that such continues to be the case. Not only are we responding promptly to each notice received from the FDIC identifying institutions which have no plans, but our management staff in its speaking engagements before financial industry groups are underscoring the requirement that Affirmative Action Plans must be prepared and updated annually. Further during the past year, Treasury's Regional Managers have appeared before eight Affirmative

Action Seminars sponsored by the American Bankers Association for the specific purpose of training industry personnel officials in how to prepare an acceptable Affirmative Action Plan. Since July 1975, each Regional Office has been conducting two-day affirmative action plan workshops on a quarterly basis for all financial institutions which are to receive compliance reviews during the next three months. Attached as Appendix II is a sample of an agenda and the materials furnished contractors during these quarterly workshops. To our knowledge, no other compliance agency in Government is going to these lengths to assist contractors in the preparation of acceptable affirmative action plans.

Affirmative Action Plans Not Meeting Labor Guidelines (Page 39)

While it is true that many affirmative action plans accepted by Treasury during the period January 1972 - December 1974 do not meet Labor's current guidelines, an objective reporting must take into account that Labor's guidelines were undergoing frequent revisions (see earlier comments); the standards used to measure the acceptability of AAP's were not finally effective until July 12, 1974, more than three-fourths of the way through the period covered by the draft report.

Reviews Not Completed [Promptly] (Page 45)

The draft report accurately documents Treasury's difficulty in meeting the sixty day deadline required by Labor guidelines for completing a compliance review and reaching a compliance determination. Although our record has improved markedly in recent months, there remain many instances where the deadline is unmet. When such is the case, we are now routinely requesting time extensions from Labor and such requests are being approved.

The root of the problem is not addressed in GAO's draft report. Labor guidelines (Revised Order No. 4) require that if affected class discrimination exists remedies to cure its effects are to be instituted. Unfortunately, other than to provide a brief, general definition of affected class discrimination, Labor has published no official guidelines for contractor use as to how to procedurally determine if an affected class is present or on what basis remedies are to be drafted. (See earlier comments). Consequently, during a compliance review the compliance agency has insufficient time to conduct the many analyses which are necessary in order to determine the presence of this form of discrimination.

Additionally, Labor's 60-day rule makes no distinction between reviews of small or medium-sized firms, and those which may employ many thousands of persons. Obviously, reviews of comparable thoroughness require

proportionately more time. Finally, we are experiencing a reluctance on the part of many financial institutions to enter into meaningful and costly conciliation agreements without the prior approval of their boards of directors. As most boards meet no more frequently than every thirty days, the ensuing delay frequently requires going beyond the 60-day time limit for a compliance determination.

Sex Discrimination Charges Filed Against the  
Peoples National Bank of Maryland (Page 59)

The draft report finding regarding Treasury's compliance relationship with this bank is, in part, an accurate accounting; in part, it is not. It is true that Treasury did not inform the bank of its equal employment opportunity obligations after receiving notice in February 1972. It is equally true that prior to August 1975, the bank had not been reviewed for compliance with the Executive Order. However, in context, it should be understood that prior to that time Peoples National Bank was only one of many small banks which had not been reviewed. This was consistent with a policy of allocating scarce resources for review to large institutions where greater numbers of employment opportunities could be expected.

[See GAO note 2, p. 80.]

A chronology of events reflecting the review process of Peoples National Bank is attached as Appendix III.

Discrimination [Complaints] Filed Against Seven  
Chicago Financial Institutions (Page 65)

[See GAO note 2, p. 80.]

[See GAO note 2, p. 80.]

A part of every compliance review, according to Labor guidelines, involves contact with local community groups and spokespersons for general information about the employment policies and practices of the contractor to be reviewed. General allegations, such as those received directly from "WE" in Chicago, or similar broad charges such as those that might result from coordination with EEOC, are frequently received during a compliance review. In these circumstances the reviewing compliance officer is instructed to closely inspect those employment practices called to our attention, e.g. "recruiting", "training", "promotions", etc., during the on-site compliance review. Such general allegations are not, however, "complaints".

A "complaint" must meet the criteria outlined in, and be processed in accordance with, Labor guidelines designated in 41 CFR 60-1.21 through 60-1.24.

Since the broad allegations received directly from "WE" and indirectly through EEOC were not considered to be formal complaints in accordance with Labor guidelines, complaint investigations, per se, were not conducted at the Chicago financial institutions. Rather, they were treated as general allegations which served as points of focus during the review process.

At page 67, the draft report correctly states that Treasury approved Affirmative Action Plans submitted by certain Chicago financial institutions which were subsequently determined by OFCCP as not meeting Labor guidelines, and that Treasury subsequently failed to issue a show cause letter or to rescind its earlier approval of the AAP of one of these two institutions, Harris Trust and Savings Bank.

The OFCCP has, to date, not communicated to Treasury its reasons for not accepting the AAP of Northern Trust Company, the other one of these two banks whose AAP Treasury approved. On May 1, 1975, OFCCP officially informed Treasury that Harris Trust and Savings Bank's AAP was not acceptable because of inappropriate job groupings and inappropriate goals and timetables and requested that a "show cause" letter be issued on that basis. Our newly appointed Chicago Regional manager met with the bank and explained the complexities of the regulations and gave the bank two weeks to revise its AAP. The revised

AAP was delivered to OFCCP in May 1975 and we have received no further direction from that office with regard to the compliance determination that Treasury issued in February 1975.

[See GAO note 2, p. 80.]

At the bottom of page 67, the draft report notes that, as of December 1975, Treasury had not yet completed its investigations of the complaints received from EEOC in September 1974, against [two] banks: Bell Federal Savings and Loan Association, and Central National Bank. The report should reflect that Treasury did not conduct complaint investigations, as such, because they were furnished by EEOC as background informational allegations along with EEOC's assurance that they would postpone their own investigations pending completion of Treasury's reviews.

