

Office of INSPECTOR GENERAL

Audit Report

*Review of the USITC Equal
Employment Opportunity Program*

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REVIEW OF THE USITC EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Office of Inspector General has completed a review of the USITC Equal Employment Opportunity (EEO) program. The purpose of the review was to evaluate the Commission's compliance with applicable laws and regulations and the effectiveness of the EEO program.

The two basic components of EEO are the creation and implementation of affirmative programs designed to correct deficiencies in the representation of minorities and women in the workforce, and the establishment of a system to review and decide upon complaints of discriminatory actions. The EEO program has had some notable accomplishments including the operation of the Federal Womens' Program and implementation of the Upward Mobility Program. However, on the whole, we found that the EEO program usually meets the minimum requirements for an affirmative action program and complaint processing, but does not actively pursue affirmative action.

We found that the EEO staff are all assigned on a collateral duty basis, which presents problems with continuity and effective accomplishment of the EEO program. EEO staff and Commission managers and supervisors are not all evaluated on their support of EEO objectives. The Commission has provided adequate resources for the EEO program, although better planning is needed. Required EEO reports are submitted, although not always on a timely basis.

We found that the Commission has implemented career enhancement programs but has made limited recruiting efforts. Except for an extensive Federal Women's Program, minority programs have had minimal activity; a program coordinator has not been designated for Blacks. The Commission has not developed a training program for EEO staff or Commission employees and has presented minimal EEO training. The Commission has implemented a complaint process, and has been timely in all but one case in responding to complaints. The Commission has not complied with two regulatory requirements: 1) to publish agency regulations for the acceptance of complaints

and 2) to post certain information permanently on official bulletin boards. The Commission has a system (the annual review of internal controls in which EEO is an assessable unit) to periodically evaluate the effectiveness of the EEO program. However, corrective actions have not been taken in a timely manner to correct the deficiencies identified.

A synopsis of our recommendations based on the above findings are that the EEO Director:

- Work with the Chairman's office in establishing an EEO office with permanent staff resources; have performance plans or agreements prepared for EEO staff and all managers and supervisors, and include all aspects of the EEO program in funding requests (pages 8 and 9);
- Establish a schedule of required reports and due dates to ensure reports are submitted on time; and clarify the role of the Office of Personnel in report preparation and approval (page 11);
- Coordinate with the Director of Personnel to develop an active recruiting program; and request that the Acting Chairman designate a program coordinator to represent Blacks (page 14);
- Develop a system to review annually the needs of the EEO staff for training and include this in the performance plans; and develop a comprehensive training agenda for the Commission (page 15); and
- Update the agency directive on the EEO program; and design posters that comply with the Federal regulations and post one on each floor of the Commission (page 18).

The EEO Director fully concurred with most of the findings and recommendations. He partially agreed with recommendations on EEO training for Commission employees and updating the agency directive on the EEO program. The Acting Chairman concurred with the EEO Director's response except with respect to establishing a full-time position for an EEO Director and the need to define the role of the Office of General Counsel in the complaint process. We have addressed these comments on pages 9 and 18 of the report. Other comments have been incorporated as appropriate. The EEO Director's and Acting Chairman's comments are presented in entirety as appendices to the report.

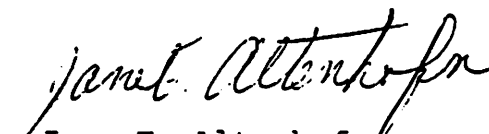

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Inspector General

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- A. Memorandum from the EEO Director, dated September 9, 1991, on Draft Report
- B. Memorandum from the Acting Chairman, dated September 6, 1991, on EEO Director's Comments on the Draft Audit Report

INTRODUCTION AND SCOPE

The Office of Inspector General has completed a review of the USITC Equal Employment Opportunity (EEO) program. The purpose of this review was to evaluate the Commission's compliance with applicable laws and regulations and the effectiveness of the EEO program.

Our review was conducted in March through June 1991. The fieldwork was performed at the Commission Headquarters in Washington, D.C. primarily by interviewing current and past EEO Directors, current EEO counselors, program coordinators for the minority programs, personnel in the Offices of Personnel, Management Services, Finance and Budget, and individuals that contributed to the EEO program.

We evaluated compliance with applicable regulations published by the Equal Employment Opportunity Commission (EEOC) (29 C.F.R. § 1613 et seq) and the Office of Personnel Management (OPM) (5 C.F.R. § 720 et seq). We also reviewed compliance with two EEOC management directives: EEO-MD-713 "Affirmative Action for Hiring, Placement, and Advancement of Individuals with Handicaps and EEO-MD-714 "Instructions for the Development and Submission of Federal Affirmative Employment Multi-Year Program Plans, Annual Accomplishment Reports, and Annual Plan Updates for Fiscal Years (FYs) 1988 to 1992.

We evaluated the process of how counseling is obtained by employees; the complaint process; the use of career enhancement programs; adequacy of report preparation; and EEO awareness throughout the agency. In our evaluation of the complaint process, we reviewed six formal complaint files. We observed physical safeguards over EEO complaint files and records. We identified and evaluated the recruiting efforts made by the Commission.

Additionally, we contacted other Federal agencies of comparable size to compare policies and procedures. We also spoke with EEOC representatives for clarification of guidance.

As part of the review, we determined whether appropriate action had been taken in response to prior reports. An assessment of the EEO program was performed by the Office of Personnel in May 1984. EEO is an assessable unit in the Federal Manager's Financial Integrity Act (FMFIA) process. An Internal Control Review was conducted by the EEO Director in FY 1989 and a compliance statement was submitted in FY 1990.

This review was performed in accordance with applicable generally accepted government auditing standards. Accordingly, the review included an examination of internal controls and other auditing procedures that were considered necessary under the circumstances.

BACKGROUND

The evolution of civil rights legislation has placed dynamic obligations on Federal agencies to exert an active force to assure the fullest measure of equality of employment opportunity in their employment practices. It is the policy of the Federal government to provide equal employment opportunity for Federal employees, to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, and/or age, to promote the full realization of EEO through a continuing affirmative program, and to resolve complaints at the earliest possible stage. This policy applies to Federal agencies pursuant to Executive Order Number 11478, Sec. 1 as amended. A synopsis of significant EEO legislation is presented in Attachment 1.

The requirements of EEO, as they apply to Federal agencies, has been implemented in regulations promulgated by the EEOC and OPM. The EEOC regulations (29 C.F.R. § 1613 et seq) provide some general guidance on establishing a continuing affirmative program for equal opportunity and detailed guidance on processing discrimination complaints. The OPM regulations (5 C.F.R. § 720 et seq) primarily provide guidance on recruitment and disabled veterans affirmative action programs.

The Commission's EEO policies and procedures are set forth in Directive 4502, dated October 20, 1977. As stated in the Directive, the Commission's policy is to strive for an integrated, diversified work force. Every employee of the Commission is responsible for observing the spirit and intent of EEO principles in carrying out the daily affairs of the agency.

