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*REPORT OF THE
COMPTROLLER GENERAL
OF THE UNITED STATES*

The Federal Equal Employment
Program For Northeast Oklahoma
Construction Projects Is Weak

Department of Labor
and Other Agencies

The contract compliance program is intended to insure that Government contractors follow equal employment practices.

The program for construction contractors in northeast Oklahoma should be better administered and enforced. The Department needs to improve its audits of the program and to insure that other Government agencies fulfill their responsibilities for administering and enforcing the program.

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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-167015

The Honorable James R. Jones
House of Representatives

Dear Mr. Jones:

As you requested on March 1, 1974, we have reviewed the Federal contract compliance program for construction contractors in northeast Oklahoma.

The contract compliance program is intended to insure that Government contractors follow equal employment opportunity principles and practices. In northeast Oklahoma, the Department of Labor is responsible for monitoring two affirmative action plans for construction projects--the Tulsa hometown plan and the Oklahoma highway-heavy plan. Federal agencies which award construction contracts or administer programs involving financial assistance for construction projects are responsible for making compliance reviews of construction contractors in accordance with Department of Labor guidelines.

We are making several recommendations to the Secretary of Labor to improve the administration of the program in northeast Oklahoma.

Officials of the Department of Labor and certain other Federal agencies were given an opportunity to review and comment on this report, and their views were considered in the preparation of the report. We also obtained comments from officials of the highway plan and from the contractors discussed in the report. Tulsa plan officials declined to comment.

We believe this report would interest congressional committees, other Members of Congress, agency officials, and the Governor of Oklahoma. As agreed, we plan to distribute copies of this report accordingly.

Sincerely yours,

A handwritten signature in cursive script that reads "James B. Stacks".

Comptroller General
of the United States

C o n t e n t s

		<u>Page</u>
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Federal contract compliance program	1
	Scope of review	3
2	IMPROVEMENTS NEEDED IN ADMINISTRATION OF THE PLANS	4
	Need for improved administration by OFCCP	4
	Need for improved administration by compliance agencies	8
	Conclusions	14
	Recommendations	15
3	COSTS OF TRAINING PROGRAMS	16
	Tulsa plan	16
	Highway plan	17
	Training costs incurred by contractors	18
4	ENFORCEMENT OF CONTRACT COMPLIANCE PROGRAM FOR TWO CONTRACTS	20
	Birch Lake Dam	20
	Sheridan Station Post Office	22
5	AGENCY COMMENTS AND UNRESOLVED ISSUES	24
	Department of Labor comments	24
	Department of Defense comments	28
	Department of Transportation comments	29
	Department of the Interior comments	30
	U.S. Postal Service comments	32
	Department of Housing and Urban Devel- opment comments	32
	Association of Oklahoma General Contrac- tors comments	32
	Cooper Brothers, Inc., comments	34
	Southwest Construction Corporation comments	34
APPENDIX		
I	Letter dated March 1, 1974, from Congress- man James R. Jones	35
II	Letter dated March 11, 1976, from the As- sistant Secretary for Administration and Management, Department of Labor	39

		<u>Page</u>
APPENDIX		
III	Letter dated March 10, 1976, from the Assistant Secretary, Manpower and Reserve Affairs, Department of Defense	43
IV	Letter dated February 24, 1976, from the Assistant Secretary for Administration, Department of Transportation	46
V	Letter dated February 27, 1976, from the Assistant Secretary for Management, Department of the Interior	50
VI	Letter dated February 27, 1976, from the Postmaster General, U.S. Postal Service	53
VII	Letter dated March 19, 1976, from the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development	55
VIII	Letter dated January 26, 1976, from the Association of Oklahoma General Contractors	58
IX	Letter dated January 23, 1976, from Cooper Brothers, Inc.	61
X	Letter dated January 22, 1976, from Southwest Construction Corporation	62

ABBREVIATIONS

GAO	General Accounting Office
OFCCP	Office of Federal Contract Compliance Programs

D I G E S T

The Department of Labor is responsible for monitoring the Tulsa hometown plan and the Oklahoma highway-heavy plan. Both affirmative action plans are designed to increase minority employment in the construction crafts. The Tulsa plan covers building contractors which primarily employ members of craft unions. The highway plan covers contractors which primarily employ nonunion workers to build projects such as roads and dams.

Compliance agencies award construction contracts or administer programs involving financial assistance for construction projects. They are responsible for reviewing construction contractors and subcontractors and for enforcing equal employment opportunity and affirmative action guidelines. (See p. 1.)

Officials of the two plans are required to submit monthly reports to Labor. By studying these reports and by making audits to determine whether the plans are achieving their objectives, Labor monitors the plans.

Labor has not adequately monitored the two plans. (See p. 4.)

The U.S. Postal Service and the Department of the Interior did not:

--Include in contracts the required bid conditions, showing the affirmative actions contractors should take to improve minority employment.

--Require contractors to submit reports showing minority employment.

--Make the required compliance reviews. (See pp. 8 to 14.)

The Postal Service said that these problems occurred during a transitional period and that corrective action has been taken. (See p. 32.)

The Department of Defense, the Federal Highway Administration, and the Department of Housing and Urban Development reviewed contractors. However, when they found that contractors with job openings had not achieved minority-hiring goals, they failed to fully evaluate whether the contractors had tried, in good faith, to do so. (See p. 12.)

Labor has proposed that it assume responsibility for reviewing the contractors participating in the plans to determine their compliance with its guidelines. If this proposal is implemented, Labor should consider eliminating the requirement for these contractors to submit reports to the agencies. (See p. 12.)

Did the Tulsa plan impose a competitive disadvantage on participating contractors because of the added cost of meeting the plan's training requirements? The training costs resulted not from affiliation with the plan but from the contractors' collective bargaining agreements with building construction craft unions. These agreements, which provided for apprenticeship training programs financed by contractor payments to the unions, existed before the Tulsa plan was initiated. (See ch. 3.)

Were two contractors qualified as responsive bidders in meeting their equal employment responsibilities? Because one contractor participated in the highway plan, it was a responsive bidder. The other contractor was also a responsive bidder, but the Postal Service failed to include in the bid conditions specific affirmative action requirements, including goals and timetables for increasing minority employment. (See ch. 4.)

RECOMMENDATIONS

The Secretary of Labor should require the Office of Federal Contract Compliance Programs to:

- Expand the scope of its audits of the Tulsa plan and the highway plan to determine whether the plans are achieving their objectives.
- Consider eliminating the requirement that participating contractors submit monthly reports to the compliance agencies if Labor assumes compliance responsibility for these contractors.
- Insure that compliance agencies (1) comply with Labor guidelines and criteria for contractor reporting requirements, (2) include required bid conditions in contracts, and (3) make compliance reviews.
- Insure that compliance agencies take appropriate enforcement actions when contractors and subcontractors are found not in compliance. (See p. 15.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

Labor said it had taken some actions to expand the scope of its audits. GAO believes more needs to be done. Labor said that, to remedy the deficiencies in the compliance agencies' administration of the program, it will remind the agencies of the requirements expected of them. Labor said compliance agencies are reluctant to carry out its recommendations, however, because of the organizational structure used in implementing the program. (See p. 24.)

Other agencies and entities were given an opportunity to review the report. Where appropriate, the report was revised to recognize their comments. In some instances, however, the comments raised unresolved issues which are discussed beginning on page 28.

CHAPTER 1

INTRODUCTION

Executive Order 11246, issued in September 1965 and amended by Executive Order 11375 in October 1967, prohibits employment discrimination on the basis of race, color, religion, sex, or national origin by Government contractors and subcontractors. The Executive order generally requires contractors and subcontractors to eliminate employment discrimination and to take affirmative action to insure equal employment opportunity.

The Secretary of Labor is responsible for administering the Executive order. The Secretary has delegated most of this authority to the Director of the Office of Federal Contract Compliance Programs (OFCCP) in Labor's Employment Standards Administration. OFCCP's responsibilities include:

- Establishing policies, objectives, priorities, and goals for the contract compliance program.
- Leading, coordinating, and enforcing the program.
- Reviewing and evaluating the capability and performance of each Federal agency to insure maximum progress in achieving the objectives of the Executive order.
- Developing and recommending such standards, rules, and regulations for issuance by the Secretary of Labor as are necessary for administering the program.

FEDERAL CONTRACT COMPLIANCE PROGRAM

The Federal contract compliance program is divided into construction and nonconstruction programs. As requested by Congressman James R. Jones (see app. I), this report evaluates the Federal contract compliance program in northeast Oklahoma for Federal and federally assisted construction contracts.

The compliance program for construction contractors has relied principally on local plans, either voluntarily designed by local groups or imposed by the Department of Labor, which provide for cooperation among contractors, construction craft unions, and minority organizations to increase minority participation in the construction work forces. This arrangement is designed to deal with construction contractors' usual practice of relying on craft unions to refer workers, which makes it difficult for contractors to adopt affirmative action hiring practices independently of the unions. As of February

1976, there were 76 of these plans covering different areas of the United States.

OFCCP has overall responsibility for monitoring and auditing the plans to ascertain the number of minority placements in the construction crafts participating in the plans. Where its audits disclose that participating crafts have not tried, in good faith, to meet their responsibilities, OFCCP is supposed to withdraw recognition of the crafts as participants.

Each Federal agency that awards a construction contract or administers a program involving financial assistance for construction projects (defined by OFCCP as a compliance agency) is responsible for making compliance reviews of its construction contractors. Such reviews are to determine if the contractors maintain nondiscriminatory hiring and employment practices and take affirmative action to improve minorities' employment opportunities. If the reviews disclose that contractors are not in compliance, the agencies are required to seek compliance through conciliation and persuasion and, if the contractors still do not comply, to initiate enforcement measures. Enforcement measures include contract cancellation, debarment from future Federal contracts, and referral to the Department of Justice for court action.

In Oklahoma, OFCCP administers two plans: the Tulsa hometown plan and the Oklahoma highway-heavy plan. Construction contractors traditionally employ a small permanent work force and hire persons skilled in various construction crafts as the need arises. Both plans are designed to increase minority employment in the construction crafts, but they are not designed to improve job opportunities for women or to improve minority job opportunities within the contractors' permanent work forces.

The Tulsa plan was voluntarily developed and covers all or portions of 14 counties in northeast Oklahoma, including Tulsa. It was approved by OFCCP on June 5, 1972, and initially was signed by 13 construction contractors, 14 craft unions, and 4 minority groups. The purpose of the Tulsa plan is to train minorities and provide for their entry into the skilled crafts of the building trades, either through (1) training programs which include remedial education, related instruction, and on-the-job training or (2) through direct admission if an individual already has the skills of a qualified journeyman. The plan contains goals to increase minority employment in each of the skilled construction crafts over a 5-year period. The Tulsa plan is administered by a policy committee of nine members representing contractors, minorities, and craft unions. The committee is responsible

for overseeing and implementing the plan and for reviewing all activities and reports.

The highway plan, which was also voluntarily developed, covers the contractors in Oklahoma which are members of the highway-heavy construction division of the Association of Oklahoma General Contractors. The plan, sponsored and administered by this association, has been endorsed by seven organizations involved in training minorities--including one organization affiliated with the Tulsa plan. Highway-heavy construction contractors in Oklahoma primarily use nonunion labor and usually construct facilities other than buildings, such as highways, dams, streets, utilities, and airports. The plan was approved by OFCCP on September 19, 1972, as an affirmative action program for highway-heavy construction projects undertaken by the plan's 72 affiliated contractors. The plan is designed to recruit, train, and retain minorities in related construction crafts. It is recognized as a qualifying affirmative action plan in the same 14-county area as that covered by the Tulsa plan.

SCOPE OF REVIEW

As agreed with Congressman Jones' office, we reviewed the administration of the construction compliance program in the northeastern area of Oklahoma covered by the two plans. We reviewed the Executive order and related guidelines issued by the Secretary of Labor and the Director of OFCCP. We also reviewed the compliance activities of the following Federal agencies awarding contracts in northeast Oklahoma: the Department of Defense, the Federal Highway Administration of the Department of Transportation, the Department of Housing and Urban Development, the Department of the Interior, and the U.S. Postal Service.

Our audit was made at headquarters and at the regional offices of the Department of Labor and the five compliance agencies. We also worked at two State agencies--the Oklahoma Highway and the Tourism and Recreation Departments--which have contracting and compliance responsibilities for federally assisted construction contracts in northeast Oklahoma. We held discussions with officials of these agencies and examined reports, correspondence, and other records. We also held discussions with representatives of the contractors discussed in the report, the highway-heavy construction division of the Association of Oklahoma General Contractors, and the Tulsa plan policy committee.