[See GAO note 2, p. 80.]

In summary, the Department's review of the recommendations made in the draft report indicate that action had been taken on each, even prior to the issuance of your report. For the most part, these actions are complete and currently operational:

- We have ensured that compliance reviews are performed in accordance with Labor's standards and procedures through issuances of an operational handbook and a standard compliance report form which conform to all of Labor's requirements under Order #14 and thorough intensive staff training.

- We have established a management information system which provides accurate information identifying institutions which have been reviewed with all of the details covered in your recommendation.
- We have instituted a system to ensure accurate reporting from the field to the headquarter offices, thus enabling us to render accurate information reports to the Department of Labor.
- We have arranged to secure information which will enable us to maintain a current listing of all institutions covered by the Executive Order; delivery of that information is expected shortly from the Joint Reporting Committee. The delay in delivery since October 30 has been beyond our control and is attributed to validation requirements and problems encountered by the Joint Reporting Committee and its contractor.
- We will expand our referral with EEOC, as required by Labor's EEOC memorandum of understanding, which will improve the coordination of compliance review efforts and promote the interchange of information.
- We are administering our contract compliance program in accordance with Labor guidelines wherever possible. We will attempt to secure the necessary revisions by Labor of the time limitations which are currently unworkable. Also, despite a greater emphasis on enforcement, the Department does not believe it will be beneficial to curtail or end its activities of conciliation, mediation and persuasion or of providing technical assistance to the banking industry. These efforts are mandated by the Executive Order and have produced significant results towards compliance.

AFFIRMATIVE ACTION WORKSHOP

HOUSTON REGIONAL OFFICE  
OFFICE OF EQUAL OPPORTUNITY PROGRAM  
U.S. TREASURY DEPARTMENT  
February 26-27, 1976

AGENDAFeb. 26

- 9:00 - Opening Remarks - Ken Patton, Regional Manager
- 9:45 - Equal Employment Opportunity Policy; its formulation and dissemination - Javier F. Chacon, Compliance Officer.
- 10:30 - The Workforce Analysis; its preparation and use - Ken P. Quinn, Compliance Officer.
- 11:15 - Establishing Job Groups - Ken Patton
- 11:45 - The Utilization Analysis and Employment Goals and Timetables - Charles S. Cuellar, Compliance Officer
- 12:30 - Lunch
- 2:00 - Continuation - Utilization Analysis and Goals and Timetables - Charles S. Cuellar
- 3:00 - The Affirmative Action Officer - Responsibilities and Duties - Javier F. Chacon
- 3:30 - Audit and Reporting Systems - Ken P. Quinn
- 4:30 - Questions and Answers - Ken Patton

Feb. 27

- 8:00 - Identification and Resolution of Problem Areas - Charles S. Cuellar
- 9:00 - Community Involvement Programs - Javier F. Chacon
- 9:30 - The Compliance Review Process - Ken P. Quinn
- 10:00 - Coffee Break
- 10:20 - Practice Problem - Conducting a Utilization Analysis and Setting Employment Goals - Charles S. Cuellar
- 11:30 - Questions and Answers - Ken Patton
- 12:00 - End of Workshop

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June 30, 1975 - Treasury requested AAP for desk audit.

July 30, 1975 - Postmark reflects AAP mailed to Treasury.

Aug. 4, 1975 - Bank's AAP received by Treasury.

[See GAO note 2, p. 80.]

Oct. 7, 1975 - Desk audit completed and deficiencies in AAP identified.

Nov. 11 & 17, 1975 - Telephone contacts with EEOC for coordination.

Nov. 17, 1975 - Bank officials contacted by telephone and advised of deficiencies in AAP. Bank requested meeting with Treasury.

Nov. 19, 1975 - Bank officials meet at Treasury and are advised to submit additional AAP requirements within five days.

- Nov. 28, 1975 - Bank submits additional AAP requirements.
- Jan. 15, 1976 - Treasury official visits EEOC for further coordination before on-site review.
- Jan. 29, 1976 - Completion of on-site portion of compliance review.
- Present Time - Continuation of off-site analysis of data and it is anticipated that the review will be completed by March 31, 1976.

- GAO note:
1. Treasury provided us with the data upon which their comment was based. This data shows the minority employment of less than 40,000 referred to by Treasury was actually the minority employment as of 1966 rather than 1968, and the minority employment of over 138,000 in early 1975 referred to by Treasury was actually the data for 1974 rather than 1975.
  2. The deleted comments refer to Treasury's suggestions for revision which have been incorporated into the final report.
  3. Page numbers in this appendix may not correspond to page numbers in the final report.

SEMINAR SESSION/TOPIC SCHEDULE FOR  
THE GOOD FAITH PERFORMANCE IMPROVEMENT CONFERENCE, 09-12 DECEMBER 1975  
WILLIS MARRIOTT HOTEL, WASHINGTON INTERNATIONAL AIRPORT, QUANTICO, VIRGINIA