As defined in the FMFIA process, the Commission's EEO program consists of six cycles: **Counseling** - counselors are available to assist employees with job related problems; **Complaint process** - process designed to eliminate discrimination of race, color, sex, religion, disparity, reprisal, handicap and mistreatment of employees by supervisors and managers; **Upward Mobility Program** - program designed to provide advancement opportunities to lower graded employees in positions with limited promotion potential; **Career Education Fellowship Program** - program open to all permanent employees in positions with promotion potential to the GS-8 grade level and below. Fellowships are awarded to employees pursuing off-duty education in the International Trade Analyst and Economist career fields; **Report Preparation** - each Federal agency must report certain EEO related information to EEOC and OPM on established due dates; and **EEO Awareness** - ensuring that managers, supervisors and employees are cognizant of EEO regulations.

FINDINGS AND RECOMMENDATIONS

The two basic components of EEO are the creation and implementation of affirmative programs designed to correct deficiencies in the representation of minorities and women in the workforce, and the establishment of a system to review and decide upon complaints of discriminatory actions. The EEO program has had some notable accomplishments including the operation of the Federal Womens' Program and implementation of the Upward Mobility Program. However, on the whole, we found that the EEO program usually meets the minimum requirements for an affirmative action program and complaint processing, but does not actively pursue affirmative action.

We found that the EEO staff are all assigned on a collateral duty basis, which presents problems with continuity and effective accomplishment of the EEO program. EEO staff and Commission managers and supervisors are not all evaluated on their support of EEO objectives. The Commission has provided adequate resources for the EEO program, although better planning is needed. Required EEO reports are submitted, although not always on a timely basis.

We found that the Commission has implemented career enhancement programs but has made limited recruiting efforts. Except for an extensive Federal Women's Program, minority programs have had minimal activity; a program coordinator has not been designated for Blacks even though this is a targeted group in the Commission's Federal Employees Opportunity Recruitment Program (FEORP). The Commission has not developed a training program for EEO staff or Commission employees and has presented minimal EEO training. The Commission has implemented a complaint process, and has been timely in all but one case in responding to complaints. The Commission has not complied with two regulatory requirements for published agency regulations and posted notices. The Commission periodically evaluates the effectiveness of the EEO program in the FMFIA process but has not taken corrective actions in a timely manner to correct the deficiencies identified.

OFFICE STRUCTURE AND RESOURCES

We found that the EEO staff are all assigned on a collateral duty basis. This presents problems with continuity and effective accomplishment of the EEO program. The EEO Director, counselors, and program coordinators do not have performance plans for the EEO program and are not evaluated on their performance. A general statement on EEO is included in the performance plans for at least some Commission managers and supervisors. The Commission has

provided adequate resources for the EEO program in terms of funding and support services. However, all of the EEO program needs are not being considered in the budget process.

Part Time/Collateral Duty Staff

Federal regulations (29 CFR 1613.204) require each agency to designate an EEO Director and as many EEO officers, counselors and program coordinators as necessary. The Commission has designated a Director, four counselors and five program coordinators. The EEO staff serve on a collateral duty basis and must accomplish the EEO program responsibilities in addition to all of their regular job requirements.

The EEO Director has usually been recruited by the Chairman's office and is appointed in an Administrative Order. There is not a written policy on who should be selected or the length of the assignment. In practice, the position has been rotated every one or two years to employees in various offices and at various levels. Over the past five years, the EEO Directors have been:

International Trade Analyst, ID	10/01/90 - 09/30/91
Branch Chief, ID	10/01/89 - 09/30/90
Director, OUII	10/01/88 - 09/30/89
Director, TATA	11/11/86 - 09/30/88
Attorney, OGC	10/01/86 - 11/10/86

The counselors and program coordinators have primarily been recruited by the EEO Director and are appointed by the Chairman in an Administrative Order for an indefinite period. They currently represent seven different offices with staff positions up to the branch chief level. These individuals have held their EEO positions from 2 to 13 years, with an average term of 8 years.

According to the Activity Reporting System, only 72 days were spent on the EEO program in FY 1990. Over half of this time (48 days) was spent on the Federal Women's Program. The EEO Director only reported 11 days. As of May 5, 1991, nearly 55 days had been charged to the EEO program, most of that equally divided between the EEO Director and the Federal Women's Program.

The question of whether sufficient personnel and other resources were allocated to implement the EEO program was addressed as early as 1984. The Office of Personnel conducted a review and observed that some of the EEO programs were relatively inactive, and that there was a significant learning curve for new directors. The then-designated EEO Director said there was insufficient time to perform program analysis and advisory services to managers. He suggested that a staff person on a full or part-time basis was required to support a collateral duty director and to provide continuity and expertise in EEO matters.

The Director, OUII who was EEO Director in FY 1989 said she also thought there was a problem with a lengthy learning curve and continuity. In the FY 1989 internal control review, she identified the need for revision of the EEO directive and policy manual and preparation of a handbook for EEO staff outlining the complaint processing time limits and procedures as a weakness and budgeted funds for a contractor to do this work. The Director, OUII recalls advising the next EEO Director of this recommendation, although he did not remember being aware of the recommendation until he was conducting the internal control review the following year. The current EEO Director did not think the current EEO budget had sufficient funds for this project.

The current and prior EEO Directors, the counselors and the program coordinators commented that they sometimes have difficulty in performing their EEO duties if their job duties are pressing. Several EEO Directors commented on the difficulty and time necessary to respond to a complaint, and the difficulty in accomplishing this while performing other job responsibilities.

We contacted other Federal agencies of comparable size to the Commission to determine how their EEO offices were staffed (see Attachment 2). All but one of the six agencies with over 300 employees had a full-time EEO Director, and the agency with a part-time director had a full-time staff person.

We discuss various problems with the EEO program in the following sections of this report. We believe these weaknesses are caused at least in part by the lack of continuity in resources devoted to the EEO program.

We believe permanent resources need to be assigned to the EEO program, and that having a permanent director is preferable to having permanent staff for ensuring that the EEO program is properly implemented. There are many options for providing permanent resources which include the following:

1. Establish a permanent position for an EEO Director, possibly on a part-time basis.
2. Assign the EEO Director responsibilities to a current Commission employee, preferably an office director. Support staff on either a full or part time basis would probably be needed.
3. Continue to designate the EEO Director on a collateral duty, rotating basis and assign a permanent, possibly part-time, staff position. The director designation should be limited to senior staff who have greater flexibility in managing their own time, ability to

delegate tasks and access to the Commission and other senior staff. Certain office directors such as myself and the General Counsel would have to be excluded from the rotation.

We do not believe the last option is as effective as the first two although it has some advantage of increasing knowledge about the EEO program throughout the Commission. The permanent staff position would provide continuity in the program for record maintenance and procedures, although not for the expertise expected of a director. A major disadvantage in this approach is that with the learning curve, regular job demands, and the short time assigned, the EEO program would continue to operate at a minimal level.

The current EEO Director reports to the Acting Chairman, but this relationship could be reconsidered. The regulations require that the head of the agency appoint the EEO Director but do not require that the EEO Director report to the head of the agency. Of the eleven comparably sized agencies, seven reported to the head of the agency. Others reported to the Deputy, Staff Director, or Director of Administration (see Attachment 2). We believe the reporting relationship is an indication of the agency's regard for a program, and should remain at a high level within the Commission if not directly to the Chairman.