CHAPTER 2

IMPROVEMENTS NEEDED IN

ADMINISTRATION OF THE PLANS

OFCCP's monitoring of the Tulsa plan and the highway plan was inadequate. OFCCP audits of these plans did not adequately determine whether the plans' goals were being achieved. Also, the compliance agencies included in our review often followed inconsistent and inadequate practices in implementing, monitoring, and enforcing the requirements of Executive Order 11246.

NEED FOR IMPROVED ADMINISTRATION BY OFCCP

OFCCP's internal instructions provide for areawide plans to be monitored through (1) monthly reports submitted to OFCCP by the plans and (2) periodic audits of the plans. We found, however, that OFCCP did not fully enforce the reporting requirements, nor did it adequately audit the plans.

Required reports not consistently submitted

Officials administering the plans are required to submit monthly reports covering contractors' and crafts' progress toward the plans' goals. These reports are designed to enable OFCCP to evaluate the plans and to identify contractors and crafts which may not be trying, in good faith, to achieve the goals. OFCCP regulations state that failure to file the required monthly reports on time is grounds to revoke the plans' recognition.

While the highway plan submitted reports to OFCCP, the Tulsa plan discontinued filing reports in February 1973 and did not submit any additional reports until 1975. During this period, therefore, OFCCP could not use reports to measure the progress of the Tulsa plan in achieving its goals. The additional reports were finally filed after OFCCP notified the plan's administrative committee in May 1975 that recognition of the plan would be withdrawn unless the required 1975 reports were submitted.

Inadequate audits of the plans

OFCCP audited the Tulsa plan in August 1973 and December 1974. However, these audits were inadequate for determining whether the plan was achieving its overall objective of increasing the percentage of minorities in the construction crafts. In making the audits, OFCCP determined the

number of newly hired minority persons placed in a working or training status for at least 30 days during the years covered by the audits. However, OFCCP did not determine whether the crafts had attained their percentage goals for increasing minority membership as stated in the Tulsa plan.

The specific employment goal of the Tulsa plan is to increase the percentage of minority participation in the following 11 construction crafts: bricklayer, carpenter, cement mason, floor coverer, glazier, operating engineer, painter, pipefitter, plumber, roofer, and sheet-metal worker. For each of these crafts, the plan stated percentage goals for increasing minority employment in fiscal years 1973-77. For example, the goals for the carpenter craft were as follows:

<u>Fiscal year</u>	<u>Minorities as percent of total carpenter craft membership</u>
1972 (base year)	13 (actual)
1973	14
1974	15
1975	16
1976	17
1977	18

As shown above, the 1973 goal was to increase minority membership from 13 to 14 percent of the total number of carpenters. On the basis of a June 1972 total craft membership of 1,050, including 136 minorities, OFCCP determined during its 1973 audit that the carpenter craft needed to increase its minority membership from 136 to 147--an increase of 11 members. Since the carpenter craft had placed 14 new minority members in 1973, OFCCP determined that it had exceeded its goal. However, the goal was to achieve a 14-percent minority membership, and OFCCP's audit did not determine whether this had been achieved. To determine whether the Tulsa plan achieved its specific goals, OFCCP should have determined the total minority and nonminority membership in each craft as of 1973 and then determined the percentage of minority membership.

In December 1974 OFCCP made a second audit of the Tulsa plan which covered 1974 goals. This audit used the same 30-day placement criterion as the 1973 audit used. Again, OFCCP did not determine whether each craft achieved its goal in terms of percentage of total membership. Our review showed that, since the Tulsa plan was initiated in 1972, the number of minority members in the carpenter craft had actually decreased and the percentage of minority members to the total membership had also decreased.

When the Tulsa plan was initiated in June 1972, the carpenter craft had a total of 1,050 members, of which 136, or about 13 percent, were minorities. The carpenter craft gave us information showing that, during fiscal year 1974, it had 1,459 working members, of which 48, or about 3 percent, were minorities. Thus from 1972 to 1974 the percentage of minorities in the carpenter craft decreased from about 13 to about 3 percent, even though total membership, including minorities, increased by 409 persons. The Tulsa plan goal for the carpenter craft for fiscal year 1974 was to have 15-percent minority membership, or 219 minorities.

The Tulsa plan also established minority membership goals for 10 other crafts. Nine of these crafts provided us with information showing that, during fiscal year 1974, seven of them had achieved their minority membership goals and two had not.

<u>Craft</u>	<u>Fiscal year 1974</u>				
	<u>Total craft membership</u>	<u>Minorities</u>	<u>Minorities as percent of total membership</u>	<u>Tulsa plan minority percentage goal</u>	<u>1974 goal achieved</u>
Brick mason	170	26	15.3	21.0	No
Carpet and linoleum worker	122	58	47.5	7.0	Yes
Cement finisher	139	44	31.7	19.5	Yes
Glazier	79	10	12.7	9.4	Yes
Operating engineer	672	165	24.6	17.2	Yes
Painter	496	61	12.3	14.0	No
Pipefitter	437	32	7.3	5.0	Yes
Plumber	182	46	25.3	8.1	Yes
Sheet-metal worker	304	15	4.9	4.0	Yes

Although OFCCP's audits of the Tulsa plan did not provide a meaningful basis for determining whether the crafts were achieving their goals, the audits did disclose numerous deficiencies in the implementation of the plan. For example, OFCCP's 1973 audit disclosed that (1) five contractors had failed to file the required reports with the Tulsa plan policy committee showing minority utilization, (2) the crafts had not fully complied with the requirement that they submit reports to the policy committee showing minority utilization, and (3) the Tulsa plan policy committee had not carried out the necessary followup, counseling, and recordkeeping.

OFCCP's 1974 audit disclosed that, of the 24 contractors in the Tulsa plan at the time of the audit, 18 had not filed any of the required reports with the policy committee for a year or more. In addition, the audit disclosed that there was very little communication between the policy committee, the crafts, and the contractors.

As a result of these audits, OFCCP withdrew recognition of three crafts as participants in the Tulsa plan because the crafts did not achieve their numerical goals and subsequent efforts by OFCCP to obtain written documentation of good faith efforts were unsuccessful.

The goal of the highway plan is to recruit, train, and retain a total of 100 minorities each year for the following highway-heavy construction crafts: equipment operator, carpenter, cement mason, truck driver, iron worker, mechanic, and electrician. The highway-heavy construction industry is characterized by its mobility and transience; after a contractor completes a project, it may undertake a new project or projects in other locations. According to the Association of Oklahoma General Contractors, if a person trained by a contractor under the highway plan's program does not want to relocate to the site of his employer's new project, he will usually prefer to obtain a construction job with a different employer. Thus, according to the association, "retention" refers to keeping trainees in the highway-heavy industry rather than keeping each trainee with the original company which provided training.

During May 1975, OFCCP made its first audit of the highway plan covering the plan's operations for the 12-month period ended December 31, 1974. The audit of the Association of Oklahoma General Contractors' records indicated that 153 minorities were trained in 1974. On the basis of this audit, OFCCP concluded that the plan had met its 1974 objective. However, OFCCP did not determine whether 200 minorities had been retained under the plan over the 2-year period from the plan's inception in September 1972 through September 1974.

We believe OFCCP's audits of the highway plan should be directed toward determining whether the plan is meeting its objective of recruiting, training, and retaining 100 minorities annually. If the plan is not achieving its objective, OFCCP's audits should determine whether the participants tried, in good faith, to do so. If the highway plan were achieving its goal, at least 200 minorities would have been retained since the inception of the plan.

NEED FOR IMPROVED ADMINISTRATION
BY COMPLIANCE AGENCIES

Our review of five compliance agencies awarding contracts in northeast Oklahoma showed that none of the agencies had fully implemented its responsibilities for administering the program. Two did not include in contracts the bid conditions establishing contractors' affirmative action obligations; four did not fully enforce OFCCP's contractor reporting requirements; and all five did not adequately fulfill their responsibilities for making compliance reviews of contractors.

Bid conditions not included in contracts

The Department of Labor has prescribed certain bid conditions which all Government agencies are required to include in Federal and federally assisted construction contracts and subcontracts in northeast Oklahoma. These bid conditions provide for establishing contractors' equal employment and affirmative action requirements, including minority employment goals and timetables.

Under the bid conditions, contractors are not required to establish separate affirmative action programs or to take specific affirmative action steps if they participate (1) in the highway plan or (2) in the Tulsa plan and use workers referred by unions which also participate in the Tulsa plan and which have established goals and timetables for increasing minority employment. These contractors must agree to comply with all terms of the highway plan or the Tulsa plan as appropriate. It is presumed that the affirmative action requirements of the highway plan and the Tulsa plan will result in increased minority employment.

If contractors do not participate in either plan or if contractors participate in the Tulsa plan but use workers who are not members of a union which participates in the plan, the bid conditions require the contractors to adopt goals and timetables for increasing minority employment as a part of the contract. These goals and timetables are the same as those specified in the Tulsa plan. Such contractors are also required by the bid conditions to take affirmative action to increase minority employment by taking, as a minimum, these steps:

1. Contractors shall notify community organizations that the contractors have employment opportunities available and shall maintain records of the organizations' responses.

2. Contractors shall maintain a file of the name and address of each referred minority worker; the action taken with respect to each referred worker; and, if the worker was not employed, the reasons why. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's files shall document this and the reasons for not doing so.
3. Contractors shall promptly notify the contracting agencies when the union or unions with which they have a collective bargaining agreement have not referred to the contractors minority workers sent by the contractors or when the contractors have other information that the union referral process has impeded them in meeting their goals.
4. Contractors shall participate in training programs in the area, especially those funded by the Department of Labor.
5. Contractors shall disseminate their equal employment opportunity policy internally by including it in any policy manual; by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee, and union representatives' meetings to explain and discuss the policy; by posting the policy; and by specifically reviewing the policy with minority employees.
6. Contractors shall disseminate their equal employment opportunity policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically in minority news media; and by notifying and discussing it with all subcontractors and suppliers.
7. Contractors shall make specific, constant and personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations, and minority training organizations, within the contractors' recruitment areas.
8. Contractors shall make specific efforts to encourage present minority employees to recruit their friends and relatives.

9. Contractors shall validate all employee specifications, selection requirements, tests, etc.
10. Contractors shall make every effort to promote afterschool, summer, and vacation employment to minority youths.
11. Contractors shall develop on-the-job training opportunities and participate and assist in any association or employer-group training programs relevant to the contractors' employee needs and consistent with their obligations.
12. Contractors shall continually inventory and evaluate all minority personnel for promotion opportunities and encourage minority employees to seek such opportunities.
13. Contractors shall make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.
14. Contractors shall make certain that all facilities and company activities are nonsegregated.
15. Contractors shall continually monitor all personnel activities to insure that their equal employment opportunity policies are being carried out.
16. Contractors shall solicit bids for subcontracts from available minority subcontractors engaged in the trades covered by the bid conditions, including circulation to minority contractor associations.

We believe that, without including these mandatory bid requirements in the contracts, contractors which do not participate in either plan are not required to take the above affirmative action steps, including adoption of goals and timetables for minority employment. Of the five agencies we reviewed, the U.S. Postal Service and the Department of the Interior did not include the bid conditions in their construction and federally assisted construction contracts in northeast Oklahoma.

On June 7, 1972, the Postmaster General agreed to participate in the contract compliance program and to follow all of the Department of Labor's applicable rules, regulations, orders, and memorandums. However, at the time of our review, Postal Service headquarters had not issued to its

regional officials any guidelines or instructions on following the construction program's requirements.

Postal Service officials in the region having responsibility for northeast Oklahoma told us they were not aware of the requirement to include the bid conditions in construction contracts. During our review, we met with Postal Service headquarters compliance officials to discuss the contract compliance program and to bring to their attention the failure to include bid conditions in Postal Service construction contracts. As a result of our inquiry, in October 1974 Postal Service headquarters issued instructions to its general managers of equal employment opportunity and to contract compliance examiners, requiring that the bid conditions be included in all Postal Service construction contracts.

In September 1972 the Department of the Interior issued instructions to its bureaus and offices requiring that the bid conditions be included in Federal and federally assisted construction contracts over \$10,000 in northeast Oklahoma. The Oklahoma State Tourism and Recreation Department receives Federal grants from Interior's Bureau of Outdoor Recreation for various recreation and park facilities. As of October 10, 1974, this department had six federally assisted projects, totaling about \$589,000, which covered construction in northeast Oklahoma. Officials of the Oklahoma Tourism and Recreation Department advised us that the contracts did not contain the required bid conditions. The Oklahoma representative of Interior's Bureau of Outdoor Recreation and officials of Oklahoma's Tourism and Recreation Department said they were not aware of the requirement to include the bid conditions in construction contracts. Bureau of Outdoor Recreation headquarters officials had no record of having sent the bid conditions for northeast Oklahoma to the Bureau's regional offices.