	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
07:00-08:30		Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
08:30-09:00		Training Kick-off & Group Assignments of Training Participants	Headquarters Responses	Headquarters Responses	Headquarters Responses	Headquarters Responses
09:00-10:15		OPIC/Treasury Regulations (Rutherford)	Group Reports on Goals/Timetables Projects	Group Reports on Good Faith Efforts	Group Reports on Affect Class	Summary of AAP Requirements (Fisher)
10:15-10:30		Coffee break	Coffee break	Coffee break	Coffee break	Coffeebreak
10:30-12:15		Compliance Review Process Overview (Thomas)	Adverse Affect (Patton)	Identification of Problem Areas/Action Stops (Nash)	(10:30-11:15) Interviewing Techniques (Role Playing) (Patton)  (11:15-12:30) Negotiation/ Conciliation Techniques (Rutherford)	(10:30-11:30) Evaluating Tools  (11:30-12:30) Conference Wrap-up (Sawyer/Lee)
12:30-13:30		Lunch	Lunch	Lunch	Lunch	Lunch
13:45-18:00	Arrival of Participants at Conference	(13:45-17:15) Order No. 4 Workforce Analysis Utilization Goals & Timetables (Fisher)	(13:45-15:00) Evaluating Good Faith Efforts (Past Performance) (Nash)	(13:45-17:15) Systemic Discrimination/ Affected Class (Patton)	(13:34-15:00) Showcase/ Hearing Enforcement (Thomas)	(13:45-15:00) CONFERENCE ENDS.
16:00-18:00		(17:15-17:30) Staff Critique and Session Evaluation	(15:15-16:00) Group Project Evaluating Good Faith Efforts  (16:00-17:15) Investigation Techniques (Thomas)  (17:15-17:30) Staff Critique and Session Evaluation	(17:15-17:30) Staff Critique Session Evaluation	15:15-16:15) Reporting Techniques/ Timeframe (Rutherford)  (16:15-17:15) Headquarters Staff Requirements (Sarjeant)  (17:15-17:30) Staff Critique & Session Evaluation	
18:00-19:00	Dinner	Dinner	Dinner	Dinner	Dinner (with Assistant Secretary Brecht Remarks and Open Forum)	
19:00-20:00	Opening and Conference Objectives (Sawyer/Lee)	(19:00- EOS Group Project Activity	(19:00- EOS Group Project Activity	(19:00 EOS Group Project Activity		
20:00-20:30	EOS Seminar Input	Concurrent with PM/lys Training Evaluation Meeting	Concurrent with PM/lys Training Evaluation Meeting	Concurrent with PM/lys Training Evaluation Meeting		
20:30-22:00	PM/lys Meeting on Seminar Planning, Priorities and Coverage					



OFFICE OF  
THE CHAIRMAN

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON, D.C. 20506

MAR 16 1976

Mr. Gregory J. Ahart  
Director, Manpower and Welfare  
Division  
U.S. General Accounting Office  
Washington, D. C. 20548

Dear Mr. Ahart:

This is in response to your letter of February 6, 1976, requesting our review and comments on the proposed GAO report to Senator William Proxmire on the contract compliance activities of the Department of the Treasury. I appreciate the opportunity to do so.

As you know, the draft report was reviewed by EEOC with GAO representatives in January and February of this year. On both occasions, the GAO representatives made revisions of the draft at our request based upon Title VII confidentiality provisions. Our reading of the final draft indicates that there are two additional sentences of the report found at page 74 requiring modification. Lines 15-18 read: "EEOC officials informed us that they could not make public the status of its investigation of the bank at this time due to restrictions on the disclosure of such information..." The words "if any" should be inserted after "investigation" to exclude any possibility that we are divulging the fact that an investigation is in progress. The last sentence on page 74 reads: "An EEOC representative informed us that it may be as long as three years before the outcome of its investigation of the bank is completed." This sentence should be deleted in its entirety for the same reason.

In matters other than confidentiality, we suggest the following:

1. Page 21, line 5, clarification. To the extent that the Treasury Department decentralized its program without specific standards, procedures, and monitoring, the liaison arrangement with EEOC would necessarily suffer.

[See GAO note 1 below.]

5. Page 35, line 7, clarification. A more realistic and effective voluntary compliance program can be accomplished if based on a standardized and well-communicated compliance review program.

I hope that these comments will be of assistance to you. Please contact me if you need any additional information.

Sincerely yours,



Lowell W. Perry  
Chairman

cc: Ben B. Cox

- GAO note:
1. The deleted comments refer to EEOC's suggestions for revision which have been incorporated into the final report.
  2. Page numbers in this appendix may not correspond to page numbers in the final report.

# PEOPLES NATIONAL BANK *of Maryland*

4809 SUITLAND ROAD, S. E., SUITLAND, MARYLAND 20023  
736-1300

ALFRED C. SCUDERI  
CHAIRMAN OF THE BOARD  
AND EXECUTIVE COMMITTEE

MARLIN K. HUSTED  
PRESIDENT

March 22, 1976

Mr. Joseph H. Hobbs, Jr.  
U. S. General Accounting Office  
New Labor Building  
Room N-1657  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

Dear Mr. Hobbs:

I am writing on behalf of the Peoples National Bank of Maryland. At our meeting of March 8, 1976, you informed me that the General Accounting Office is preparing a report concerning the status of the Department of the Treasury's enforcement of Executive Order 11246. You told me that this report deals with the Treasury's overall administration and enforcement of the equal opportunity program, and that additionally, at the request of Senator Proxmire, the GAO is preparing a chapter concerning the Treasury's enforcement of the contract compliance program at selected named financial institutions, including Peoples National Bank of Maryland. You informed me that the report will go through normal distribution routes in the Congress, including all interested committees, and that it would be available to the public.

As you know, two female employees at Peoples National Bank of Maryland filed charges with the Equal Employment Opportunity Commission alleging that the Bank discriminated against them on the basis of sex in violation of Title VII of the Civil Rights Act of 1964. Investigation of these charges is still pending and to this date, there has not even been a finding by the EEOC of probable cause to believe discrimination existed, much less an ultimate finding by the courts that the Bank engaged in any unlawful conduct.

As you are also aware, at the request of Senator Proxmire, the Treasury's equal employment enforcement unit has been undertaking an investigation of Peoples National Bank of Maryland regarding its compliance with Executive Order 11246. At this date, the investigation is still underway, and there has not yet been even a preliminary finding by the Treasury that the Bank has not complied with the Executive Order.