During our review, we examined the relationship between the Office of Personnel and the EEO Office. These offices have related functions and must coordinate closely. The Director of Personnel said that the EEO responsibilities are seldom assigned to the Office of Personnel as a check and balance since the goals of the two offices are not always the same. The EEO offices with full-time directors used in our comparison were all separate from their agency personnel offices. The full-time EEO staff person at the Commodity Futures Trading Corporation was located in the Office of Personnel, although the part-time Director was not. We noted that the Department of Commerce has a Director for Personnel and Civil Rights with separate offices for these two functions reporting to him.

Performance Plans

Federal regulations (5 CFR § 720.204) state that all officials who have responsibility for the EEO program will be evaluated on their effectiveness in carrying it out as part of their periodic performance appraisals. The EEOC guidelines state that managers, supervisors, EEO Officers, and personnelists share responsibility for successful implementation of the affirmative employment program and their performance appraisals should include an element based on meeting equal employment opportunity objectives.

Directive 4502 states that Commission supervisors and managers bear major and ultimate accountability for the realization of EEO in their respective organizations. The directive does not include a requirement for the EEO responsibilities to be identified in the performance plans.

The current EEO Director does not and the prior EEO Director did not have a performance plan with the Chairman covering EEO activities. These individuals did not report to the Chairman as part of their regular job responsibilities and would therefore have had to develop a separate performance plan (this was done for a Division Chief who was EEO Director in 1982). The Director of OUII had an item on being EEO Director in her workplan for the period January through September 1989.

None of the current counselors or program coordinators had a performance plan with the EEO Director or an element on their EEO responsibilities in their performance plans with their immediate supervisors. Performance plans are important for counselors and coordinators because of the collateral duty aspect. Without a plan, there is no understanding of how much time the EEO staff are expected to devote to these duties. There is actually a disincentive to performing EEO duties as there is no recognition involved. Several of the Commission's EEO staff expressed a desire for their EEO responsibilities to be in their performance plans.

Some concern was expressed about counselors and program managers reporting to two people - the immediate supervisor and the EEO Director. We contacted other agencies and found performance plans and appraisals for collateral duty EEO staff were handled in a variety of ways. For example, EEO responsibilities were included in their performance plans with the EEO Director; in performance plans with the immediate supervisor and the EEO Director conducted the performance evaluation either solely or with the supervisor; and one agency was developing memoranda of understanding.

It is unclear how many managers and supervisors have an EEO element in their performance plans. The 1984 report by the Office of Personnel stated that SES performance appraisal plans incorporated support of the EEO program as a critical element. Our review of the SES performance plans for the year ending September 30, 1989, found that the plans had a critical element on Human Resources Management with a corresponding fully successful standard that includes a statement "Applies EEO and affirmative action principles". The Deputy Director of Personnel conducted an informal survey of the Office of Industries and found that most Division and Branch Chiefs had a similar element and standard.

Resources

In FYs 1990 and 1991, the EEO program was allocated \$13,000. In FY 1990, \$7,893 was expended on training and training related travel. In FY 1991, only \$640 had been expended as of February 28, 1991. The allocations were only for training and training related travel.

In general, the EEO Directors described the budget process as determining what the training needs were for the EEO staff and any extraordinary items, such as the training class and proposed contract project. No funds were requested for recruitment travel or to sponsor the minority programs.

We identified only two instances, neither of them recent, in which requests for funds were denied. Two program coordinators requested relatively minor amounts for items to be used in presenting a program and were told funds were not available. Both program coordinators said that since then they have not repeated their requests. Two coordinators said they paid for items themselves.

We do not think there is any intention to limit the EEO activities through fund control. We believe there is a lack of coordination during the budget process in requesting funds and informing the program coordinators that funds are available.

In addition to budgeting funds, various Commission offices provided support services to the EEO program. Rooms were made available upon request for meetings, seminars and programs. The Publishing Division assisted with designing and printing flyers and posters. The Office of Personnel has maintained a system (automated in late 1989) to provide personnel statistics for the EEO program.

Recommendations

We recommend that the EEO Director:

1. Work with the Chairman's office in establishing an EEO office with permanent staff resources;
2. Prepare a performance plan for the EEO Director duties to be signed by the Chairman, and agreements (performance plans or memoranda of understanding) for the counselors and program coordinators to be signed by their immediate supervisors and the EEO Director;
3. Request all Office Directors to certify that their branch and division chiefs have EEO requirements incorporated in their performance plans and revise the EEO directive to require that all supervisors and managers have an EEO performance element in their performance plans; and

4. Include all aspects of the EEO program, e.g. training, recruiting and minority programs, in funding requests.

Commission Comments

Many of the comments submitted related to our recommendation that the EEO office have permanent resources. A major issue is whether permanent resources should include a full-time EEO Director, which would be a significant increase in resources from those currently spent on this program.

There is no criteria on the minimum amount of time that should be devoted to EEO. A prior EEO Director said that given the level of complaints, the amount of reporting, the presence of various EEO program managers, and the size of the Commission, neither the EEO Director or a staff person was needed on a full-time basis. The current EEO Director believes, and recommended to the Acting Chairman, that a full-time Director be appointed. The Acting Chairman concurs that permanent resources are needed, but does not support a full-time position. Since the EEO Director and Acting Chairman concur that permanent resources are needed, we consider this recommendation to be resolved, with the specific corrective action to be determined in the future.

If the EEO Director is to be a part-time assignment to an existing office director, the issue becomes which office is most appropriate, and specifically whether this function could be given to the Director of Personnel. Both the Director of Administration and Director of Personnel feel that the Director of Personnel should not be designated as the EEO Director to avoid the appearance of a conflict of interest.

The EEOC Representative said EEOC prefers that EEO and personnel not be commingled because there is a conflict in the goals of the two programs. However, Federal law and regulations do not prohibit collocating the EEO and personnel responsibilities, and various agencies have done so.

The EEO Director also objected to our observation that the Department of Commerce has a Director for Personnel and Civil Rights because the Department is so much larger than the Commission. We believe our observation is consistent with our position that the Commission has numerous options in how to assign permanent resources to the EEO program. For further comparison, we have footnoted Attachment 2 to show that the part-time EEO Directors in comparably sized agencies have concurrent duties as the Assistant Chairman of Operations, Public Affairs Specialist, Director of Personnel, and Deputy Executive Director.

REPORTING

We found that the Commission had submitted EEO reports as required, although not always on a timely basis. The EEO Director said EEOC and OPM send notices to the agencies to submit these reports, but the requests sometimes go to the past EEO Directors or the Office of Personnel and are not received by the current EEO Director in time to respond.

Two reports must be submitted to OPM annually. On November 27, 1990, OPM notified agencies that the deadlines for these reports were extended until December 31, 1990. Even with this extension, both reports were submitted late.