Interior's Assistant Director for Contract Compliance said he assumed that Interior's bureaus and offices had been including the required bid conditions in construction contracts. He added, however, that no procedures or controls had been established to insure the bureaus and offices complied.

Contractors' reporting requirements not enforced

In 1971 OFCCP developed standard reporting procedures for all areas covered by areawide affirmative action plans, requiring all Federal and federally assisted construction contractors and subcontractors to submit monthly reports to the responsible compliance agencies showing minority

employment for all of their projects, including non-Federal projects. These reports were designed to enable the compliance agencies to (1) determine the extent of minority employment and (2) identify those contractors which might not be making good faith efforts to employ minorities and which might therefore be selected for compliance reviews. Each compliance agency is required to submit to OFCCP monthly summary reports indicating the contractors' compliance status on each contract.

OFCCP guidelines require compliance agencies to issue show-cause notices to contractors which fail to submit the required monthly reports. These notices give contractors 30 days to explain why enforcement actions should not be initiated. If contractors fail to show good cause or fail to remedy the issues giving rise to their noncompliance, regulations require the imposition of various enforcement actions, including contract cancellation, debarment from future Federal contracts, and referral to the Department of Justice for court action. Contractors must be given the opportunity to have a formal hearing before enforcement actions are imposed.

Four of the five compliance agencies included in our review did not fully implement OFCCP reporting requirements for northeast Oklahoma. The Postal Service and Interior did not enforce the requirement that contractors submit monthly reports and did not submit the required monthly summary reports to OFCCP. The Department of Housing and Urban Development enforced the contractors' reporting requirements but did not submit monthly reports to OFCCP. The Department of Defense required reports only from contractors which were required to establish goals and timetables on projects totaling \$500,000 or more and submitted monthly reports to OFCCP on these contractors.

OFCCP has proposed to assume the responsibility which compliance agencies presently have for making compliance reviews of contractors participating in the plans. We believe that, if the policy is implemented, OFCCP should also consider whether participating contractors need to submit reports to the compliance agencies in addition to the monthly reports already required of the plans. (See p. 4.)

Compliance reviews

Each compliance agency is responsible for reviewing its contractors' and subcontractors' employment practices during the contracts' performance. If an agency determines that a contractor or subcontractor participating in one of the plans

is no longer following the requirements of the plan in good faith, the agency is required to notify OFCCP, which then determines what action to take.

If the compliance agency determines that a contractor or subcontractor which does not participate in one of the plans has failed to comply with the requirements as specified in the bid conditions, the agency should take such action and impose such enforcement measures as may be appropriate. When a compliance agency takes enforcement actions, it must prove the contractor or subcontractor has not met its minority employment goals. Then the contractor or subcontractor must present evidence that it tried, in good faith, to meet its goals. A contractor is considered to have made good faith efforts if it has taken at least 16 affirmative action steps (see p. 8) and has tried to make those steps work toward attainment of the goals.

The five compliance agencies included in our review did not adequately fulfill their responsibilities for making compliance reviews of contractors. The Postal Service and Interior had not made any compliance reviews in northeast Oklahoma. After we discussed this matter with Postal Service headquarters officials, the Postal Service made a compliance review of one contractor in northeast Oklahoma. (See ch. 4.) The other three agencies included in our review (Defense, Federal Highway Administration, and Housing and Urban Development) had made compliance reviews, but Defense reviewed only those contractors required to establish individual goals and timetables and having contracts of \$500,000 or more.

Defense headquarters representatives said they did not review contractors which participated in the plans because these contractors were not required to establish goals and timetables for minority employment on their projects. Defense stated that individual participating contractors are not allocated a proportionate share of the plans' goals. All participating contractors in a plan must be evaluated collectively, and no single compliance agency can properly evaluate their progress. Consequently, Defense believes that its management decision not to review participating contractors or require them to submit monthly reports is justified by the combination of its limited resources and the differences in the requirements applicable to participating and nonparticipating contractors.

We recognize that each participating contractor cannot be held accountable for achieving a proportionate share of the plans' goals. In April 1975, OFCCP published for comment proposed regulations which would transfer from the

compliance agencies to OFCCP the responsibility for making compliance reviews of participating contractors. An OFCCP representative informed us in February 1976 that the proposed change had not been finalized because comments of interested parties had not been completely evaluated.

Defense, the Federal Highway Administration, the Department of Housing and Urban Development, and the Oklahoma Highway Department 1/ had made compliance reviews of contractors not participating in the plans. However, when they found contractors with hiring opportunities had not achieved their goals, the agencies failed to fully evaluate whether the contractors had tried, in good faith, to do so. In order for contractors to be found in compliance when they have not achieved their goals, they must have fulfilled or have made every good faith effort to fulfill the 16 specific affirmative action steps. (See p. 8.) However, the above agencies generally considered contractors in compliance if they contacted minority referral sources or had otherwise attempted to hire minorities. We believe that, without considering whether good faith efforts were made to fulfill the 16 affirmative action steps, the compliance agencies could not adequately determine contractor compliance.

Even though the compliance agencies did not fully evaluate contractors' good faith efforts, Department of Housing and Urban Development officials said they had reviewed two contractors in August 1973 and found them in noncompliance with affirmative action requirements. One of the contractors had no minority employees, and the other was found in noncompliance because it declined to appear and participate in the scheduled review. However, the Department failed to issue show-cause notices to the two contractors. Also, Department officials told us that no followup action had been taken against these contractors because the compliance officers who made the reviews had not prepared the necessary compliance review reports.

CONCLUSIONS

OFCCP's monitoring of the Tulsa plan and the highway plan was inadequate, and its audits of the plans did not adequately determine whether the plans' goals were achieved.

1/The Federal Highway Department delegated to the Oklahoma Highway Department its responsibility for making compliance reviews of most contractors working under federally assisted construction contracts.

The five compliance agencies included in our review did not adequately insure that contractors complied with the compliance program. Two of the agencies did not include in contracts the required bid conditions establishing affirmative action obligations, and three agencies did not enforce OFCCP's guidelines requiring contractors to report employment data. Moreover, none of the agencies made adequate compliance reviews.

RECOMMENDATIONS

We recommend that the Secretary of Labor require that OFCCP:

- Expand the scope of its audits of the Tulsa plan and the highway plan to determine whether the plans are achieving their objectives.
- Consider eliminating the requirement that participating contractors submit monthly reports to the compliance agencies if Labor assumes compliance review responsibility for these contractors.
- Insure that compliance agencies (1) comply with Labor guidelines and criteria for contractor reporting requirements, (2) include required bid conditions in contracts, and (3) make compliance reviews.
- Insure that compliance agencies take appropriate enforcement actions when contractors and subcontractors are found not in compliance.

CHAPTER 3

COSTS OF TRAINING PROGRAMS

Congressman Jones expressed concern that the Tulsa plan may impose a competitive disadvantage on participating contractors because of the added costs of meeting the plan's requirements for training minorities. (See app. I.) We believe the plan does not impose a competitive disadvantage because training costs result not from affiliation with the plan but from contractors' collective bargaining agreements with building construction craft unions. These agreements, which existed before the Tulsa plan was initiated in 1972, provide for apprenticeship training programs financed by contractor payments to the unions. The plan merely added minority employment goals, with emphasis on minority participation in the existing training programs. Although the Tulsa plan also calls for remedial training programs, little progress had been made in implementing such programs.

Tulsa plan contractors are union contractors; i.e., they use workers referred by one of the building construction craft unions. Highway plan contractors, on the other hand, are predominantly nonunion contractors which use a manpower development and training program developed by the Association of Oklahoma General Contractors before the highway plan was initiated in 1972. Neither the Tulsa plan nor the highway plan resulted in the development of new minority training programs, but both emphasized training minorities through existing training programs. Additionally, we noted that under the provisions of the Davis-Bacon Act of 1931, as amended (40 U.S.C. 276 (a)), contractors which do not participate in the Tulsa plan and which are working on Federal and federally assisted building construction projects in Tulsa must pay wages and training costs at least equal to those being paid by contractors which do participate in the Tulsa plan. (See p. 18.)

TULSA PLAN

To accomplish the Tulsa plan's purpose of increasing the percentage of minorities in the construction crafts, the plan provides for admitting qualified minorities into the crafts' apprenticeship training programs developed under the National Apprenticeship Act of 1937 (29 U.S.C. 50). For minorities not qualified for the apprenticeship programs, the plan states that remedial training programs will provide minorities with exposure to each craft's apprenticeship requirements, a diagnosis of their abilities in a particular craft, and specific preparation required to meet the chosen craft's apprenticeship entrance standards.

After completing remedial training, minorities are supposed to be referred to the craft apprenticeship programs. Our review showed the plan had made very little progress in implementing remedial training programs. Only one minority had been appointed as a prospective apprentice to be given remedial training, and he withdrew from the program in less than 6 months.

Although the apprenticeship training programs are used by the 11 crafts to meet their responsibilities under the Tulsa plan to train minorities, these training programs were not created by the crafts exclusively to meet their affirmative action responsibilities under the plan. The apprenticeship training programs of the 11 crafts participating in the plan existed before the Tulsa plan was approved in June 1972. These training programs were registered at various times before June 1972 with Labor's Bureau of Apprenticeship and Training pursuant to Labor's apprenticeship standards under the National Apprenticeship Act of 1937. Labor regulations further require that the apprenticeship training programs provide equal opportunity in the recruitment, employment, and training of apprentices.

HIGHWAY PLAN

The highway plan training programs were established and in existence before OFCCP approved the plan in September 1972. These training programs were established in 1968 so that the Oklahoma Highway-Heavy Construction Division of the Association of Oklahoma General Contractors could meet its equal employment opportunity obligations under the Federal-Aid Highway Act of 1968. Pursuant to the act, the Secretary of Transportation must require any State using Federal highway funds to assure that employment in connection with the proposed projects will be provided without regard to race, color, creed, or national origin.

OFCCP approved the highway plan in September 1972. The plan consisted of the association's training programs, with certain modifications. These modifications included (1) establishing a goal to recruit, train, and retain 100 minorities in related highway-heavy construction crafts, (2) requiring that trainees be paid a basic minimum starting wage of 70 percent of the prevailing wage rate in the area for each craft journeyman classification, (3) agreeing to submit monthly reports to OFCCP showing the number of minorities being trained in each craft, and (4) agreeing to work closely with minority leaders to obtain minority trainees.

TRAINING COSTS INCURRED BY CONTRACTORS

The Davis-Bacon Act of 1931, as amended, requires that prevailing wages be paid to employees in Government construction projects and that each contract over \$2,000 to which the United States or the District of Columbia is a party--for construction, alteration, or repair (including painting and decorating) of public buildings or public works--state the minimum wages to be paid to various classes of laborers and mechanics.

The act provides that the minimum wages be based on wages which the Secretary of Labor determines to be prevailing for corresponding classes of laborers and mechanics employed on similar projects in the civil subdivision of the State in which the contract work is to be done. The minimum wage determination includes basic hourly pay rates and fringe benefits, if any. The fringe benefits include the costs of any existing apprenticeship programs for the various classes of laborers and crafts for each classification of construction. Labor has provided wage determinations to the contracting agencies covering the classification of building construction crafts. For example, in August 1975 Labor established the following minimum wages and fringe benefits for various construction crafts on Federal and federally assisted building projects in Tulsa and Creek Counties, which include Tulsa--the major metropolitan area of northeast Oklahoma.

<u>Craft</u>	<u>Basic hourly rates</u>	<u>Fringe benefit payments</u>		<u>Wage determination applicable to all contractors</u>
		<u>Apprenticeship training programs</u>	<u>Other (note a)</u>	
Bricklayer	\$8.59	\$.06	\$1.03	\$ 9.68
Carpenter	8.08	.05	.65	8.78
Cement mason	7.67	.06	.40	8.13
Soft-floor layer	7.37	.03	.85	8.25
Glazier	7.68	.01	.70	8.39
Piledriver engineer	8.50	.12	.75	9.37
Painter, brush	7.50	.02	1.10	8.62
Pipefitter	9.27	.08	1.00	10.35
Roofer	7.25	.04	.50	7.79
Sheet-metal worker	8.83	.10	.90	9.83
Plumbers	8.97	.08	.75	9.80

a/Includes such benefits as medical, retirement, and vacation benefits.

The above fringe benefit payments for training programs are the same as those reflected in the collective bargaining agreements between the Tulsa plan contractors and the craft unions. Thus, on all Federal and federally assisted building construction projects in Tulsa, contractors must pay wages and training costs at least equal to those being paid by contractors affiliated with the Tulsa plan.