In light of these ongoing investigations, we believe that it is particularly inappropriate to discuss Peoples National Bank in your Report to the Senate.

Member  
**FDIC**



Mr. Joseph H. Hobbs, Jr.  
March 22, 1976  
Page Two

To chronicle these yet unproven charges of discrimination in a public document will irreparably damage the reputation of the Bank. More important, because of the pendency of these investigations, this Report will irretrievably prejudice the right of Peoples National Bank to a fair and impartial investigation by the EEOC and the Department of the Treasury. For these reasons, we respectfully request that the Peoples case not be included in the Report.

We understand that Senator Proxmire has expressly requested that the Peoples case be discussed in the Report, but we urge you to ask him to reconsider. In this regard, I would note that Title VII of the Civil Rights Act of 1964, as amended, expressly provides in Section 709(e):

"It shall be unlawful for any officer or employee of the Commission to make public in any manner whatsoever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this Title involving such information."

The intent of this section is clear, to protect respondents in EEOC cases from the damage to their reputation resulting from the Government's publication of unfounded complaints of discrimination. It is our belief that both the letter and spirit of this provision would be violated by release of a report discussing Peoples National Bank and detailing the charges against it.

If it is determined to discuss the sex discrimination charges filed against Peoples National Bank in the Report, there are also a number of specific comments I have with regard to the draft which you have submitted to me:

[See GAO note 1, p. 87.]

Mr. Joseph H. Hobbs, Jr.  
March 22, 1976  
Page Three

3. The Bank is not in a position to comment on the EEOC's investigation which has not been completed at this point, but we would have a few remarks about the predetermination conciliation procedure which Peoples went through in this case. At the early stage of the investigation, the EEOC offered Peoples the possibility of engaging in predetermination conciliation. This process would very simply be an attempt at settlement of the case prior to a determination as to whether or not there was probable cause to believe that the Bank had discriminated against the Complainants. Although continuing to deny the charges, in the interests of resolving the case expeditiously and in the spirit of conciliation, the Bank accepted the EEOC's offer. Two meetings were held with the EEOC, on April 16, 1975, and July 29, 1975. There were also numerous letters and telephone conversations between the conciliator for the EEOC and the representatives of the Bank. Without detailing these events, the Bank found the conciliation process to be a very frustrating one. There were inexcusably long delays in getting information from the EEOC as to the basis for their position and in receiving a response from the EEOC to the Bank's offers of settlement. Although the EEOC insisted that the case be settled as a "class" action involving other individuals as well as the charging parties, to this date the EEOC has still not stated the individuals believed to be in the class or set forth the back pay allegedly owed to these individuals. Without knowing the sums of money involved, it was impossible for the Bank to have any idea how to respond. This severely inhibited the possibility of any settlement. Finally, on November 11, 1975, the EEOC informed the Bank that its last offer of settlement, made almost six weeks before, was not acceptable and that conciliation had failed. In sum, despite the good faith efforts of the Bank to settle the case, we believe that these facts made settlement difficult if not impossible.

4. Page 60 does not state, and we believe that it should be stated, that to this date, the EEOC has still not determined whether or not there is probable cause to believe that the Bank engaged in any discriminatory conduct.

5. The detailing of the experience of the Bank with the Treasury Department is essentially correct, at least insofar as it touches on facts within the Bank's knowledge. Suffice it to say that as soon as the Bank learned of its obligations to submit an Affirmative Action Program to the Department of the Treasury, it did so forthwith. Unfortunately, however, the Bank did not receive sufficient information as to the details of the plan and the manner in which it should be set up under the very complex regulations promulgated by the Department of Labor. Consequently, the first plan submitted by the Bank did lack some of the elements of an acceptable Affirmative Action Program. Consequently, on November 18, 1975, the Bank was informed by the Department of the Treasury compliance officer that the plan was not acceptable and that a show cause notice would be issued. Representatives of the Bank met with the compliance officer the next day and were informed exactly what the failings of the program were. The Bank requested and was granted a week's extension in which to submit a revised Affirmative Action Program. Although the on-site review of the Bank has not been completed, and there has been no final determination as to whether or not Peoples is in compliance with the Executive Order, the written plan itself was prepared immediately and accepted.

Mr. Joseph H. Hobbs, Jr.  
March 22, 1976  
Page Four

In summary, let me express our very grave concern about the manner in which the Bank has become the subject of a report of the General Accounting Office. As a result of unproven charges of discrimination, charges from which the Bank feels it will be ultimately vindicated, this institution has become the focus of Congressional interest. This interest has apparently let to contact between the Treasury Department officials and Senate staff members and to the GAO's Report which will discuss the Bank's case in detail. We believe that this interest and especially the publication of the Report can only lead to injury to the reputation of the Bank and to an atmosphere leading to adverse prejudice of our case by the involved governmental agencies. We are frankly fearful that if the Report criticizes the enforcement efforts of the Treasury and then chronicles the Peoples case, there will be a very clear although implicit message that Peoples is an example of Treasury's failings in the area of EEO compliance, an example that should be corrected by a finding of noncompliance.

We do not ask for special consideration. We do ask for equal treatment. We believe that we have a good record on the issue of equal employment, indeed a much better record than the majority of employers who have met with government approval. We respectfully request that our case be allowed to be processed through the normal channels of government and the discussion concerning the Peoples Bank be deleted from your Report.

Sincerely,



Marlin K. Husted  
President

MKH:kme

- GAO note:
1. The deleted comments refer to the bank's suggestions for revision which have been incorporated into the final report.
  2. Page numbers in this appendix may not correspond to page numbers in the final report.