A report on the prior FY FEORP plan, normally to be submitted no later than November 1, was submitted by the Director of Personnel on January 18, 1991. The Deputy Director of Personnel is identified as the FEORP representative and the transmittal letter was signed by the Director of Personnel. The EEO Director did not even have a copy of the report. The Deputy Director said that the Office of Personnel prepared this report because a previous EEO Director had requested assistance and the practice has continued. He commented that the EEO Director should have responsibility for this report.

A report on disabled veterans, normally due to be submitted no later than December 1, was submitted by the EEO Director on January 31, 1991. The EEO Director said this was an oversight.

Three reports must be submitted to EEOC. Two of these were submitted late.

Agencies with fewer than 500 employees are no longer required to submit affirmative action plans but must submit a statement, signed by the agency head, affirming the agency's commitment to equal employment opportunity. This statement is due once at the beginning of a five-year reporting period, which are on a staggered schedule established by the EEOC. The Commission's certification, due February 15, 1988, was submitted by the Chairman on April 10, 1989.

An annual workforce profile report for disabled employees to be submitted by December 31 was submitted by the EEO Director to the Chairman on February 1, 1991, and signed by the Chairman on February 4, 1991.

An annual statistical report of discrimination complaints for the FY must be submitted by October 31. The EEO Director submitted this report on October 22, 1990, for FY 1990.

We believe that permanent staff whose responsibilities would include the preparation of reports would alleviate this problem of missing deadlines and would also improve the maintenance of file records. Until a permanent position can be established, the EEO Director needs to be more aware of the reporting deadlines.

Recommendations

We recommend that the EEO Director:

1. Establish a schedule of required reports and due dates and ensure EEO reports are submitted on time; and
2. Coordinate with the Director of Personnel to clarify the role of the Office of Personnel in report preparation and approval.

AFFIRMATIVE PROGRAM

The head of the agency is responsible for ensuring that there is an effective affirmative program. Affirmative action is needed to improve areas with a noticeable lack of minorities. We found that the Commission has implemented career enhancement programs but the recruiting efforts have been limited. Except for an extensive Federal Womens' Program, the minority programs have had minimal activity; and a program coordinator has not been designated for Blacks which is a target FEORP group. The Commission has not developed a training program for EEO staff or Commission employees and has presented minimal EEO training.

Representation

There is a conspicuous absence of minorities in the Commission's three mainstream occupations - Economists, Attorneys and International Trade Analysts. Conspicuous absence refers to situations in which an EEO group is nearly or totally nonexistent in an agency's work force. The senior level (GS 14+) of these occupations has virtually no minorities except white female attorneys. Even with all grades combined, there are nearly no Blacks or other minorities (Asian, American Indian, Pacific Islanders and Hispanic) in these categories. Statistical details on representation are presented in Attachment 3.

The three mainstream occupations also have a manifest imbalance at some grade levels and for some minorities. Manifest imbalance refers to situations in which an EEO group's representation is substantially below its representation in the appropriate civilian

labor force. Statistical details are presented in Attachments 4-6. We recognize that a change in one individual can cause the statistics indicating manifest imbalance to fluctuate significantly due to the small size of the populations, but think they should still be considered in evaluating the Commission's EEO profile.

Career Enhancement Programs

The Commission has implemented several career enhancement programs over the years. An Upward Mobility Program was established in 1978. Since 1982, 12 Commission employees have enrolled and completed the program which generally lasts two years. Six of these have been paralegal specialists, three international trade analysts, one economist assistant, one a nomenclature analyst, and one a contract specialist.

The Upward Mobility Program has been relatively inactive in recent years, with no new enrollees since 1988 and no one currently in the program. Two factors have contributed to the decline. First, offices had to reserve a position for the participant which was not plausible in small offices or when turnover was low, although this requirement has been modified. For instance, the General Counsel, who was the most frequent user of the Program, said use had been limited in recent years due to the reserved position requirement and she was not aware that the requirement had been changed. Second, participants did not have a degree after completing the program which was viewed negatively by some managers.

In an effort to address the concerns about the Upward Mobility Program, the Commission instituted a Career Education Fellowship Program in August 1990. These individuals have a degree after finishing the program, which is targeted at economists and international trade analysts. Two individuals have been enrolled so far.

The Federal Women's Program recently suggested to the Acting Chairman that a mentoring program be established and this is under consideration. Another possibility raised by the Handicapped Program Coordinator is to participate in a program to employ handicapped persons free of charge for up to 700 work hours and a position does not have to be guaranteed.

Recruiting Efforts

We found that the Commission recruiting efforts have consisted almost exclusively of sending vacancy announcements to minority institutions (e.g., schools and employment offices). This is sufficient in terms of the Commission's FEORP plan, but not in terms of the union agreement or EEOC guidelines.

The current union agreement states that recruitment activities will include, but not be limited to, the following, as appropriate: targeted vacancy publicity to predominantly minority institutions; designated on-site recruitment; contact with veterans groups and state/local employment offices; and networking by EEO special program managers. The current and past two EEO Directors have done no recruiting to attract minorities to the Commission. Some program coordinators, not including the veterans, said they would pass on job announcements or job applications that they received but did no active recruiting.

The EEOC informed the Acting Chairman in December 1990 that the workforce statistics on the handicapped indicated that additional recruitment sources needed to be considered. Several options were given such as recruiting at an annual job fair held for persons with disabilities, contacting college and university coordinators for services to students with disabilities, and maintaining contact with organizations and associations for persons with disabilities. None of these suggestions have been acted upon.

Minority Programs

The Commission has appointed coordinators for five minority programs. With the notable exception of the Federal Woman's Program, the minority programs had minimal activity. A coordinator has not been appointed for Blacks.

Federal regulations (29 CFR 1613.204) require each agency to designate as many EEO Program Coordinators as necessary. The Commission's EEO Directive provides for a Federal Women's, Spanish Speaking, Veteran, and Handicapped Program Coordinator. These coordinators have been designated and a coordinator for the Asian American-Pacific Islander-American Indian-Alaskan program.

As stated in directive 4502, duties delegated to the program coordinators are: cognizance of factors affecting the employability and advancement, identification and means to enhance opportunities for employment and career development, and education of managers and staff concerning employment needs and constraints. The program coordinators appeared knowledgeable about their programs, occasionally attended national meetings and were available to employees with questions, but did not have time for more proactive efforts.

On the other hand, the Federal Women's Program was very active. The Program accomplishments were published in an annual report dated March 14, 1991. A sampling of their efforts included:

- promoting the mentoring program;
- presenting seminars, workshops and skits;
- publishing a newsletter; and

- sponsoring a health and insurance fair and Christmas Toy Drive.

We believe there are several factors causing the lack of activity in the minority programs. Primarily, coordinators said it is difficult to find time and volunteers to help. If the coordinators knew that they were expected to spend a certain percentage of their time on the EEO program and that they would be evaluated on their efforts, we believe a greater effort would be made. An additional factor is the lack of knowledge about resources, the budget funds as previously discussed, and support services. We also believe more guidance from the EEO Director on how a reasonably active program commensurate with the Commission's size could be organized would be useful.