CHAPTER 4

ENFORCEMENT OF CONTRACT COMPLIANCE

PROGRAM FOR TWO CONTRACTS

In his request (see app. I), Congressman Jones expressed concern about two construction contracts in northeast Oklahoma--one awarded by the Corps of Engineers for constructing Birch Lake Dam in the Tulsa area and one awarded by the U.S. Postal Service for constructing the Sheridan Station Post Office in Tulsa. Congressman Jones expressed concern about whether:

1. The contractors were qualified as responsive bidders in meeting their equal employment responsibilities.
2. The compliance agencies enforced the program's provisions.
3. The contractors were training minorities on the construction projects.

BIRCH LAKE DAM

In September 1973 the Corps of Engineers sent invitations for bid to prospective bidders for constructing the Birch Lake Dam and related facilities. Eight construction contractors submitted bids, but contractors affiliated with the Tulsa plan were not among them. Southwest Construction Corporation was the lowest bidder and on November 2, 1973, was awarded the contract valued at \$5.8 million.

The invitations for bid included Labor's mandatory bid conditions which all Government agencies are required to include in Federal and federally assisted construction contracts and subcontracts in northeast Oklahoma. These bid conditions provide for establishing contractors' equal employment and affirmative action requirements, including minority employment goals and timetables. Under the bid conditions contractors are not required to adopt goals and timetables or to take specific affirmative action steps if (1) they participate in the highway plan or (2) they participate in the Tulsa plan and use workers referred by unions which also participate in the plan and which have established goals and timetables for increasing minority employment. These contractors must agree to comply with all the terms of the highway plan or the Tulsa plan, as appropriate. It is presumed that the affirmative action requirements of the plans will result in increased minority utilization.

Southwest Construction Corporation participated in the highway plan and agreed in the contract to comply with the plan's affirmative action requirements. Inasmuch as the corporation participated in the plan and had properly responded to the invitations for bid, it was a responsive bidder with respect to meeting the bid conditions for equal employment opportunity.

Defense Contract Administration Services of the Department of Defense's Defense Supply Agency is responsible for establishing and maintaining a contract compliance system for all Defense construction contracts, including those of the Corps of Engineers. This responsibility, as it relates to northeast Oklahoma, is carried out by the regional office in Dallas, Texas. However, as discussed in chapter 2, it is Defense policy not to monitor or review contractors affiliated with the plans. Consistent with this policy, Southwest Construction Corporation has not been required to submit reports showing minority employment, nor has Defense made any compliance reviews to determine if the contractor is complying with equal employment opportunity requirements.

Also consistent with Defense policy, Defense Contract Administration Services reviewed three subcontractors working on the Birch Lake Dam in August 1974. These subcontractors did not participate in the highway plan or the Tulsa plan; they were reviewed because their reports showed they were not meeting the minority employment goals specified in the bid conditions. At the time of the review, only five employees were working on the project. One subcontractor had two employees working on the project, one of whom was a minority. Another subcontractor had only one permanent employee, and the third had only two permanent employees; neither expected to hire additional employees in the near future. The compliance officer determined that the subcontractors and Southwest Construction Corporation were apparently in compliance with the bid conditions.

Southwest Construction Corporation fulfilled its minority training obligations by being affiliated with the highway plan and by agreeing to comply with the plan's affirmative action requirements, including its training programs. However, a corporation official informed us that the corporation had never trained anyone under the highway plan's training programs. He said that the corporation entered into collective bargaining agreements in August 1974 with craft unions which did not recognize the highway plan and that, therefore, the corporation could not train anyone under the highway plan's training programs on the Birch Lake project. Since Defense had not reviewed the corporation, it did not know whether the corporation had made good faith efforts to participate in the plan's training programs.

SHERIDAN STATION POST OFFICE

In October 1973 the Construction Management Branch of the Postal Service's southern region in Memphis, Tennessee, sent invitations for bid to prospective bidders on the Sheridan Station Post Office building project. The invitations for bid did not include Labor's mandatory bid conditions for northeast Oklahoma. Five contractors, one of which participated in the Tulsa plan, submitted bids on the project. Highway plan contractors did not submit bids. Cooper Brothers, Inc., was the lowest bidder and was awarded the contract, valued at \$470,392, on December 7, 1973.

The contractor was a nonunion building contractor and did not participate in the Tulsa plan or the highway plan. Labor's bid conditions require contractors not affiliated with either plan to adopt goals and timetables for increasing minority employment as part of the contracts. These goals and timetables are the same as those specified in the Tulsa plan. Contractors are also required by the bid conditions to take action at least as extensive and specific as the 16 affirmative action steps. (See p. 8.)

Because Labor's mandatory bid conditions were not included in the invitations for bid or the contract for construction of the Sheridan Station Post Office, we believe the contractor is not required to take the specific affirmative action steps, including adoption of goals and timetables for minority employment. Nevertheless, we believe the contractor must be considered a qualified responsive bidder with respect to its equal employment responsibilities because the Postal Service failed to include in its invitations for bid the mandatory bid requirements.

Although the mandatory bid requirements are not in the contract, general equal opportunity provisions are and Cooper Brothers has therefore agreed not to discriminate in employment. These provisions concern the contractor's agreement to eliminate employment discrimination and to take affirmative action to provide equal employment opportunity. However, these provisions do not include goals and timetables or specific affirmative action steps to increase minority employment.

The Postal Service did not make any compliance reviews of the contractor until after we discussed with headquarters officials their compliance responsibilities in northeast Oklahoma. Postal Service headquarters officials told us that, as a result of our discussions with them, a special compliance review of the contractor was made in September 1974. The compliance report indicated the contractor had

10 employees, of whom 5 were minorities--1 carpenter trainee receiving on-the-job training and 4 laborers. The report showed that the contractor had obtained some minority employees by contacting the Tulsa Urban League.

CHAPTER 5

AGENCY COMMENTS AND UNRESOLVED ISSUES

The Department of Labor and other agencies and entities discussed in this report have been given an opportunity to review and formally comment on the report. However, officials of the Tulsa hometown plan and of the Oklahoma Highway and Oklahoma Tourism and Recreation Departments 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 LABOR COMMENTS

The Department of Labor's comments indicate that it has taken some actions to expand the scope of its audits but we believe more needs to be done. Labor also will attempt to remedy the deficiencies in the administration of the construction compliance program by the compliance agencies but stated the compliance agencies are reluctant to implement Labor's recommendations. (See app. II.) A summary of Labor's corrective actions and our analysis follow.

Labor comment (Tulsa plan)

The Department of Labor said that, at the time of our study, OFCCP's audit procedures were unclear as to the need for periodically adjusting the numerical goals for minorities on the basis of changes in the total number of persons participating in the various crafts. Such adjustments are particularly important in view of the highly seasonal and fluctuating levels of activity in the construction industry. The ambiguity has been clarified by OFCCP with the issuance of revised audit procedures in June 1975.

Our analysis

We do not agree that the revised audit procedures issued on June 24, 1975, will sufficiently expand the scope of OFCCP's audits of local plans to determine whether they are achieving their objectives. The revised audit procedures do not specifically require adjustments in the goals for minorities based on changes in the total number of persons participating in the crafts. Also, they indicate that the main emphasis of OFCCP's audits will continue to be on determining the number of newly hired minority persons placed in a working or training status for at least 30 days during the years

covered by the audits. If this number indicates that crafts are not achieving their annual goals as determined by OFCCP (see p. 4), the revised audit procedures call for the administrative committee of the plan to submit additional information, including data showing union membership categorized as follows:

- The current total membership in the craft classified as journeymen, apprentices, trainees, and others.
- The current number of minority members in the craft classified as journeymen, apprentices, trainees, and others.
- The current number of female members in the craft classified as journeymen, apprentices, trainees, and others.
- The current number of minority female members in the craft classified as journeymen, apprentices, trainees, and others.

This information would enable OFCCP to determine the percentage of minority membership in each craft and whether each craft had achieved its goals. However, under OFCCP's revised audit procedures, this information is to be obtained only if the crafts' annual goals, as determined by OFCCP, are not attained.

We believe that the primary emphasis of OFCCP's audits should be on determining whether the crafts' cumulative percentage goals as stated in the plans are being attained, rather than, as currently, on the annual numerical goals as determined by OFCCP.

Labor comment (Tulsa plan)

The Department said there was a:

"* * * lack of clarity in the Tulsa Plan as to whether the existing and projected participation figures refer to membership in the craft union or to membership in the craft as an occupation. Generally GAO's approach in using the former interpretation, i.e. existing and projected participation figures refer to membership in the craft union, would be valid and consistent with the Department's 'Hometown' solution policy and the Model Area-Wide Agreement adopted pursuant thereto. However, the policy and the model provide for adjustments for local conditions and it was the

intent of the Department in approving the Tulsa plan to accommodate the fact that Oklahoma is a right-to-work state by establishing as participation attainment, minority on-the-job entry into the skilled crafts with the opportunity but not the requirement for membership in the local craft unions. As a result, it is far less conclusive than is suggested by the GAO report that the number of minorities participating as union members in the craft occupation is indicative that the plan has failed to reach its goals."

Our analysis

We do not agree that the Tulsa plan is unclear about whether the existing and projected participation figures refer to membership in the craft union or to membership in the craft as an occupation.

The Tulsa plan represents an agreement between organizations of minority groups, contractors, and craft unions with whom contractors maintain collective bargaining agreements. The plan's percentage goals were agreed to by the appropriate collective bargaining units of the crafts to achieve, year by year, an increased level of minority group participation. A craft is defined in the plan as a category of skill corresponding to any group of workers employed in the construction industry and represented by one or more union local organizations.

Further, the plan contains an exhibit showing the percentage goals for minority membership which each participating craft union agreed to make every good faith effort to achieve. These goals were based on each craft union's membership. The exhibit specifically states that the projected percentage goals for each craft will not change but the number of minority members that the percentages reflect would change due to changes in the craft union's total membership.

Thus, rather than agreeing with Labor that the plan is unclear on this issue, we believe the overall plan objective is to increase minority participation in the crafts and to measure that achievement as reflected in the craft union membership.

Labor comment (Tulsa plan)

Labor acknowledged that it had not implemented enforcement procedures for reporting and recordkeeping failures for a long time. However, it said it had not done so because

(1) the plan participants had made good faith efforts toward achieving the goals and (2) the plan was attempting to obtain Federal funding for its administrative costs.

Our analysis

As stated on page 4, the Tulsa plan began filing the required reports after OFCCP notified the plan's administrative committee in May 1975 that recognition of the plan would be withdrawn unless the required 1975 reports were submitted. The chairman and other officials of the Tulsa plan informed us in January 1976 that funding had not yet been provided by the Employment and Training Administration.

Labor comment (highway plan)

Labor acknowledged that its audit of the highway plan was directed towards recruitment and training and did not adequately emphasize retaining minorities. Labor said its revised audit procedures would remedy this problem.

Our analysis

Inasmuch as the revised audit procedures provide for determining if minorities are being retained, the procedures if followed should result in determining the highway plan's success in achieving its goal.

Labor comment (administration by compliance agencies)

Labor stated that, to correct the compliance agencies' deficiencies in the administration of the program, it will reiterate to the agencies the requirements they are expected to meet in administering their responsibilities. Also the Dallas regional office, which is responsible for northeast Oklahoma, has instituted a system for receiving and monitoring all contractor reporting forms and for bringing to the attention of compliance agencies those contractors not meeting minority goals to insure that the agencies invoke appropriate enforcement action against such contractors.

Labor said, however, that compliance agencies' deficiencies are largely the result of its having to provide guidance and assistance to 16 independent Federal agencies, most of which carry out their responsibilities through their constituent bureaus, subagencies, and field structure. The lines of authority and communication are lengthy, circuitous, and time consuming. The individuals at the local operating levels, with responsibility for taking action, are remote from the source of direction. Such organizational structures

provide the possibility at each level for omissions, misunderstandings, and misinterpretations. Although OFCCP field staff have direct and frequent communications with their local counterparts in the compliance agencies regarding necessary changes and corrective actions, the latter usually do not institute such actions until they are formally and officially instructed to do so by their own higher-echelon offices. Labor said that compliance agencies are reluctant to implement changes which would require adjustments in organizational structure, staffing, budget, policy, and procedures.

Our analysis

During our review we did not evaluate the effectiveness of the organizational structure used in implementing the program for construction contractors and thus we cannot comment on Labor's views.

DEPARTMENT OF DEFENSE COMMENTS

In commenting on our report (see app. III), Defense stated our report assumes that staffing for the contract compliance program is adequate to provide coverage for 100% of the assigned contractors. Defense stated that it decided:

"* * * to channel its Contract Compliance resources toward more productive activity. Those resources are adequate to cover no more than about 30% of the known contractor universe during a given year. Whenever the regulations allow some flexibility in selecting contractors for review, DoD [Department of Defense] attempts to channel its resources toward contractors believed to control the most opportunities for employing and advancing minorities and women. Hence, there will probably always be unreviewed contractors and what constitutes adequate coverage within the assigned universe is as much determined by budgetary and resource limitations as by choices made in program management. The determination by management between 1971 and early 1975 that contractors holding prime construction contracts of less than \$500,000 should not be reviewed was an attempt to use limited resources most advantageously."