## VEDDER, PRICE, KAUFMAN, KAMMHOLZ &amp; DAY

800 THIRD AVENUE  
NEW YORK, NEW YORK 10022

212 838-5544

March 2, 1976

VIRGIL B. DAY  
PETER G. NASH  
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IN WASHINGTON, D. C.  
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1750 PENNSYLVANIA AVE., N. W.  
WASHINGTON, D. C. 20006  
202 296-6445

\* N. Y. BAR

Mr. William L. Smith  
GAO  
New Labor Building  
Room N-1657  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Dear Mr. Smith:

On February 26, 1976 I had a telephone conversation with Mr. Joseph A. Hobbs of your staff concerning a draft of a report regarding the contract compliance program pursuant to Presidential Executive Order 11246, as amended. Our conversation was at that time limited to that chapter and those sections of the report which concerned the activities of the Treasury Department as compliance agency for the banking industry generally and the compliance status of the Harris Trust & Savings Bank of Chicago, Illinois specifically. This firm represents the Harris Bank as counsel and pursuant to the suggestion of Mr. Hobbs we are transmitting this letter to you for the purpose of recording the substance of our principal comments on the draft report which we imparted to Mr. Hobbs orally on February 26, 1976. Mr. Hobbs did at that time graciously consent to an extension of time to file these comments with your office through the close of business on March 4, 1976.

On page 65 of the draft report the word "further" should be inserted between the terms "initiate" and "compliance" or other appropriate modifications to the text made to more clearly indicate that the Treasury Department had indeed conducted prior compliance reviews of the Harris Bank and was being asked by a private women's organization to undertake further and additional compliance reviews of the Bank not a first or initial compliance review. Mr. Hobbs did indicate that the text of this page was also being reviewed in light of those concerns of the Harris Bank previously communicated to him to the extent that the present text of the draft report suggested the possible existence of an affected class of employees at the Bank. It is our position, as related

IN CHICAGO  
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BERNARD J. ECHLIN	E. ROBERT GORDON
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OF COUNSEL  
NORMAN H. PRITCHARD  
WILLIAM G. CAPLES

VEDDER, PRICE, KAUFMAN, KAMMHOLZ &amp; DAY

to Mr. Hobbs on February 26, 1976, that the only allegation concerning the possible existence of an affected class of employees at the Bank has been put forth by a private women's organization and as of this date there have been no formal findings as to the existence of such an affected class by the Bank, the Treasury Department or the Office of Federal Contract Compliance Programs (OFCCP):

[See GAO note 1, p. 90.]

With respect to page 69 of the draft report and its apparent criticism of the acceptance by the Treasury Department of written commitments remedying possible defects in the Bank's AAP as enabling a present finding of compliance to be made, we believe the OFCCP regulations, 41 CFR §60-1.20 specifically authorizes this procedure and have so advised Mr. Hobbs during our conversation of February 26, 1976. Indeed, the acceptance of commitments to remedy possible deficiencies in a contractor's EEO posture has seen widespread use in the contract compliance program and any inference that this procedure is either inappropriate or unauthorized by OFCCP regulations would be both unfortunate and misleading.

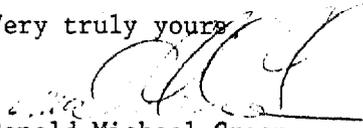
As to the respective obligations of the Bank, the Treasury Department and the OFCCP to determine the existence of any affected class, it is our position as communicated to Mr. Hobbs on February 26, 1976 and we believe fully supported by OFCCP regulations 41 CFR Parts 60-2 and 60-60 that any determinations regarding the existence of an affected class are to be made in the first instance by compliance agencies and that the obligation of a government contractor and in this instance the Harris Bank is to cooperate with its compliance agency by providing sufficient data to enable the agency to conduct an affected class analysis. The Bank's efforts in this respect have substantially exceeded its obligations under the applicable regulations and it continues to actively cooperate with the Treasury Department and the OFCCP as those agencies continue their review of the Bank's compliance status. Consequently, to the extent the draft report suggests that the Bank was at all remiss in failing to identify the existence of an affected class we would respectfully state that the Bank has no such obligation and indeed since neither the Treasury Department nor the OFCCP has made such a finding to date it is in any event unlikely that such an affected class exists.

Finally, as representatives of the Bank discussed with Mr. Hobbs during a recent meeting in Chicago, there are agreements between the Bank and the Treasury Department, between the Bank and the OFCCP, and, we believe, between the Treasury Department and the OFCCP that all material submitted and discussions held concerning the affected class analysis and the unresolved status of any "affected class problems" are confidential. Albeit some of these agreements are oral many have been confirmed in correspondence between the Bank and government officials. Any exposure of the affected class analysis discussions or related material through a GAO report or otherwise would be a violation of these agreements and a breach of faith between those parties.

Accordingly it is requested that any discussions or references to the Harris Bank's affected class analysis or "affected class problems" be deleted from the draft report before that report becomes a matter of public record, and that such discussions remain confidential at least until all work is completed and final conclusions established.

We urge you to make those changes in the report as discussed with Mr. Hobbs and referred to herein and look forward to reviewing the final draft copy and receiving acknowledgement that all of our prior submissions and discussions concerning the affected class issue will, in fact, be accorded confidential status.

Very truly yours



Ronald Michael Green

RMG:JGH

- GAO note:
1. The deleted comment refers to the bank's suggestion for revision which has been incorporated into the final report.
  2. Page numbers in this appendix may not correspond to page numbers in the final report.