A noticeable omission in the Commission's EEO program was a Black Program Coordinator. EEOC has not designated which minorities should have program coordinators, leaving this to the agency's discretion. We believe the Commission's profile and identification of blacks as a targeted group in the FEORP plan supports the need for a Black Program Coordinator. In the absence of a Coordinator, an ad hoc committee organized a program in support of Black History Month. The EEO Director is supportive of designating a Black Program Coordinator.

Recommendations

We recommend that the EEO Director:

1. Coordinate with the Director of Personnel to develop an active recruiting program to attract minorities; and
2. Identify an employee willing to be the Black Program Coordinator and request a designation from the Acting Chairman.

TRAINING

Minimal EEO training has been provided for Commission employees other than the EEO staff, and some of them have not attended training recently.

EEO Staff

Traditionally, the EEO staff takes at least the Basic Training EEO Course, sponsored by OPM and periodically they take courses to update their knowledge. However, there are no procedures in place to monitor the training needs of the EEO staff.

All of the counselors have attended training since being designated and had refresher courses in the last two years. Most of the coordinators attended the basic EEO training and refresher courses in the last couple of years. One coordinator designated two years ago has not yet attended training (a course scheduled for last year was rescheduled for this year) and two program coordinators and a counselor have not received training for several years. It is important for the EEO staff to have current training to keep informed about changes concerning EEO.

Commission Employees

Limited EEO training has been given to Commission employees and no training courses are currently scheduled. A comprehensive training agenda has not been established.

The 1984 report stated that almost no in-house training had been offered for several years and without a blueprint for action, training efforts would remain limited and unfocused. The report identified a need for a comprehensive training agenda, particularly for training of managers and supervisors.

The training recommended in 1984 for managers and supervisors was not given until August 1989 - five years later. The only record of EEO training being given for all Commission employees was a sexual harassment course offered in 1984. Participants in the SES Candidate and Managerial Development Programs are scheduled to take formal EEO training, but this affects very few of the Commission employees (seven in FY 1991).

We realize that supervisors would consider any individual's request to attend an EEO training course, but we believe such courses are seldom requested. Courses need to be offered in-house in order to effectively reach all Commission employees. EEOC guidelines do not have a specific requirement for employee training, but state that the affirmative action plans should include formal training for supervisory and management personnel on their EEO responsibilities. Training is also suggested as being part of the agency plan to prevent sexual harassment.

Recommendations

We recommend that the EEO Director:

1. Develop a system to review annually the needs of the EEO staff for training and include this in the performance plans; and
2. Develop a comprehensive training agenda for the Commission.

Commission Comments

The EEO Director partially agreed with the recommendation, which as originally stated included a requirement for annual training. The EEO Director stated the assessment of need in conjunction with the budget formulation process was more appropriate than a requirement for annual training. We concur and modified the recommendation accordingly.

COMPLAINT PROCESS

We found that the Commission has had very few complaints, and has been timely in all but one case in responding to complaints. We also found that the Commission is not in compliance with regulations requiring the agency to publish guidelines and publicize the complaint process.

Complaints Filed

The head of the agency is responsible for providing counseling for employees that believe they have been discriminated against, providing for the prompt (emphasis added), fair, and impartial consideration and disposition of complaints involving discrimination issues, providing sufficient resources for the EEO program. EEO counselors are to assist aggrieved employees or applicants for employment who feel they have been discriminated against. Employees and applicants are required to contact an EEO counselor prior to making any formal complaint. The EEO Director is responsible for processing discrimination complaints.

The Commission has had very few complaints. The Annual Statistical Report of Discrimination Complaints for FY 1990 reported that ten individuals had been counseled during the reporting period, and none of these filed a formal complaint.

There are two complaints on hand. One complaint filed in 1988 is currently on appeal to the District Court. The other case filed in 1989 is awaiting a decision from the agency head. No complaints from prior periods were closed in FYs 1990 or 1991 to date. The Office of Finance and Budget was unaware of ever having to pay an EEO settlement.

The EEO process has very specific timeframes within which the individual must take action. The agencies are not similarly bound by time limits on a step by step basis, but are supposed to give prompt consideration to complaints. If a complainant is not satisfied with an agency's decision after 180 days, a case can be filed in civil court. We believe the Commission should try to reach a decision within the 180 day period.

We found that an agency decision has not been made on one of the current cases that far exceeds 180 days. The complaint was filed on July 31, 1989. A proposed disposition was initially submitted to the Acting Chairman in November 1990 - significantly past the 180 day time frame. The Office of General Counsel disagreed with the proposed disposition which was then rewritten by the current EEO Director and submitted to the Acting Chairman on February 8, 1991. The proposed disposition is currently being reviewed by a staff member in the Acting Chairman's office who understood that the document did not have a deadline.

The General Counsel's role in reviewing EEO complaints is not set forth in the EEO Directive. The General Counsel stated that her office has no role other than to advise the Chairman on EEO matters or defend the Chairman in court. Consistent with this view, the EEO Director did not routinely coordinate with the Office of General Counsel, believing this was done by the Acting Chairman's office. We believe the role of the General Counsel in the complaint process needs to be set forth in the Directive in order to ensure the Chairman is advised on EEO matters in a timely manner.

Guidelines

Federal regulations (29 CFR 1613.212) require that agencies shall provide in their regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that they have been discriminated against by that agency. The Commission does not have such regulations. An EEOC representative advised the Commission's Assistant General Counsel that current agency directives would be an acceptable alternative to guidance published in the Federal Register.

The Commission does not meet this alternative either. The 1984 report stated that Directive 4502, last revised in 1977, was out-of-date. The Directive did not comply with Federal regulations on complaint processing, affirmative action and a number of other important EEO programs and/or responsibilities. A two page appendix addressed how the complaint process specifically did not comply with the regulations.

Posters

Federal regulations (29 CFR 1613.204) require that the agency shall publicize to its employees and post permanently on official bulletin boards certain information including the name and address of the EEO Counselors, their availability to counsel an employee or applicant, and the requirement that a Counselor must be consulted before a complaint can be filed and the time limits for filing a complaint.

The Commission had posters printed last year that identify the EEO staff (see Attachment 7). The posters were located by the entrance to the Office of Personnel, in the employee's lunchroom on the fourth floor and in the EEO Director's office (the latter was recently moved to the first floor). The posters have the names of the EEO staff but do not include the narrative required by the regulations. The EEO Director said a new poster with this information would be made.

Recommendations

We recommend that the EEO Director:

1. Update the agency directive on the EEO program and include the role of the Office of the General Counsel in the complaint process; and
2. Design posters that comply with the Federal regulations and post one on each floor of the Commission.

Commission Comments

The EEO Director only partially agreed with the recommendation to update the EEO Directive and include the role of the OGC. He stated that the OGC has no role in the complaint process except to advise the Chairman on EEO matters or defend the Chairman in court. We believe these "exceptions" should be set forth as responsibilities in the revised directive. Furthermore, the Acting Chairman stated in her comments that the appropriate role of the OGC should not be prejudged but developed as part of the preparation of the directive.