Our analysis

Our report does not assume that Defense staffing is adequate to provide review coverage for 100% of the assigned contractors. Although Defense's limited resources may prevent it

from reviewing all contractors not participating in the plans, we do not agree that no contractors having contracts of less than \$500,000 should be monitored for compliance with the program. As stated on page 12, Defense required reports only from contractors required to establish goals and timetables for projects totaling \$500,000 or more. We believe Defense should also require these reports of contractors with contracts of less than \$500,000. These reports would identify those contractors not achieving their goals and Defense could review these contractors to determine if they were making a good faith effort to utilize minorities.

DEPARTMENT OF TRANSPORTATION COMMENTS

In commenting on our report (see app. IV), Transportation stated that compliance agencies do not have the responsibility for compliance reviews of contractors participating in the plans because this responsibility has been retained by the Department of Labor. Further, OFCCP has consistently objected to compliance agencies' reviewing participating contractors and determining if they're in compliance. Transportation stated that the regulations OFCCP proposed in April 1975 would relieve the compliance agencies of the responsibility of reviewing participating contractors and that this has been and continues to be the practice of OFCCP.

Our analysis

It is important to distinguish between making compliance reviews of participating contractors and determining the compliance status of those contractors. OFCCP requirements clearly state that each compliance agency is responsible for reviewing its contractors' and subcontractors' employment practices during the contractors' performance. The requirements also state that, if an agency determines that a participating contractor or subcontractor is no longer following the requirements of the plan in good faith, the agency is to notify OFCCP which will then determine what action to take. (See p. 12.) Thus, under OFCCP requirements, the compliance agencies are responsible for reviewing participating contractors and OFCCP is responsible for making a final determination on those contractors' compliance.

A Transportation official explained that a compliance review inherently includes a determination of compliance and the imposition of enforcement measures if a determination of noncompliance is made. He explained that the practical effect of OFCCP's policy prohibiting compliance agencies from making final compliance determinations was to remove from compliance agencies the responsibility for making compliance reviews.

We do not agree with this interpretation of existing OFCCP policy. Further, although OFCCP has proposed to transfer from the compliance agencies to OFCCP the responsibility for making compliance reviews of participating contractors, the proposed change had not been finalized as of February 1976.

Department comment

"In the discussion of reporting, we note that the report conspicuously fails to mention that only one part (Optional Form 66) of OFCCP's 'standard reporting procedures' has Office of Management and Budget's * * * approval and that reporting procedures result in gross duplication of statistical data. Further, while the Department of Transportation has submitted the required reports to OFCCP on a monthly basis, no feedback has been received on their accuracy or adequacy.

"The Department of Transportation recommends that the GAO Draft Report make an assessment of the OFCCP reporting procedures."

Our analysis

In making our review, we did not attempt to evaluate all OFCCP reporting procedures. However, in a report issued to the Senate Committee on Government Operations on July 24, 1975 (GGD-75-85), we commented on duplicate reporting in the collection of information from contractors by OFCCP and proposed consolidation of optional form 66 with another form used by the Department of Labor's Wage and Hour Division for the Davis-Bacon Act. The consolidation would result in a single requirement for meeting the information needs of the Wage and Hour Division and OFCCP. Commenting on the report, Labor stated, "Optional Form 66 is currently being studied for revision and/or consolidation by the Employment Standards Administration."

DEPARTMENT OF THE INTERIOR COMMENTS

Interior stated that our report was essentially correct, and it has taken actions to prevent the reoccurrence of the deficiencies we noted. (See app. V.) These actions include:

- An Interior procurement bulletin has been published on contract compliance procedures and sent to all of Interior's procuring activities so that contracting officers will be sufficiently knowledgeable about the program.

--The Bureau of Outdoor Recreation is revising its grant-in-aid manual to include the contract compliance procedures and is distributing the revised manual to all States.

Interior stated, however, that it did not conduct compliance reviews in part because of resource problems and in part because of uncertainties over the direction of OFCCP construction compliance policy. In regard to resources, Interior stated that compliance reviews in construction consistently yield fewer job opportunities than reviews in non-construction fields. Interior said that construction contractors generally hire from unions, and unions do not come under the jurisdiction of the Executive order. Consequently, Interior has reviewed construction projects only in certain carefully selected instances.

Interior also stated that the direction of OFCCP policy is uncertain, and the regulations proposed in April 1975 did nothing to clarify review priorities in the construction industry. Interior said it is reluctant to conduct low-yield construction reviews because of present OFCCP policy confusion and the absence of a clear indication from OFCCP that contractors participating in the plans should be reviewed by the compliance agencies.

Our analysis

We do not believe that Interior should, as a matter of policy, generally refrain from reviewing construction contractors. The primary thrust and purpose of the program is to compel contractors to implement equal employment opportunity and affirmative action principles and practices which might not be undertaken on the contractors' own initiative. If contractors can expect not to be reviewed for compliance with the program, they cannot be effectively compelled to comply with program requirements. Further, contractors not in compliance with the program may receive Federal or federally assisted construction contracts because of the failure of the agencies to follow Labor requirements.

As previously discussed, we do not agree that OFCCP requirements are unclear as to whether compliance agencies are responsible for making reviews of participating contractors. However, about a year has elapsed since OFCCP proposed in April 1975 to transfer from the compliance agencies to OFCCP the responsibility for making compliance reviews of participating contractors and we can understand how this has created uncertainty among some compliance agencies. We believe that OFCCP should expedite its final determination whether to transfer the responsibility for reviewing participating contractors.

U.S. POSTAL SERVICE COMMENTS

The Postal Service stated that the deficiencies described in our report occurred during the transitional period when it was reassuming compliance responsibility for construction contractors and that corrective action has been taken. (See app VI.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMENTS

In commenting on our report (see app. VII), the Department of Housing and Urban Development stated that steps have already been taken by the regional office responsible for northeast Oklahoma to correct the deficiencies noted in the report. In fiscal year 1976 the regional office has significantly increased the number of reviews made of construction projects in northeast Oklahoma as well as all other plan areas in the region and of projects within nonplan areas. The Department said also that all compliance reports are now being sent to OFCCP promptly and are being properly prepared and submitted to Department headquarters for review. Show-cause notices have been issued by the regional office in fiscal year 1976 because contractors have not met the required goals and have not made good faith efforts to carry out the 16 affirmative action steps.

The Department stated that it will monitor the performance of the regional office responsible for northeast Oklahoma to assure that improved performance is sustained. A training conference was scheduled by the Department for the regional office in May 1976 to increase staff skills and competence in reviewing affirmative action plans, monitoring construction projects, and making compliance reviews.

ASSOCIATION OF OKLAHOMA GENERAL CONTRACTORS COMMENTS

In commenting on our report (see app. VIII), the association referred to our statement that the plans are not designed to improve job opportunities for women. The association said (1) this is incorrect and (2) the Oklahoma highway-heavy plan has trained more women than any similar plan in any other State. The association referred to a 1975 memorandum from the Office of the Assistant Secretary of Labor for Employment Standards which stated the plan "is continuing a strong recruitment process aimed at increasing the number of females in the highway-heavy field."

Our analysis

During our review we did not evaluate whether women were being recruited and trained under the highway plan. Although contractors participating in the highway plan may be training women, the objective of the plan is to recruit, train, and retain a total of 100 minorities each year in seven specific crafts; the plan does not contain specific goals for women.

Association comment

The association stated that the highway plan does not specifically require that minorities be retained after training.

Our analysis

We agree that the highway plan does not specifically state that the minorities must be retained. However, the Department of Labor stated that although the plan does not specifically and literally mention retention as a goal, it concurs in our finding inasmuch as retention of minorities in employment is the ultimate purpose of any plan, whether so stated or not.

Association comment

The association referred to the statement in our report that the highway plan did not result in the development of new minority training programs. The association disagreed with this statement and said that it had two new training programs pending at the OFCCP regional office.

Our analysis

An association representative told us that the two new training programs apply to two job classifications for which the association did not previously have such programs--self-propelled sweeper operator and paving form setter. However, these training programs are not designed specifically for training minorities under OFCCP's construction compliance program. The programs are designed, rather, to train any employee entering these job classifications on highway-heavy projects. Also, these training programs were not included in the highway plan when it was approved and the plan does not require that training programs be established for these two job classifications.

COOPER BROTHERS, INC., COMMENTS

In commenting on our report (see app. IX), Cooper Brothers, Inc., said it was not a participant in the Tulsa plan but believed it may have complied with the plan's spirit.

Our analysis

During our review we did not evaluate the contractor's compliance status and therefore cannot comment on whether Cooper Brothers, Inc., had complied with the requirements of the program.

SOUTHWEST CONSTRUCTION CORPORATION COMMENTS

In commenting on our report (see app. X), Southwest Construction Corporation raised several issues, including:

- It was pressured into becoming a participant in the Tulsa plan even though it believed it should not be a participant.
- It had signed collective bargaining agreements with craft unions.
- Excessive administrative and reporting requirements were being imposed on it.
- Minority group representatives had unrealistic expectations as to the number of persons to be employed and the wages to be paid to employees working on the Birch Lake Dam.

Our analysis

In accordance with Congressman Jones' request (see app. I), our review of the contract awarded for construction of the Birch Lake Dam was directed toward determining whether (1) the contractor was qualified as a responsive bidder in meeting its equal employment responsibilities, (2) the compliance agency enforced the program's provisions, and (3) the contractor was training minorities on the project. We did not examine the issues raised by the corporation and thus we cannot comment on them.

JAMES R. JONES
FIRST DISTRICT, OKLAHOMA

MEMBER
COMMITTEE ON ARMED
SERVICES

COMMITTEE ON INTERIOR AND
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March 1, 1974.

B-167015

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

Dear Elmer:

I recently met with the Executive Committee of the Tulsa Plan, the affirmative action hometown plan for the City of Tulsa, which I represent. The Committee reflects minority, business and labor interests which have put a lot of hard work into a very difficult area. Now that they are making some progress, it appears that the entire effort may be in jeopardy.

The underlying causes of this situation are not entirely clear and this is one reason why I believe we need the help of the General Accounting Office. What is absolutely clear, however, is that there is an enormous variation in the way the basic law and implementing regulations of the Department of Labor are applied by the contracting Federal agencies.

Rather than bring me vague generalities, the Tulsa Plan representatives had the excellent foresight and judgment to bring me two specific, current cases which they believe illustrate the problems, and which they say are typical of similar situations throughout the country.

Briefly, the two cases in point are 1) the awarding of a contract for dam construction on Bird Creek, north of Tulsa, to Southwest Construction Company by the Corps of Engineers, and 2) the awarding of a contract for the construction of a new post office in East Tulsa to Cooper Brothers by the Postal Service. In each case there is concern over the initial qualification of the bidder since they are not signatories of the Tulsa Plan.

There is also concern in both cases that the Companies will not train minorities through apprentice programs on these particular jobs in the Tulsa area. Finally, there is concern that, as in past instances, compliance and enforcement by the contracting Federal agencies will be so weak that the construction will be over before any remedial action can be taken. I must say that the limited investigation carried out by my office indicates that these concerns are well-founded.

I should emphasize that the Tulsa Plan's concern is not with the numerical goal aspect of the equal employment situation. They take a commendably realistic position that even the best of efforts to meet hiring goals will be meaningless if there are no trained minority individuals available to meet the goal. This approach accounts for the emphasis this group places on training programs.

Of equal concern is the Department of Labor's approval of the Highway-Heavy Plan and its subsequent blanket use as a qualifying instrument for any government construction of any type by a firm signatory to the plan. While this may be sensible for highway construction which spans several jurisdictions, it makes considerably less sense for a fixed facility in a given jurisdiction with an extant hometown plan. This is not to criticize the Highway-Heavy Plan for use in highway construction, for, in fact, a number of minority individuals have been trained under it.

With respect to the Corps of Engineers, our preliminary investigation indicates that the Corps accepted Southwest's membership in the Oklahoma Highway-Heavy Plan as sufficient for bid qualification for EEO purposes. This plan is sponsored by the Oklahoma Associated General Contractors and has been certified by the Department of Labor as meeting the standards of E.O. 11246. However, it has been represented to me that the plans are not equivalent. Further, I have been informed that on past construction in the Tulsa area, Southwest has not shown itself to be responsive to their minority responsibilities. Our inquiries to the Corps indicate that in the matter of compliance and enforcement, the local District Engineer is permitted by Department of Defense regulations to rely on the Defense Contract Supply Agency which, so far as we can tell, would not have any on-the-scene enforcement capabilities.