# THE NORTHERN TRUST COMPANY

FIFTY SOUTH LA SALLE STREET

CHICAGO, ILLINOIS 60600

February 26, 1976

**LAWRENCE W. GOUGLER**  
EXECUTIVE VICE PRESIDENT  
AND SECRETARY

Mr. William L. Smith  
Assistant Director  
Manpower & Welfare Division  
United States General Accounting Office  
New Labor Building, Room N-1657  
200 Constitution Avenue, N.W.  
Washington, D. C. 20210

Attention: Mr. Joseph H. Hobbs, Jr.

Dear Mr. Smith:

Your representative, Mr. Joseph H. Hobbs, Jr. has requested that The Northern Trust Company review certain comments concerning alleged employment discrimination and the Affirmative Action Program of The Northern Trust Company contained in a "draft of a proposed report of the General Accounting Office."

We are, of course, unable to comment on the accuracy of the proposed report relating to information or documents given to or filed with the General Accounting Office or the U. S. Treasury Department by individuals or organizations other than The Northern Trust Company. However, any reports or statements of "widespread employment discrimination" in The Northern Trust Company are untrue. Further, any implication in the report that the Affirmative Action Plan of The Northern Trust Company was filed without regard and contrary to law is false and misleading.

The Northern Trust Company prepared an Affirmative Action Plan in accordance with interpretations made by the Treasury Department of the Labor Department guidelines. It was the belief of The Northern Trust Company that such interpretations, having been made by the administrative agency charged with its compliance, were reasonable, proper, and required its adherence.

It is our understanding the proposed draft report is to evaluate the administration of the Equal Employment Opportunity laws. The draft report implies that The Northern Trust Company

## THE NORTHERN TRUST COMPANY

CHICAGO

Mr. William L. Smith  
Page Two  
February 26, 1976

should have observed directives of the Labor Department notwithstanding our prior compliance with directives of the Treasury Department. Based upon the allegation of a "Labor official," the proposed draft report implies a deficiency in the Affirmative Action Plan of The Northern Trust Company. We take exception to this implication. The Northern Trust Company was not requested or permitted to take "corrective" action or even notified of its deficiency because of the tardy review of the Labor Department.

There is no indication of the thoroughness of such review other than it was late, and that a report of such review was oral and was not given to The Northern Trust Company. Not made clear in this report is the fact that The Northern Trust Company sought to comply and did act in accordance with the directives of the Treasury Department.

If this proposed "draft report" was not intended to adversely reflect upon the actions of The Northern Trust Company, we can see no purpose, germane to a review of agency administration, in revealing its identity. Accordingly, we request that any comments concerning The Northern Trust Company be deleted from this report.

Sincerely,

*Lawrence W. Gungor*

LWG:fj

**THE FIRST NATIONAL BANK OF CHICAGO**

GERALD L. SHOTT / VICE PRESIDENT  
PERSONNEL DEPARTMENT

February 27, 1976

William L. Smith  
Assistant Director  
Manpower & Welfare Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Smith:

As you indicated in your letter earlier this month, Mr. Hobbs of the General Accounting Office met with us on February 12, 1976 and during that meeting we commented on a section of the draft report entitled "Need for Better Administration and More Enforcement to Ensure that Financial Institutions Provide Equal Employment Opportunity under the Contract Compliance Program". The section we reviewed and commented on dealt only with our institution. As per your request, the following written comments outline that discussion and refer to the interview we gave to your representative early in 1975 as part of your investigation which resulted in the above report.

In February, 1975, the First National Bank of Chicago was notified by the General Accounting Office of its intent to interview us concerning the Treasury Department's performance as a compliance agency. We were sent a list of topics that the Office would be primarily interested in discussing with us. Those topics were the following

1. "Your financial institution's views of the contractual basis used by the Department of Treasury for bringing financial institutions under the purview of Executive Order 11246, (i.e. tax and loan accounts for commercial banks and issuance and paying agents of U.S. savings bonds for saving and loan associations)."
2. "Your financial institution's views of Executive Order 11246 and implementing regulation issued by the Department of Labor and Treasury, which mandate compliance by your institution."



## THE FIRST NATIONAL BANK OF CHICAGO

CONTINUING OUR LETTER OF  
February 27, 1976

SHEET No 2

William L. Smith

3. "Your financial institution's views on the quality of past and present guidance received from the Department of the Treasury with regard to maintaining compliance with the regulations and their revisions."
4. "Your financial institution's views on the disclosure of Government documents such as Equal Employment Opportunity Employer Information Reports (EEO-1) to public interest groups and individuals."
5. "Discussion of your financial institution's self appraisal of its good faith commitment to translate its affirmative action program, specifically your work force analysis, goals and timetables, upward mobility programs, and expansion of minority/women recruitment sources into meaningful results."

We would like to comment at the outset that we were told during that interview in 1975 that our comments would be held in confidence and that no effort would be made to discuss the merits of any charges or complaints. We unfortunately have come to the conclusion and would like the record to reflect that in view of what we have seen, the draft is not consistent with those assurances.

Since we only reviewed the section of the draft which concerned our institution please understand that our comments will be therefore, out of context to the whole report. However, we do feel it necessary to address the following issues.

A summary of the First National Bank of Chicago's position on the topics which we originally discussed with Mr. Hobbs is as follows.

1. The First National Bank of Chicago is satisfied that there is a substantial legal basis for bringing financial institutions such as ourselves under the purview of Executive Order 11246.