The General Counsel stated that the EEO Director may need to have a source of legal advice other than OGC. We believe this issue could also be addressed while developing the directive.

EVALUATION

We found that the Commission is periodically evaluating the effectiveness of the EEO program, as required in Federal regulations, but is not taking corrective actions in a timely manner to correct the deficiencies identified.

The Office of Personnel prepared a quite thorough assessment of the EEO program in May 1984, at the request of the EEO Director. The report conclusions included that the EEO policy was outdated and failed to meet regulatory guidelines; that management had little awareness of the Commission's EEO program, it's

requirements, or the role they should play in it; and that the assignment of the EEO Director on a rotational and collateral duty basis, without support staff, does not appear to provide continuity or expertise, and dilutes program effectiveness. None of the corresponding recommendations were implemented.

The EEO program is now periodically evaluated as part of the FMFIA process. An internal control review was conducted in 1989. The outdated guidelines were identified as a weakness over four years ago, as was the need for better guidance to enhance continuity.

The EEO Director needs to be provided adequate resources to perform the duties of the office and then be held accountable for correcting program deficiencies.

SYNOPSIS OF SIGNIFICANT EEO LEGISLATION

The following is not intended to be all inclusive of the required EEO legislation, however, it is a synopsis of significant EEO legislation from 1963 to 1978:

- 1963 Equal Pay Act. This Act essentially protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination.
- 1964 Civil Rights Act (PL 88-352). Defined discrimination and protected groups. This law focused on the issues and effects of discrimination in areas such as employment, loans, education, and public facilities.
- 1967 Executive Order 11375. Added sex to other forms of prohibited discrimination in the Federal Government.
- 1967 Age Discrimination in Employment Act. Protects individuals 40-70 years of age from employment discrimination.
- 1969 Executive Order 11478. Dealt exclusively with Federal Government employment. Applied the concept of EEO to the Federal Government, spelled out affirmative action, and emphasized upward mobility.
- 1972 Equal Employment Opportunity Act (PL 92-261). Amended the Civil Rights Act of 1964 to include the provision of Executive Order 11478.
- 1972 Vietnam Era Readjustment Assistance Act. Prohibits discrimination against disabled veterans of the Vietnam Era and requires affirmative action plans for this group.
- 1973 Section 501 of the Rehabilitation Act of 1973. This Act prohibited Federal sector handicap discrimination.
- 1978 Civil Service Reform Act. Establishes the Federal Equal Opportunity Recruitment Program which mandates Federal agencies to conduct targeted recruitment of minorities and women. It transferred from the Civil Service Commission to the EEOC responsibility for the administration of the Federal government's EEO Program.

COMPARISON OF OTHER EEO OFFICES

<u>AGENCY</u>	<u>APPROXIMATE NUMBER OF PERMANENT EMPLOYEES</u>	<u>1991 ESTIMATED AGENCY BUDGET IN THOUSANDS OF DOLLARS</u>	<u>STATUS OF EEO DIRECTOR</u>	<u>OFFICIAL TO WHOM EEO DIRECTOR REPORTS</u>
NEA	228	\$174,306	FULL TIME	Dep. Chmn.
FMC	230	15,894	FULL TIME	Chairman
NEH	233	170,129	PART TIME ^a	Chairman
FEC	234	17,150	PART TIME ^b	Staff Dir.
FLRA	240	18,718	PART TIME ^c	Dir. of Admin.
MSPB	361	24,064	FULL TIME	Chairman
ACTION	416	192,645	FULL TIME	Director
USITC	464	40,299	PART TIME	Chairman
CPSC	513	37,319	FULL TIME	Chairman
FCA	575	40,290	FULL TIME	Dir., Office of Resources Mgt ^d
CFTC	595	43,980	PART TIME ^e	Chairman
ICC	645	43,777	FULL TIME	Chairman

^a Concurrent title is Assistant Chairman of Operations

^b Concurrent title is Public Affairs Specialist

^c Concurrent title is Director of Personnel

^d Comparable to Director of Administration

^e Concurrent title is Deputy Executive Director

COMBINED REPRESENTATION BY GRADE LEVELS

SENIOR LEVEL (GS-14+) N=113

<u>GROUP</u>	<u>NUMBER</u>	<u>REPRESENTATION OF N</u>
WM	88	78%
WF	18	16%
BM	2	2%
BF	3	3%
OM	2	2%
OF	0	0%

MID-LEVEL (GS-12/13) N=154

<u>GROUP</u>	<u>NUMBER</u>	<u>REPRESENTATION OF N</u>
WM	76	49%
WF	48	31%
BM	8	5%
BF	16	10%
OM	4	3%
OF	2	1%

ENTRY LEVEL (GS-11 and below) N=176

<u>GROUP</u>	<u>NUMBER</u>	<u>REPRESENTATION OF N</u>
WM	21	12%
WF	36	21%
BM	19	11%
BF	96	55%
OM	1	1%
OF	3	2%

The data supplied for this schedule is the result of the print out of the permanent employment work force as of 03/23/91 for the Commission. The total population, as of that date, was 443 USITC permanent employees excluding 18 employees in the Commissioner's offices.

N is used to represent the population of employees for that particular category. It also represents the subtotals of the total population.

WORKFORCE PROFILE FOR ECONOMISTS

ECONOMISTS (44)SENIOR LEVEL (GS-14+) N=21

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.6%	17	100+
WF	26.9%	2	35
BM	2.3%	0	0
BF	2.8%	1	100+
OM	4.9%	1	97
OF	2.3%	0	0

MID-LEVEL (GS-12/13) N=19

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.6%	9	78
WF	26.9%	8	100+
BM	2.3%	0	0
BF	2.8%	0	0
OM	4.9%	1	100+
OF	2.3%	1	100+

ENTRY LEVEL (GS-11 and below) N=4

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.6%	2	83
WF	26.9%	2	100+
BM	2.3%	0	0
BF	2.8%	0	0
OM	4.9%	0	0
OF	2.3%	0	0

WORKFORCE PROFILE FOR ATTORNEYS

ATTORNEYS (50)SENIOR LEVEL (GS-14+) N=39

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.6%	26	100+
WF	26.9%	10	95
BM	2.3%	1	100+
BF	2.8%	2	100+
OM	4.9%	0	0
OF	2.3%	0	0

MID-LEVEL (GS-12/13) N=11

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.6%	6	90
WF	26.9%	5	100+
BM	2.3%	0	0
BF	2.8%	0	0
OM	4.9%	0	0
OF	2.3%	0	0

ENTRY LEVEL (GS-11 and below) N=0

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.6%	0	0
WF	26.9%	0	0
BM	2.3%	0	0
BF	2.8%	0	0
OM	4.9%	0	0
OF	2.3%	0	0

WORKFORCE PROFILE FOR INTERNATIONAL TRADE ANALYSTS

INTERNATIONAL TRADE ANALYSTS (146)SENIOR LEVEL (GS-14+) N=37

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.4%	34	100+
WF	26.6%	2	20
BM	3.6%	1	75
BF	3.1%	0	0
OM	4.2%	0	0
OF	2.0%	0	0