This lends considerable support to the thesis that non-compliance or lip-service will suffice until well after construction is completed. Moreover, it would appear easy to avoid any punitive measures by the nature of "best efforts" undertaking when sufficient, qualified minority journeymen are not available. Likewise, the Oklahoma Highway-Heavy Plan is susceptible to abuse and manipulation by its members, on the basis of claims that the Plan is meeting its goals, thus mitigating any legal obligation of the individual contractor to participate in affirmative action efforts on the specific construction in question.

In the case of the Postal Service, the situation is somewhat different. The Postal Service has just recently resumed construction responsibilities after several years during which, as a regular Federal agency, their construction was handled by GSA, and later the Corps. Therefore, their procedures are neither well-developed nor tested. According to Postal Service Officials, a contractor may qualify himself simply by agreeing to be in compliance. In fact, Cooper Brothers was awarded this contract on the representation that they would be in compliance with Executive Order 11246, and yet even today their affirmative action plan has not been received by the Postal Service. So far as we know, compliance and enforcement will be handled out of a separate section of the Dallas Office, while regular monitoring of construction will be handled out of the Memphis Office. Moreover, the local post office authorities disclaim any responsibility in this area. To say the least, this seems like an area well within the traditional GAO interest of suggesting improvements in the management of government programs. Finally, since no one has yet seen the Cooper Brothers' plan, it will be difficult to measure compliance.

Elmer, I most earnestly hope that you will be able to set aside the time and put forth the effort to conduct a thorough-going investigation among all, or at least several key agencies, involved in administering the affirmative action program for government construction projects. Focusing on building and dam construction would serve to keep the investigation within meaningful limits, while at the same time open up common industry and union problems.

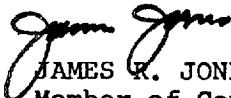
There seems to be four major categories that need close examination: 1) minority training programs by contractors doing government construction; 2) Department of Labor regulations which allow firms to be in technical compliance without ever actually participating in minority training and hiring; 3) inconsistent and inadequate compliance requirements among various Federal agencies; 4) on-the-job, on-the-site enforcement. I think we are far enough into the successor plans to the original Philadelphia plan approach to warrant an audit of how the successor approach is working. Also, without more positive leadership to break new ground in the equal rights area, the least we can do is to make certain that the progress we have made thus far is not eroded by faint-hearted or negligent implementation.

I believe the time is critical. I know that the people in Tulsa are getting discouraged. The pocketbooks of the local contractors and employees are suffering, because they must incur the added costs of meeting the Tulsa Plan requirements, while outside contractors who do not have such obligations are winning the contracts by their lower bids which do not have to reflect the extra costs of training minorities.

I am enclosing some representative correspondence on the issues involved to provide some assistance in your preliminary work on this subject. I stand ready to assist you and your staff in any way possible in any phase of your investigation.

With my very best wishes, I am

Sincerely yours,


JAMES R. JONES
Member of Congress

Enclosure

GAO note: As agreed with Congressman Jones' office, our review was limited to northeast Oklahoma.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON
March. 11, 1976

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

Dear Mr. Ahart:

The draft report "Improvements Needed in the Equal Employment Opportunity Program for Federal and Federally Assisted Construction Projects in Northeast Oklahoma" has been reviewed, and our comments follow.

Tulsa Plan

The GAO report identified two deficiencies in DOL's monitoring of the Tulsa Plan:

1. OFCCP's audits did not produce adequate evidence on the achievement of its goals;
2. OFCCP did not fully enforce the reporting and recordkeeping requirements of the Plan.

The first deficiency noted by GAO is based upon the fact that the objective of the Plan, during its term, is to achieve a specific percentage of minority participation in each craft. To convert the percentage to whole numbers of placements required to achieve the goal and develop annual numerical placement goals, OFCCP bases the percentage on the minority participation that exists in the craft at the time the proposal was submitted.

This was done to give all parties an identification of the number of placements or persons required. In projecting the numerical goals from the then existing (1972) participation, adjustments would be necessary in subsequent years to accommodate the changes in total participation in the craft.

Two problems complicate validating the GAO data and findings on participation. The first has to do with the lack of clarity in the Tulsa Plan as to whether the existing and projected participation figures refer to membership in the craft union or to membership in the craft as an occupation. Generally GAO's approach in using the former interpretation, i.e. existing and projected participation figures refer to membership in the craft union, would be valid and consistent with the Department's "Hometown" solution policy and the Model Area-Wide Agreement adopted pursuant thereto. However, the policy and the model provide for adjustments for local conditions and it was the intent of the Department in approving the Tulsa Plan to accommodate the fact that Oklahoma is a right-to-work state by establishing as participation attainment, minority on-the-job entry into the skilled crafts with the opportunity but not the requirement for membership in the local craft unions. As a result, it is far less conclusive than is suggested by the GAO report that the number of minorities participating as union members in the craft occupation is indicative that the plan has failed to reach its goals.

The second problem is the lack of clarity, at the time of GAO's study, in OFCCP's audit procedures on the need for consideration of periodic adjustments in the numerical goals for minorities based on changes in total number of persons participating in the craft occupation. Such adjustments are particularly important in view of the highly seasonal and fluctuating levels of activity in the construction industry. This ambiguity has been clarified by OFCCP with the issuance of revised audit procedures (ESA Notice 75-30, June 24, 1975).

[See GAO note, p. 42.]

With respect to the second deficiency noted in the GAO draft report, OFCCP did withhold enforcement procedures for reporting and recordkeeping failures for a considerable time. This was based upon the good faith of the participants in goal achievement during the time the Plan attempted to secure funding for administrative costs, and upon the expectation that when funding was obtained the reporting and recordkeeping deficiencies would be corrected. Although OFCCP guidelines state that failure of a Plan's administrative committee to file monthly reports are grounds for withdrawing recognition of a Plan, at the time the Tulsa Plan was approved, direct funding for administrative costs had not been obtained. OFCCP and the parties to the Tulsa Plan expected funding from the Employment and Training Administration (formerly Manpower Administration), and to have rescinded approval of the entire Plan for this deficiency during the time the participants were pursuing these funds was judged not to be appropriate.

Oklahoma Highway - Heavy Plan

The draft report identified what GAO considered an OFCCP audit deficiency in that the audit was directed at recruitment and training rather than retention of minorities in determining Plan goal achievement. While the Plan does not specifically and literally mention "retention" as part of the Plan goals, DOL concurs in the GAO finding, inasmuch as retention of minorities in employment is the ultimate purpose of any Plan, whether so stated or not. We believe that this deficiency/ambiguity is clarified and corrected in the revised audit procedures (ESA Notice 75-30, June 30, 1975).

Administration by Compliance Agencies

The draft report identified four deficiencies in the administration by compliance agencies of their responsibilities under Executive Order 11246:

1. Not including required bid conditions in appropriate contracts;
2. Not enforcing OFCCP's contractor reporting requirements;
3. Not fulfilling responsibilities for performing compliance reviews;
4. Not taking appropriate enforcement actions.

Our remarks will address the above deficiencies collectively inasmuch as they are symptoms of a basic obstacle to administrative oversight of compliance agencies by OFCCP.

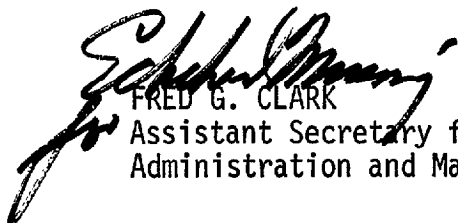
OFCCP has issued to the compliance agencies a variety of instructions and guidelines on all of the above matters. The compliance agencies are constantly being reminded of their obligations by OFCCP staff and OFCCP reviews these matters in the course of its evaluations of compliance agencies. Deviations from established policies and procedures by compliance agencies do occur and correcting these is a daily task of the OFCCP staff. These deviations occur largely as a result of having to provide guidance and assistance to sixteen independent Federal agencies most of which carry out their responsibilities through their constituent bureaus, sub-agencies and field structure. The line of authority and communication are thereby lengthy, circuitous and time consuming. The individuals at the local operating levels who have responsibility for taking action are remote from the source of direction. Such organizational structures provide the possibility at each level for omissions, misunderstandings and misinterpretations. And while OFCCP field staff have direct and frequent communications with their local counterparts in the compliance agencies regarding necessary changes and corrective actions, the latter usually do not institute such actions until they are formally and officially instructed to do so by their own higher echelon offices.

OFCCP addresses these problems during agency evaluations; however, agencies are reluctant to implement changes which would require adjustments in organizational structure, staffing, budget, policy and procedures.

By way of attempting remediation of the deficiencies noted in the GAO report, DOL will reiterate to the construction compliance agencies the requirements they are expected to meet in administering their responsibilities. The Dallas Regional Office - OFCCP also has instituted a system through its Construction Compliance Committee of receiving and monitoring all contractor reporting forms and of bringing to the attention of compliance agencies those contractors that are not meeting their minority utilization goals in order to assure that those agencies invoke appropriate enforcement against such contractors.

The OFCCP staff of the Employment Standards Administration are available to answer any further questions you may have regarding these comments.

Sincerely,


FRED G. CLARK
Assistant Secretary for
Administration and Management

GAO note: The deleted comment refers to the Department's suggestions for revision which have been incorporated into the final report.



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

March 10, 1976

**MANPOWER AND
RESERVE AFFAIRS**

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

Dear Mr. Ahart:

The Secretary of Defense has requested that we respond to your draft report (OSD Case #4274), "Improvements Needed in the Equal Employment Opportunity Program for Federal and Federally Assisted Construction Projects in Northeast Oklahoma."

Our comments, as they relate to the Department of Defense, are the following:

[See GAO note, p. 45.]

Each of the sections indicated implies one or more of the following assumptions:

[See GAO note, p. 45.]

(2) Staffing for the Contract Compliance Program is adequate to provide coverage for 100% of the assigned contractor universe.

[See GAO note, p. 45.]

DoD takes issue with each of these assumptions.

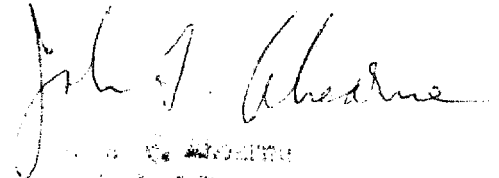
[See GAO note, p. 45.]

assumption (2),
DoD chooses to channel its Contract Compliance resources toward more productive activity. Those resources are adequate to cover no more than about 30% of the known contractor universe during a given year. Whenever the regulations allow some flexibility in selecting contractors for review, DoD attempts to channel its resources toward contractors believed to control the most opportunities for employing and advancing minorities and women. Hence, there will probably always be unreviewed contractors and what constitutes adequate coverage within the assigned universe is as much determined by budgetary and resource limitations as by choices made in program management. The determination by management between 1971 and early 1975 that contractors holding prime construction contracts of less than \$500,000 should not be reviewed was an attempt to use limited resources most advantageously.

[See GAO note, p. 45.]

I hope these comments will assist you in preparing the final report.

Sincerely,



John F. Abraham
Deputy

Attachment

GAO note: The deleted comments refer to Department of Defense suggestions for revision which have been incorporated into the final report.



OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

ASSISTANT SECRETARY
FOR ADMINISTRATION

February 24, 1976

Mr. Henry Eschwege
Director
Resources and Economic Development
Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in response to your letter dated January 20, 1976, requesting the Department's comments on the General Accounting Office's (GAO) draft report on the equal employment opportunity program for Federal and federally assisted construction projects in Northeast Oklahoma.

The report concludes that five agencies, including the Federal Highway Administration, have not adequately fulfilled their responsibilities for administering and enforcing the contract compliance program. The report focuses on the Federal contract compliance program for construction contractors in Northeast Oklahoma. The Department takes exception to the GAO conclusions insofar as the Federal Highway Administration is concerned, and it is our opinion that it has fulfilled those responsibilities that it does have under the contract compliance program.

I have enclosed two copies of the Department of Transportation's reply to the report.

Sincerely,

William P. Davis
for William S. Heffelfinger

Enclosure
(two copies)

DEPARTMENT OF TRANSPORTATION REPLYTOGAO DRAFT REPORT OF JANUARY 20, 1976B-167015ONIMPROVEMENTS NEEDED IN THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM
FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION PROJECTS IN
NORTHEAST OKLAHOMAI. SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

GAO reviewed the administration of the Department of Labor's compliance program for ensuring that construction contractors provide equal employment opportunity in Northeast Oklahoma. This review focused on two voluntary plans implemented in Oklahoma for increasing minority representation in the construction crafts, i.e., the Tulsa Hometown Plan and the Oklahoma Highway Heavy Plan.