**THE FIRST NATIONAL BANK OF CHICAGO**

CONTINUING OUR LETTER OF  
February 27, 1976

SHEET No 3

William L. Smith

2. As an organization, we have endorsed the intent of Executive Order 11246 and consider it to be a clear and unambiguous document. Our major concerns with implementation of the Order however are twofold. First, we have found the required (as per Revised Order #4) use of job titles for utilization analysis to be inadequate for a financial institution. Thus, we supported the recommendations of the ABA Task Force which recommended the use of salary grades and 30 percent salary increments for those positions where no salary grades exist, e.g., the exempt and official positions. Second, we are of the opinion that some improvement in communication among the various agencies would benefit the entire EEO/Affirmative Action program.
3. As a Federal Contractor, the Bank has found that the compliance officers of Treasury's program provided helpful comments and suggestions.
4. The First National Bank of Chicago has employed and will continue to employ an overall policy favoring controlled external release of affirmative action information. We feel the controlling factors should include the following elements:
  - A. Distinctions should be made between three types of information; EEO-1 reports, Affirmative Action Plans, and information gathered for, or as a result of a compliance audit.
  - B. Any disclosure that would result in the dissemination of information concerning the projected expansion or contraction of given areas should be prohibited for competitive reasons.
  - C. Any disclosure that could result in the identification of individual employees ought to be prohibited because it would represent an invasion of that individual's privacy.

**THE FIRST NATIONAL BANK OF CHICAGO**

CONTINUING OUR LETTER OF  
February 27, 1976

SHEET No 4

William L. Smith

5. The First National Bank of Chicago feels that it is making a sincere effort, in good faith, to translate its Affirmative Action program into meaningful results. We have a policy of Equal Employment Opportunity and of Affirmative Action. This policy is being implemented and is producing results. Details of this effort were discussed with the representatives of the General Accounting Office during their visit in early 1975.

The Bank became aware of allegations of discrimination by a Chicago women's group prior to the time of the interview with the representatives of the General Accounting Office. To the best of our knowledge, each specific allegation was investigated during the on-site portion of Treasury's compliance review of our Affirmative Action Program in November, 1974, and in later discussions with compliance officers. The Bank responded to the allegations by providing all the information concerning each situation that has ever been requested by the Treasury officials.

Beyond the above general comments, we also feel it is appropriate and necessary to comment on certain specifics contained in the section of the Office's report in which the First National Bank of Chicago is identified.

1. A small matter but, the compliance review of The First National Bank of Chicago took more than one month. We were notified of the intent to conduct a review in September, 1974, submitted the required information for the desk audit within the required timeframe in October, 1974, and were visited by two compliance officers for the on-site review in November, 1974. Further, the draft report does not detail the extent of the information Treasury requested on subsequent occasions or the several discussions which were held during 1975. Undoubtedly, Treasury has supplied you with all this information and it is elsewhere in the report.

## THE FIRST NATIONAL BANK OF CHICAGO

CONTINUING OUR LETTER OF  
February 27, 1976

SHEET NO 5

William L. Smith

2. With respect to the draft comments regarding the possibility of an "affected class"; Treasury did suggest, in the process of the compliance review, that such a situation might exist. We disagreed but did undertake a broad based study to determine whether the Bank's policies were being effectuated and producing the type of upward mobility which is the intent of the Affirmative Action Program.

The Bank has been and will continue to be proud of its efforts to achieve equal employment opportunity through affirmative action. We do not claim and never have claimed that we have perfectly accomplished that goal and that no more remains to be done. No one disputes the fact that we have worked in good faith. We will continue to work towards the goal expressed by the Executive Orders which we consider to be reasonable and just. However, what appears to be the end result of this investigation, i.e., this report, has concerned us deeply.

We have operated on the theory that more could be accomplished by cooperating with our compliance agency than by adopting an adversary posture. This position did not preclude our disagreement on certain topics, such as unwarranted disclosure. But neither did such disagreements restrict our efforts to accomplish what needed to be done.

We submitted these comments in greater detail to Mr. Hobbs on February 12 and they are summarized here because we feel that they are necessary to an overall view of Treasury's performance as a compliance agency.

Sincerely,  
*Gerald L. Shott*  
Gerald L. Shott *by MAB*

GLS:jy



## American National Bank &amp; Trust Company of Chicago

13 North LaSalle Street, Chicago, Illinois 60602

**William J. Huck**VICE PRESIDENT  
MKT 6270

February 27, 1976

Mr. Joseph H. Hobbs, Jr.  
United States General Accounting Office  
New Labor Building  
Room 11-1657  
200 Constitution Avenue, N.W.  
Washington, D. C. 20210

Dear Mr. Hobbs:

Listed below are my comments on certain sections of Chapter 4 of a draft entitled Need for Better Administration and More Enforcement to Insure that Financial Institutions Provide Equal Employment Opportunity Under the Contract Compliance Program.

"A Treasury official stated that the review of the Bank was not completed and the Bank was not determined in compliance because (1) the information submitted by the Bank to correct the deficiencies in its AAP was inadequate, (2) the method used in establishing goals and timetables was questionable, and (3) the complaints made by the womens group against the Bank were not completely resolved."

While preparing our July 1, 1974 - June 30, 1975 AAP, we concluded that we required an outside consultant to assist us in interpreting Revised Order No. 14. Therefore, we hired Equal Employment Opportunity Consultants to work with us. When that organization was selected by the ABA to develop an Affirmative Action guidelines booklet for banks, we were convinced that our choice for professional help was an excellent one.

We consulted frequently with Equal Employment Opportunity Consultants while preparing our plan and at the time we submitted additional material to the Chicago office of the Treasury shortly after their on-site review in November of 1974. When we were not contacted further by Norvel West,

## American National Bank &amp; Trust Company of Chicago

## 2.

Acting Director of the Chicago Office of the Treasury, during the Spring of 1975, we assumed that his three member professional staff was busy with compliance reviews at other financial institutions elsewhere within his ten state district.

It was not until Mr. George Fisher was assigned as Director of the Chicago office that we were informed that the format of our July 1, 1974 - June 30, 1975 plan was not acceptable. It came as a surprise when Mr. Fisher pointed out that ours was not an approved format. This was the first indication we had that guidelines previously endorsed by the Treasury and the ABA were now being questioned by the OFCC.