MID-LEVEL (GS-12/13) N=87

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.4%	48	91
WF	26.6%	29	100+
BM	3.6%	5	100+
BF	3.1%	2	74
OM	4.2%	2	55
OF	2.0%	1	57

ENTRY LEVEL (GS-11 and below) N=22

<u>GROUP</u>	<u>CLF</u>	<u>NUMBER</u>	<u>REPRESENTATION</u>
WM	60.4%	11	83
WF	26.6%	10	100+
BM	3.6%	0	0
BF	3.1%	1	100+
OM	4.2%	0	0
OF	2.0%	0	0

United States International Trade Commission

Attachment 7

EEO

*Equal Employment Opportunity
Program Representatives*



James M. Brandon, Director
Equal Employment
Opportunity Program
252-1433



Sandra Nathan
Federal Women's
Program Manager
252-1592



Lowell Grant
Equal Employment
Opportunity Counselor
252-1312



Leo Webb
EEO Counselor
252-1599



Erin Carter
Handicapped Program
Manager
252-1201



James Tsao
Asian-American-Pacific Islander,
American Indian-Alaska Native
Employment Program Manager
252-1226



Charles Sole
Veterans Program
Manager
252-1746



Maria Bonilla-Williams
Hispanic Employment
Manager
252-1085



Tyrone Coward
Equal Employment
Opportunity Counselor
252-1792



Bernice Morris
Equal Employment
Opportunity Counselor
252-1151



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

September 9, 1991

MEMORANDUM

TO: Inspector General

FROM: Director, Equal Employment Opportunity Program
James M. Brandon

SUBJECT: Draft Report: Review of the USITC Equal Employment
Opportunity Program

As requested in your memorandum of July 3, 1991 (IG-O-060), a written response to the subject report has been prepared and attached to this memorandum. In accordance with Section 11 of the USITC Directive 1701, the Commissioners have had an opportunity to comment on the response and the Chairman has recommended modifications as specified in the attached memorandum dated September 6, 1991.

Attachments

cc: Chairman

Equal Employment Opportunity

Comments on the Draft Audit Report "Review of the USITC Equal Employment Opportunity Program."

The draft audit report of the USITC equal employment opportunity program dated July 1991 has been reviewed, and we have found the report to be thorough in its assessment of the agency's equal employment opportunity program. Following are statements indicating EEO's position on each recommendation and comments regarding certain sections of the report that we feel should be readdressed for clarification.

Findings And Recommendations

Office Structure and Resources

Recommendation

"Work with the Chairman's office in establishing an EEO office with permanent staff resources."

Response

AGREE

Permanent staff resources are essential if the agency is to implement and monitor comprehensive plans designed to enhance all areas of the EEO program, pursuant to directives of the Equal Employment Opportunity Commission, the Office of Personnel Management, and other Federal regulations. The permanent staff resource that is of the most importance in meeting this objective is the assignment of a full-time Director of EEO.

Given the dual responsibilities of an EEO director assigned on a collateral basis, there is usually insufficient time to properly plan and monitor programs (including changes stemming from recommendations of the audit report) and stay abreast of issues that are vital to the effectiveness of EEO. In addition, there is an on-going learning process which enables full-time directors to better understand the complexities of complaint processing and to operate EEO programs more effectively. To assign an office director with a support staff as a Director of EEO on a rotational basis, or to assign a director on a rotational basis with a permanent, part-time person will not ensure continuity for future directors, or compensate for the experience, knowledge, and skills gained from serving as a director on a full-time basis. Assigning a director on a full-time basis will also eliminate the "conflict of interest" aspect that may develop for a director serving on a part-time basis.

In implementing the recommendation for a full-time director, the Director of EEO will confer with the Chairman's office, the Office of Administration, the Office of Personnel, EEO Directors of Federal agencies, and other offices deemed appropriate.

Estimated completion date - during FY 1992.

Performance Plans

1. Recommendation

"Prepare a performance plan for the EEO Director duties to be signed by the Chairman, and agreements (performance plans or memoranda of understanding) for the counselors and program coordinators to be signed by their immediate supervisors and the EEO Director."

Response

AGREE

Under current conditions, the Director of EEO, counselors, and special emphasis program managers are not evaluated on the effectiveness of their performance in collateral EEO positions. In some instances, these employees spend an inordinate amount of time away from their regular jobs to prepare or implement EEO related activities. A performance plan for the Director of EEO and memoranda of understanding for counselors and special emphasis program managers would acknowledge their contributions to EEO and serve as an incentive to improve performance. At least 15 percent of the time of those serving on a collateral basis should be allocated to EEO.

In implementing this recommendation, the Director of EEO will draft performance elements (this may be accomplished with input from a contracted source) to be included in the Director's performance plan and draft memoranda of understanding for counselors and program managers. These drafts will be reviewed by the Chairman's Office, the Office of Administration, the Office of Personnel, and appropriate supervisors.

Estimated completion date - November 30, 1991.

2. Recommendation

"Request all Office Directors to certify that their branch and division chiefs have EEO requirements incorporated in their performance plans and revise the EEO directive to

require that all supervisors and managers have an EEO performance element in their performance plans."

Response

AGREE

To have Office Directors certify that their branch and division chiefs have EEO requirements incorporated into their performance plans would result in branch and division chiefs being more sensitive to the concept of EEO. The appropriate EEO directive should be revised to reflect this modification.

In implementing this recommendation, the Director of EEO will draft EEO requirements to be incorporated into the performance plans of branch and division chiefs (this may be accomplished with input from a contracted source), and have the requirements reviewed by Office Directors, branch chiefs, the Office of Administration, and the Office of Personnel.

Estimated completion date - December 31, 1991.

3. Recommendation

"Include all aspects of the EEO program, e.g., training, recruiting and minority programs, in funding requests."

Response

AGREE

Funding for EEO programs, training, and recruiting activities have been included in the EEO expenditure plan for FY 1992.

Estimated completion date - completed.

Reporting

1. Recommendation

"Established a schedule of required reports and due dates and ensure EEO reports are submitted on time."

Response

AGREE

A schedule of required reports will be established to allow for timely submissions to the Equal Employment Opportunity Commission and the Office of Personnel Management.

Estimated completion date - November 30, 1991.

2. Recommendation

"Clarify the role of the Office of Personnel in report preparation and approval, for example the FEORP plan."

Response

AGREE

Since a primary objective of EEO is to improve the representation of women and minorities in the workplace, the preparation of the agency's Federal Equal Opportunity Recruitment Plan (FEORP) should be a responsibility of the EEO program. Given the complexity of the report and the information needed for its completion, however, the EEO program will rely heavily on the Office of Personnel for required statistical data.

In implementing this recommendation, the Director will seek guidance from the Office of Personnel to fulfill the FEORP obligation.

Estimated completion date - The Director of EEO and the EEO staff will work with the Office of Personnel on the FEORP report to be submitted November 1, 1991. This will familiarize members of the EEO program with the report and the required data for future submissions.

Minority Programs

1. Recommendation

"Coordinate with the Director of Personnel to develop an active recruiting program to attract minorities."