While the report makes no recommendations to the Department of Transportation, the recommendations made to the Department of Labor concerning "compliance agencies" affect the Department of Transportation. These recommendations were that the Department of Labor: (1) ensure that compliance agencies comply with Labor guidelines...and fulfill their responsibilities for compliance reviews; and (2) ensure that compliance agencies invoke appropriate enforcement actions against those contractors...not in compliance.

II. SUMMARY OF DEPARTMENT OF TRANSPORTATION POSITION

It is the position of the Department of Transportation that this report's recommendations pertaining to compliance agencies are based on a misunderstanding of the responsibilities of the Department of Labor in the administration of voluntary plans for increasing minority representation in construction crafts.

Contrary to the report findings: (1) compliance agencies do not have the responsibility for compliance reviews of contractors participating in these voluntary plans, this responsibility having been retained by the Department of Labor; and (2) the Department of Transportation has fulfilled those responsibilities that it does have under the contract compliance program.

III. POSITION STATEMENT

- A. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has delegated responsibility for implementing most equal employment opportunity requirements of Executive Order 11246, as amended, for the highway construction industry to the Department of Transportation, Federal Highway Administration (FHWA). The major exception to this delegation has been the responsibility for that part of a contractor's work force participating voluntarily in minority hiring plans such as the Oklahoma Highway Heavy Plan and the Tulsa Hometown Plan. The part of a contractor's work force that participates voluntarily is referred to as the contractor's Part I work force.

The report makes several references to the responsibility of compliance agencies to conduct compliance reviews, however, OFCCP has consistently objected to compliance agencies reviewing and making compliance determinations of contractor's Part I work forces. While the report states that OFCCP published proposed regulations in April 1975 to relieve compliance agencies of the responsibility of making compliance reviews of contractor's Part I work force, the report fails to mention that this has been and continues to be the practice of OFCCP.


Although the Department of Transportation has negotiated with OFCCP to obtain compliance review responsibility for Part I contractors, such has never been given. As late as October 2, 1975, OFCCP stated in a memorandum to the Department of Transportation, "OFCCP retains the responsibility for determining the compliance status of Part I contractor's work force."

The Department of Transportation recommends that the report be revised to accurately reflect this OFCCP retention of responsibility.

- B. In the discussion of reporting, we note that the report conspicuously fails to mention that only one part (Optional Form 66) of OFCCP's "standard reporting procedures" has Office of Management and Budget's (OMB) approval and that reporting procedures result in gross duplication of statistical data. Further, while the Department of Transportation has submitted the required reports to OFCCP on a monthly basis, no feedback has been received on their accuracy or adequacy.

The Department of Transportation recommends that the GAO Draft Report make an assessment of the OFCCP reporting procedures.

[See GAO note.]



Norbert T. Tiemann
Federal Highway Administrator

GAO note: The report has been revised according to the Department of Transportation's suggestion.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240
Feb. 27, 1976

Mr. Henry Eschwege
Director, Resources and
Economic Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

This responds to your letter, dated January 20, 1976, inviting comments on the draft of a proposed GAO report, "Improvements Needed in the Equal Employment Opportunity Program for Federal and Federally Assisted Construction Projects in Northeast Oklahoma," prepared at the request of Congressman James R. Jones. The Department's comments are enclosed.

Thank you for the opportunity to review this draft report.

Sincerely yours,

Assistant Secretary - Management

Enclosure



Save Energy and You Serve America!

DEPARTMENT OF THE INTERIOR COMMENTS
ON
DRAFT OF A PROPOSED GAO REPORT
ON
IMPROVEMENTS NEEDED IN THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM
FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION PROJECTS
IN NORTHEAST OKLAHOMA

The proposed report to Congressman James R. Jones states that the Department of the Interior did not (a) include or ensure the inclusion of the appropriate Federal Equal Employment Opportunity (EEO) bid conditions in several contracts in the Oklahoma areas studied; (b) enforce reporting requirements and require the submission of monthly manpower reports; and (c) conduct on-site compliance reviews.

While the GAO statements are essentially correct, they do not take into account the following considerations:

(1) The Office for Equal Opportunity (OEO) does make a general distribution of Hometown and Imposed Plan EEO bid conditions within the Department. In the reported case, however, the process appears to have broken down. The Bureau of Outdoor Recreation (BOR) reports its records fail to show that the bid conditions were received by BOR headquarters or forwarded to their South Central Region.

In addition, OEO distributed two listings from the Office of Federal Contract Compliance Programs (OFCCP), dated September 25, 1972, and November 11, 1974, of plans and bid conditions currently in force so that bureaus and offices could use the listings to keep their files of plans and bid conditions up to date. Neither listing, however, mentioned the Oklahoma Highway-Heavy Plan. It is therefore understandable that BOR was unaware that it had not distributed the bid conditions for the Highway-Heavy Plan.

(2) An OEO-run program to insure that the appropriate Federal EEO bid conditions are included in all nonexempt construction contracts awarded by the Department, in our opinion, would not be cost effective. The contract compliance program's immediate goal is increased employment opportunity for women and minorities. Limited resources must be used in a way that results in the highest possible yield of job opportunities. Given its operational constraints, it is OEO's judgment that its resources must be directed to other, higher-yield areas, where resource expenditures could produce job opportunities directly, rather than indirectly through an unproductive high-overhead administrative monitoring program.

Consequently, while OEO has notified all bureaus and offices of bid condition and reporting requirements and consistently stressed their importance, it has refrained from creating an oversight mechanism and has relied upon the integrity of contracting personnel of the bureaus

and offices to follow OEO instructions. In this limited audit, errors were found, but generally we feel the present system is adequate.

(3) OEO did not conduct compliance reviews in part because of resource problems and in part because of uncertainties over the direction of OFCCP construction compliance policy.

In the matter of resources, OEO's experience has consistently shown that compliance reviews in construction yield fewer job opportunities than reviews in nonconstruction fields. Construction contractors generally hire from unions, and unions do not come under the jurisdiction of the Executive Order which OEO enforces. Given that a part of the personnel process is out of OEO's direct reach, and that even large construction projects have very small workforces when compared to the typical non-construction establishments under DOI jurisdiction, OEO has reviewed construction projects only in certain carefully selected instances.

Furthermore, the direction of OFCCP policy is uncertain, and the publication of the April 1975 proposed regulations did nothing to clarify review priorities in the construction industry. OEO is reluctant to conduct low-yield construction reviews because of present OFCCP policy confusion and the absence of a clear indication from OFCCP that Part I (signatory) contractors should be reviewed by compliance agencies, such as Interior, and held to a well-defined standard of goal fulfillment.

(4) Through the publication of Interior Procurement Bulletin (IPB) No. 12, dated July 9, 1975, (copy attached) OEO has brought together a number of EEO contract compliance procedures. Because this material has been placed in the hands of all Department procuring activities, OEO believes that contracting officers now possess sufficient knowledge to prevent a repeat of the conditions noted in the GAO report.

(5) Furthermore, BOR is revising its Grant-in-Aid Manual to include the provisions of IPB No. 12, and will distribute a revised manual chapter to all states in March. BOR will also send a summary of the GAO report to all BOR regional offices in order to underscore the importance of following EEO contract compliance procedures, and will distribute a current list of plans with instructions for the Regional Directors.



THE POSTMASTER GENERAL
Washington, DC 20260

February 27, 1976

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

Dear Mr. Lowe:

This letter refers to your proposed report to Congressman James R. Jones entitled "Improvements Needed in the Equal Employment Opportunity Program for Federal and Federally Assisted Construction Projects in Northeast Oklahoma."

The report describes deficiencies in the equal employment opportunity aspects of several agencies' contract compliance programs for construction contractors. Among the examples cited is the U. S. Postal Service's handling of its construction contract for Sheridan Station, Tulsa, Oklahoma.

The report's statements about the Sheridan Station project are correct, but as Congressman Jones' March 1, 1974 letter recognizes, in Appendix I of the report, the Postal Service's situation was somewhat different from other agencies.

In 1971 the Postal Service turned its responsibilities for the construction of postal facilities over to the Corps of Engineers, and almost all of the employees associated with the program left the Postal Service. Some transferred to the Corps. Others went elsewhere or retired. Consequently, in March 1973 when the Corps of Engineers returned responsibility for the construction program to the Postal Service, we lacked the people to run it. A difficult transition ensued. Thousands of facilities were being turned over to the Postal Service at various field levels while we were still hiring and training staff, reacquainting ourselves with developments in the contract compliance area, formulating policy and developing guidelines. As a result, it was October 1974 before we were able to issue appropriate directives to the field and begin to get the compliance program in hand.

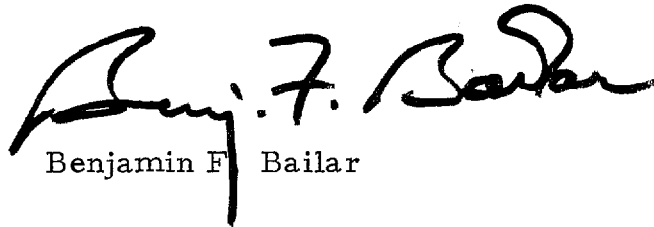
The Sheridan Station contract was issued in the early days of this transition period, and was one of the first contracts let by our Southern Region after the Corps of Engineers returned responsibility to us.

[See GAO note.]

Under our present procedures, we do include in contracts the bid conditions establishing contractors' affirmative action obligations, we require contractors to submit mandatory reports, and we perform compliance reviews as required by the Department of Labor.

We appreciate your affording us an opportunity to comment on this fine report.

Sincerely,



Benjamin F. Bailar

GAO note: The report has been revised as suggested by the Postal Service.



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

March 19, 1976

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

IN REPLY REFER TO:

Mr. Henry Eschwege
Director, Resources and Economic
Development Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

Secretary Hills has asked me to respond to your letter dated January 21, 1976, requesting comments on the enclosed draft report to Congressman James R. Jones entitled Improvements Needed in The Equal Employment Opportunity Program For Federal and Federally Assisted Construction Projects in Northeast Oklahoma. The study performed by GAO reviewed the implementation and enforcement of EO 11246 requirements under the two areawide plans in effect in Tulsa by five Federal agencies funding construction projects in the area.

The GAO study generally concluded that none of the compliance agencies, including the Department of Housing and Urban Development, were fully implementing their responsibilities for administering the program or adequately meeting their responsibilities for making compliance reviews of projects within the Tulsa plan area. Two specific areas in which HUD was found deficient were (1) the failure to submit required monthly reports to the Office of Federal Contract Compliance Programs (OFCCP), and (2) the failure to adequately determine whether contractors had made a good faith effort to fulfill their obligations under the Executive Order 11246 compliance program by taking the sixteen affirmative action steps set forth in the Tulsa plan.

It should be noted that the Tulsa plan is one of five hometown plans within the jurisdiction of the HUD Dallas Regional Office which covers the states of Arkansas, Louisiana and New Mexico, in addition to Texas and Oklahoma. The HUD Regional Office Equal Opportunity staff is required to conduct compliance reviews of HUD assisted projects located in all hometown areas as well as in all nonplan areas within the jurisdiction of the Region.

Due to constraints on staff and travel funds, the Regional Office must necessarily establish priorities in scheduling compliance reviews which consider the size of project, potential for substantial minority utilization

and whether complaints have been filed against the project or contractors. This may result in an uneven pattern of the reviews being conducted throughout the region. However, the Regional Office does attempt to allocate the EO staff as equitably as possible to cover all geographic areas within the region.

The statistical reports from the HUD Dallas Regional Office for FY'75 show that the Office conducted compliance reviews of 49 prime contractors out of a total universe of 319 projects which is 15.3% of the contract universe. Additionally, 242 subcontracts were reviewed out of an estimated universe of approximately 1,575 covered subcontractors which is also 15.3% of the subcontract universe. This compares favorably with the number of compliance reviews conducted by all HUD Regional Offices of the total number of HUD assisted construction contracts which averages about 10% of the contract universe. In addition, the Regional Office has participated in all audits and compliance checks of the Tulsa hometown plan which were scheduled by OFCCP.

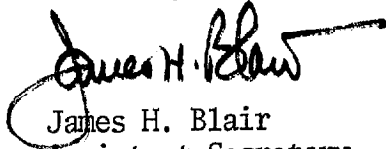
Of course, we are continually seeking to improve the performance of our field staffs in carrying out the Department's contract compliance responsibilities and steps have already been taken by the Regional Office to correct the deficiencies noted in the report. In FY'76 the Regional Office has significantly increased the number of reviews conducted of projects covered by the Tulsa plan as well as all other plan areas in the region, and projects within nonplan areas as well. All reports are now being furnished to OFCCP on a timely basis and all compliance reports are being properly prepared and submitted to Central Office for review. Show cause notices have been issued by the region in FY'76 based on determinations that contractors have not met the required goals and have not made a good faith effort to carry out the sixteen affirmative action steps.