Mr. Fisher's discussion with us regarding the above situation took place at our Bank in early July, 1975. Because the plan being questioned was for the period July 1, 1974 - June 30, 1975, Mr. Fisher recommended that we use the revised approach in the preparation of our 7/1/75 - 6/30/76 plan rather than go back and re-do the plan for 7/1/74 - 6/30/75, a period that was already past. He told us that we would be notified in August of the desk audit submission officially required of us in September, 1975. Per Mr. Fisher's directive, we proceeded with the development of our plan for 75-76 and did not revise the 1974-75 plan.

Regarding Point (3) above which refers to complaints by a women's group, in early 1975 the Bank secured several pages of anonymous statements prepared by Women Employed and alleging discrimination against females at American National Bank. No names were included and specific dates were not supplied. We responded to the statements in what we thought was an appropriate manner and when Mr. Morval West requested further clarification of our position, we supplied additional data.

Since that time - early in 1975 - neither the Treasury Department nor any other government agency has officially requested that we submit additional information regarding Women Employed's accusations. I assume that Treasury representatives covered the above charges during their

## American National Bank &amp; Trust Company of Chicago

3.

numerous interviews with employees the week of February 2. However, as I stated above, I have not been notified that additional action or information is required from me as EEO officer.

"The Treasury official stated that the womens group informed Treasury that the names of aggrieved women employees could not be submitted to Treasury because bank management warned all employees not to talk with Treasury compliance officers."

The above statement, by use of the term "all employees" implies bankwide communication, either verbally or in writing, to everyone employed at the Bank. This simply is not true. On the contrary, during compliance reviews in 1974 and 1976, we cooperated with Treasury in scheduling everyone whom they selected for an interview. To the best of my knowledge, no manager has discouraged even one employee from talking to Treasury representatives.

The only other comment I would make regarding the allegations of Women Employed is to question whether the statement is a qualified complaint under the definition in 60-1.21-1.23. As far as I know, no employee of or applicant to American National Bank and Trust Company of Chicago stated that Women Employed was her authorized representative. In addition names and dates were omitted.

I have no other comments to add to what we covered during your February 11 visit. Please let me know if I can be of additional assistance.

Very truly yours,



William J. Huck  
Vice President, Personnel

nm

# *Bell Federal Savings*

AND LOAN ASSOCIATION  
CORNER OF MONROE AND CLARK  
CHICAGO, ILLINOIS 60603  
FINANCIAL 6-1000

ROBERT G. ROWEN  
VICE PRESIDENT AND  
MANAGER, PERSONNEL DEPARTMENT

February 17, 1976

Mr. William L. Smith  
Assistant Director  
United States General  
Accounting Office  
Washington, D.C. 20548

Dear Mr. Smith:

The management of Bell Federal Savings appreciates the courtesy extended to us by the staff of the General Accounting Office in permitting our advance review of a draft section of your proposed report.

We wish to cooperate with you fully and are pleased to comment on those portions of your report which apply to Bell Federal.

No formal complaint relating to Bell Federal's EEO Practices has ever been received by Bell Federal from any individual or group purporting to represent any individual or from any city, State, or Federal agency. Until we received a copy of a portion of your Office's draft of a proposed report on February 12, 1976, no official notice that any complaints had ever been made against our organization by a Chicago woman public interest group was ever provided to us. We have been totally unaware of any complaint except for what we have read in various articles in the newspapers. As of this date we still have no idea regarding the specific nature of the complaint, the location of the alleged discriminatory practice or the number of employees who registered such a complaint.

*Bell Federal Savings*

Bell Federal's compliance program was reviewed by the U.S. Treasury Department in June of 1972 and again during August of 1974. Following each review a letter indicating our satisfactory compliance was received by the Association. Based on your draft report, a complaint reporting sex discrimination was filed against Bell in September of 1974. It is our position that this complaint should have been resolved in our favor from information contained in our August, 1974 compliance review and the complaintants so notified. If the complaint raised specific new areas of concern to the U.S. Treasury, we would have welcomed a prompt investigation.

It is the stated corporate policy of Bell Federal Savings to comply with all phases of Revised order 4 and order 14 and we are entitled to a quick determination of any complaint, as is the complaintant.

[See GAO note.]

The opportunity to add our comments to your proposed report is appreciated.

Yours truly,

cc: Mr. Joseph H. Hobbs, Jr.

GAO note: The deleted comment refers to the Association's suggestion for revision which has been incorporated into the final report.

APPENDIX XII

APPENDIX XII

MAYER, BROWN & PLATT

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WASHINGTON, D.C. 20006  
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CABLE LEMAYDC

February 23, 1976

Mr. Joseph Hobbs  
United States General Accounting Office  
Manpower and Welfare Division  
Washington, D.C. 20548

Dear Mr. Hobbs:

I am writing on behalf of our client, Continental Illinois National Bank and Trust Company of Chicago, in connection with those draft sections of your proposed report which you recently mailed to us relating to the Department of Treasury's administration of the contract compliance program. There are several portions of the draft containing inaccuracies which should be called to your attention.

[See GAO note, p. 104.]

APPENDIX XII

APPENDIX XII

Mr. Joseph Hobbs

February 23, 1976

[See GAO note.]

Thank you for the opportunity to comment on this proposed draft and please feel free to call me if you wish to discuss any matters concerning this letter in greater detail.

Very truly yours,



Michael F. Rosenblum

MFR:jf

Encl.

cc: Mr. William L. Smith  
Assistant Director

GAO note: The deleted comments refer to the bank's suggestions for revision which have been incorporated into the final report.

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