Response

AGREE

The Director of EEO will coordinate with the Office of Personnel in developing an active recruitment program designed to attract female and minority employees.

Estimated completion date - During FY 1992

2. Recommendation

"Identify an employee willing to be the Black Program Coordinator and request a designation from the Acting Chairman."

Response

AGREE

Given the underrepresentation of black employees in the agency's mainstream occupations (analysts, attorneys, and economists) and the high percentage of blacks residing in the Washington, D.C. metropolitan area, assigning a Black Program Coordinator seems appropriate.

Estimated completion date - a Black Program Coordinator has been selected and will be announced pending Commission approval of this recommendation.

Commission Employees1. Recommendation

"Develop a system to review annually the needs of the EEO staff for training and include this in the performance plans."

Response

AGREE

The recently appointed Special Emphasis Program Manager will develop an agenda of training for the EEO program staff. A statement pertaining to periodic training will be included into the performance plans of the EEO staff.

Estimation completion date - November 30, 1991.

2. Recommendation

"Develop a comprehensive training agenda for the Commission with at least one course offered annually to Commission employees."

Response

PARTIALLY AGREE

Before offering one course annually to all Commission employees, there should be an assessment of the need for such training in order to conserve resources and ensure appropriate benefit. Training requirements should also be coordinated with the Commission's budget formulation process.

Posters1. Recommendation

"Update the agency directive on the EEO program and include the role of the Office of the General Counsel in the complaint process."

Response

PARTIALLY AGREE

The agency's policy manual regarding complaint processing under EEO has been found to be a material weakness and was scheduled to be revised by March 30, 1991. Due to an increase in non-EEO related responsibilities, the Director of EEO was unable to revise the policy by the scheduled date. If the appointment of the EEO Director continues on a rotational basis, it may be necessary to contract with an outside source to revise the policy manual.

With the exception of advising the Chairman on EEO matters or defending the Chairman in court in the event the Commission is sued regarding an EEO complaint of discrimination, the Office of the General Counsel has no other role in the complaint process. The Office of the General Counsel has conferred with EEO Directors on process issues, without providing formal advice.

2. Recommendation

"Design posters that comply with the Federal regulations and post one on each floor of the Commission."

Response

AGREE

The posters depicting pictures, names, telephone numbers, and titles of EEO committee members will be updated to comply with Federal Regulations 29 CFR 1613.204. A poster will be placed on each floor of the Commission.

Sections of Report to be ReaddressedReview of the USITC Equal Employment
Opportunity PlanPara. 4.

"The Commission has not complied with two regulatory requirements for published agency regulations and posted notices."

Comment

It would be useful to list these noncompliances in this section and refer to the pages of the report where there is a further discussion.

"The Commission has a system to periodically evaluate the effectiveness of the EEO program but has not taken corrective actions in a timely manner to correct the deficiencies identified."

Comment

Please describe the system the Commission has to periodically evaluate the effectiveness of the EEO program.

Findings and RecommendationsPage 3. para. 2.

"We found that the EEO staff are all assigned on a collateral duty basis, which presents problems with continuity and effective accomplishment of the EEO program."

Comment

The problem of continuity is largely the result of rotating Directors of EEO every one or two years. With a full-time EEO director, assigning the EEO staff, i.e., counselors and program managers, on a collateral basis will not interfere with the continuity of the EEO program.

Page 3. para. 3.

"We found that the Commission has implemented career enhancement programs but has made limited recruiting efforts. Except for an extensive Federal Women's Program, minority programs have had limited activity; a program coordinator has not been designated for Blacks."

Comment

Would suggest an explanation as to why a coordinator for Blacks should be designated, or reference the section of the report that goes into more detail.

Office Structure and ResourcesPage 4. para. 4.

"The collateral duty aspect of the EEO program may result in hours spent on the program being underreported, but the time expended is still minimal."

Comment

When making a statement "but the time expended is still minimal" there should be an appropriate comparison against a standard. How much time is appropriate?

Page 5. para. 5 (3).

"The director designation should be limited to senior staff who have greater flexibility in managing their own time, ability to delegate tasks and access to the Commission and other senior staff. Certain office directors such as myself and the General Counsel would have to be excluded from the rotation."

Comment

Although there is no law or regulation prohibiting the Director of Personnel from serving as the EEO Director, both the Director of Personnel and the Director of Administration feel that the Personnel Director should not be designated to avoid the appearance of a conflict of interest.

Page 6. para. 3.

"The full-time EEO staff person at the EEOC was located in the Office of Personnel, although the part-time Director was not. We noted that the Department of Commerce has a Director of Personnel and Civil Rights with separate offices for these two functions reporting to him."

Comment

It would seem inappropriate to make such a comparison with a cabinet-level agency because of substantial difference in size.

Performance PlansPage 6. para. 4.

"Federal regulations (5 CFR 720.204) state that all officials who have responsibility for the EEO program will be evaluated on their effectiveness in carrying it out as part of their periodic performance appraisals."

Comment

Although we are recommending the inclusion of EEO into the performance plans of those having responsibility for the program, 5 CFR 720 does not require the establishment of specific elements and standards in order to evaluate the effectiveness of officials charged with EEO responsibilities.

Page 6. para. 5.

"ITC Directive 4502 states that Commission supervisors and managers bear major and ultimate accountability for the realization of EEO in their respective organizations."

Comment

Directive 4502 should make clear that the phrase "Commission supervisors and managers" includes the Commissioners and their staff.

Page 8. para. 4.

"In addition to budgeting funds, various Commission offices provided support services to the EEO program. Rooms were made available upon request for meetings, seminars and programs. The Publishing Division assisted with designing and printing flyers and posters. Since late 1989, the Office of Personnel has maintained a system with the Department of Energy for personnel statistics which includes the capability to produce EEO statistics".

Comment

This leaves the impression that the Office of Personnel did not provide this data prior to 1989. Until Personnel could use the Department of Energy system for personnel statistics, data were prepared manually for the EEO program.

Page 10. second recommendation.

"Clarify the role of the Office of Personnel in report preparation and approval, for example the FEORP plan."

Comment

It is preferred that this recommendation be reworded as follows: "coordinate with the Director of Personnel to clarify the role of the Office of Personnel in report preparation and approval".



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

September 6, 1991

TO: Director, Equal Employment Opportunity
Program (EEO)

FROM: Acting Chairman Anne E. Brunsdale

A handwritten signature in cursive script, reading "Anne Brunsdale", is written over the typed name in the "FROM:" line.

SUBJECT: EEO's August 13, 1991 comments on the
Inspector General's Draft Audit Report:
"Review of the USITC Equal Employment
Opportunity Program"

I have carefully reviewed your subject comments and, in general, agree with you.

However, the recommendation to establish a permanent EEO staff does not specifically state how this should be done. Since the documentation provided in the Report does not support creating even one full-time position, you should consider other options. Given the information that I now have, I am not prepared to support a full-time permanent position.

I also strongly agree that the recommendation to update the agency directive on the EEO program should include the role of the Office of the General Counsel in the complaint process. The appropriate role of the OGC should not be prejudged, but developed as part of the preparation of the directive.