We will continue to monitor the performance of the Regional Office to assure that this improved performance is sustained. A training conference is scheduled to be conducted by Central Office in the region during May 1976 for all regional and field office compliance staff to increase their skills and competence in reviewing affirmative action plans, monitoring projects and conducting compliance reviews and show cause meetings. All regions have demonstrated an improved level of performance after such training, and I am confident that the Dallas Region will be no exception. I have also instructed the Regional Office to review the GAO draft report very carefully and take whatever additional steps may be necessary to eliminate all of the deficiencies identified in the report.

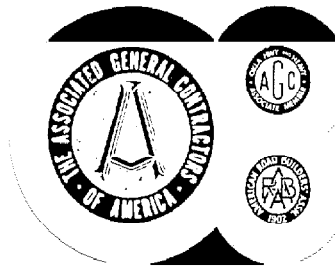
I appreciate the opportunity to comment on this very significant effort by the GAO.

Warmest regards.

Sincerely,



James H. Blair
Assistant Secretary



ASSOCIATION OF OKLAHOMA GENERAL CONTRACTORS

P. O. BOX 53385 / 301 N. E. EXPRESSWAY
OKLAHOMA CITY, OKLAHOMA 73105 / PHONE 405 843-5661

January 26, 1976

Mr. Arley R. Whitsell, CPA
Audit Manager
U. S. General Accounting Office
1200 Main Tower, Suite 800
Dallas, Texas 75202

Dear Mr. Whitsell:

After reviewing the draft of your agency's report concerning the "Improvements needed in the equal employment opportunity program for federal and federally assisted construction projects in northeast Oklahoma, "we submit the following comments:

1. The report states at the bottom of Page 3 that, "the plans are not designed to improve job opportunities for women, or to improve minority job opportunities within the contractors' permanent workforces." This statement is incorrect. The Oklahoma Highway-Heavy Plan has trained more women than any similar plan in any other state in America. All trainees, whether they are women, minority, or other, have the same opportunity to work on the contractor's permanent workforce. Due to the nature of construction, there are some periods of time when a contractor has to close down his operations for several months. This is usually during the winter months and when this happens, generally everyone is laid off except the foremen and the maintenance crews working on equipment in their shops. We are enclosing a memorandum from the Office of the Assistant Secretary of Labor for Employment Standards dated July 14, 1975, which states in part, "the Highway-Heavy Program surpassed its goal (in 1974) (of training minorities) by over 50%... The program is continuing a strong recruitment process aimed at increasing the number of females in the highway-heavy field." We submit this is very pertinent recommendation of the success of our plan.

[See GAO note 1, p. 60.]

BEST DOCUMENT AVAILABLE

[See GAO note 1, p. 60.]

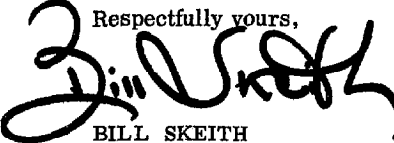
4. On Page 12 of the report we again run into the idea that the Highway-Heavy Plan is required to "recruit, train and retain" 100 minorities annually. We reiterate that nowhere in the letter of approval of our OJT Program is a requirement for "retention".

[See GAO note 1, p. 60.]

5. Finally on Page 25 we find that the report states that the Highway Plans "did not result in the development of new minority training programs..." We argue with the statement in that we presently have two new training programs pending at the regional office of OFCCP. Note that we said "new training programs". The Highway-Heavy Plan is a training program designed to train anyone interested in working in the construction industry a skill which will allow him or her to do so. While we have a goal to recruit and train 100 minorities annually, we also have a goal to recruit and train as many people as possible to fill the many vacancies now existing for trained, skilled construction workers. That is why we have consistently recruited and trained far over our goal of 100 minorities and plan to continue to do so.

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We appreciate this opportunity to make comment on the initial draft of your report to Congressman James R. Jones. In the interest of making a correct report, we strongly suggest you consider the incorporation of the suggested changes we have made in foregoing paragraphs. We are extremely proud of our record of success in the recruitment and training of people for careers in the highway-heavy industry in our state and we would not like Congressman Jones to be misinformed on any of the statistics or facts relevant to our OJT Program.

Respectfully yours,

BILL SKEITH
Executive Director

BS/sm

- GAO notes:
1. The deleted comments refer to the association'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.

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January 23, 1976

Arley R. Whitsell
United States General
Accounting Office
Suite 800
1200 Main Tower
Dallas, Texas 75202

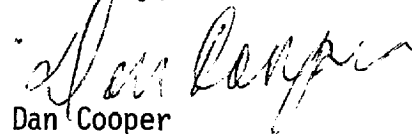
Dear Mr. Whitsell:

I appreciate your visit in our office concerning your investigation of our construction project on the Sheridan Station in Tulsa.

Because we are not signatory members to the Tulsa Hometown Plan and have never read it, if we have complied with the spirit of that plan, I would appreciate your making note of it in your report. We felt as if we were in compliance with the plan, but we would like to have it as a matter of official record if in fact we are.

Thank you again.

Sincerely,



Dan Cooper

COOPER BROS., INC.

DC.sd

2913 NORTHWEST 64TH / OKLAHOMA CITY, OKLAHOMA 73116 / (405) 842-6653
Construction / Development / Real Estate Investment

Southwest Construction Corporation



January 22, 1976

Mr. Arley Whitsell, CPA
Audit Manager
U.S. General Accounting Office
Suite 800, 1200 Main Tower
Dallas, TX 75202

Re: Draft on Improvements Needed in the Equal
Employment Opportunity Program for Federal
and Federally Assisted Construction Projects
in Northeast Oklahoma.

Dear Mr. Whitsell;

In response to the audit in connection to the
above subjects our comments are as follows.

[See GAO note, p. 66.]

Since your audit, our firm has become signa-
tory to both the Tulsa Hometown Plan and a union bar-
gaining agreement on the Oklahoma Birch Lake Dam
project.

The effective dates of the signatories were as
follows:

Tulsa Hometown Plan	March 27, 1975
Union Bargaining Agreement	August 1, 1974

Let me state, that it has always been our in-
tention to be in compliance with all laws. We have
exserted all resourceful efforts that we know of in
order to be in compliance with the contract compliance
program for construction contractors in northeast
Oklahoma.

The decision to become signatory to the Tulsa
Hometown Plan was based solely on a recommendation
by an official of the Department of Labor. The said
official's reason for such a recommendation was that
"being signatory would be the only way of handling
the paperwork". Upon the coming signatory to the
Tulsa Hometown Plan and examining the specific

requirements of the said plan, we find that both our firm and the type of work that our firm performs has been excluded by the terms and conditions of the said Tulsa Hometown Plan documents. Specifically we have been excluded from holding membership on the Policy Committee. We enclose the first two (2) paragraphs and sub-paragraph (a) of Section (A) of the plan entitled, "Membership".

As you can see, we are specifically excluded from membership on the said Policy Committee since we are not members of the Builders Division of the Associated General Contractors of America, Inc. We are members of the Oklahoma Highway-Heavy Division of the Associated General Contractors of America, Inc.

Someone might make a proposal that there may be a mandatory requirement for Southwest Construction Corporation to join the Building Division so we would meet the requirements of the said membership of the Tulsa Hometown Plan.

We do not build buildings. We build dams. Therefore, we want to belong to the division that best satisfies our professional needs.

Referring to Section (D) of the plan entitled, "Definition" we quote:

2. Construction Industry includes, but is not unlimited to demolition repair, alteration, rehabilitation, and construction of residential, commercial, industrial and institution buildings and other structures, such as roads, rapid transit systems and other transportation facilities.

As you will note, by "Definition" the type of work we do is not included in the scope of the work that is covered in the Tulsa Hometown Plan.

As we discussed, we do not compete against or professionally associate with any of the construction firms that are presently signatory to the Tulsa Hometown Plan.

In summary, it seems to us that we have been pressured to become a member of the Tulsa Hometown Plan when we are excluded from membership on the Policy Committee which is the governing body.

Legally we cannot belong to the Tulsa Hometown Plan since our type of work is not included under the Tulsa Hometown Plan agreement.

In regards to our collective bargaining agreement, the following crafts are involved:

Operating Engineers Union, No. 627
Carpenters Union, No. 943

Laborers Union, No. 1202
Teamsters Union, No. 523
Cement Mason Union, No. 690

[See GAO note, p. 66.]

It is our opinion that there is a lack of understanding as to what constitutes compliance under the said Federal Compliance Program. As the contractor on the said project we have experienced various interpretations as to administrative requirements of the said contract.

We have also experienced excessive administrative requirements under this program. As an example of excessive administrative requirements, one compliance officer requested that we furnish copies of all subcontracts and payrolls for the entire project. These had been supplied to the contracting agency in triplicate and were available to the compliance officer at the agency's headquarters. Although there has not been any requirements in writing, oral pressures such as becoming signatory to the Tulsa Hometown Plan have been prevalent in connection with the contract compliance of this particular project.

In addition to the fact that the Tulsa Hometown Plan signatory contractors' did not submit bids on the Birch Lake Dam there is a tremendous misunderstanding among the leaders of the minority groups as to the manpower requirements on a project of this nature.

One of the Tulsa Urban League representatives expressed the opinion that we should be employing between 400 and 500 skilled journeymen. This would include equipment operators, carpenters, teamsters, cement masons, and ironworkers.

Our peak manpower loading of skilled craftsmen was approximately 65. The average manpower loading of skilled craftsmen probably would fall in the range between 25 and 30. As you can see, the minority groups' officials visualized that they would be employing someplace in the neighborhood of 60 to 70 minority craftsmen and have approximately the same number of apprentice trainees. In other words, they thought that they should have 60 minority craftsmen and 60 apprentice trainees on the said project, however, by the requirements of the Contract (if we did not belong to either one of the Plans) we would legally not be required to employ more than 3 or 4 minority craftsmen based on an average yield of manpower loading of 25.

So as you can see, our requirements for minority craftsmen came as a surprise to the leaders in the minority groups.

In my opinion, the compliance officers that were in discussion with the Tulsa Urban League officials could have helped a precarious situation by explaining this fact to the said officials.

However, in my opinion the obvious solution to the problem as determined by the compliance officers and the officials of the Tulsa Urban League was to have Southwest Construction Corporation become signatory to the Tulsa Hometown Plan.

One other development in the chain of events which may be pertinent to the situation is that of apprentice wages. The Tulsa Urban League as one of the referring agencies, felt that the apprentices that were sent to the Birch Lake Dam project should be paid the same rate that they were being paid in the Tulsa area.

As an example, the carpenters in Tulsa under the Building Trades Agreement were receiving a wage of approximately \$9.00 per hour. That meant that the carpenter apprentice would receive approximately \$7.00 per hour as a wage rate. The prevailing wage for a carpenter at the Birch Lake project was \$6.00 per hour. This meant that the carpenter apprentice would receive approximately \$4.00 per hour hourly wage. In addition, the Birch Lake Dam project was approximately 50 miles north of Tulsa which entailed either travel expense and/or lodging if the apprentice trainee was going to live in Tulsa and work at the Birch Lake Dam project.

It is quite evident what choice the trainee would make if he had the choice to work either in Tulsa or at the Birch Lake Dam project. It was suggested that we pay the apprentice trainees the Tulsa rate. However, if we would have agreed to this, then

the apprentice trainee would be paid more than the journeymen craftsmen.

One solution to the misunderstandings that did happen in this situation and will happen on another project would be for the contracting agency to write a contract modification which would cover extra costs to the contractor for implementing an aboved training program on that particular project.

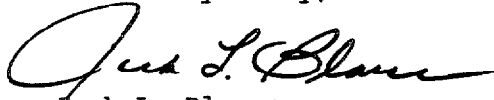
Prior to the bid on this type of project, it is impossible to estimate what the exact costs are going to be if the various aspects of this compliance is enforced. It costs money to train skilled craftsmen. We think it is extremely unfair to both the contractor and the minorities to make the contractor absorb the extra administrative costs in the monumental documentation that the Equal Opportunity Employment program has evolved into.

We understand that there must be documentation and paperwork in a program such as this. However, we would hope that the administrative documentation would be kept at a minimum.

As stated before the only way to insure financial equity both to the contractor and the employment and training of the minorities would be to establish a cost reimbursement to the contractor which would pay for the actual costs of training minorities as well as the actual costs of importing minority craftsmen to the project site to fulfill the employment goals for the said minority craftsmen.

Should you desire for any additional information feel free to contact us.

Yours very truly,



Jack L. Blaess
President

JLB:ljb

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

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