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HUMAN RESOURCES  
DIVISION

January 31, 1984

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The Honorable Lowell P. Weicker, Jr.  
Chairman, Subcommittee on the Handicapped  
Committee on Labor and Human Resources  
United States Senate

The Honorable Robert T. Stafford  
Subcommittee on the Handicapped  
Committee on Labor and Human Resources  
United States Senate

Subject: The Office of Federal Contract Compliance  
Programs' Actions to Improve Processing  
of Handicapped Employment Discrimination  
Complaints (GAO/HRD-84-21)

In response to your September 30, 1982, letter, we reviewed the Department of Labor's policies and procedures for enforcing sections 503 and 504 of the Rehabilitation Act of 1973, as amended. These sections provide protections for the handicapped against employment discrimination by federal contractors and against discrimination in participation in federal financial assistance programs, respectively. This letter and its enclosures summarize the information we obtained.

We began our work in February 1983, and in June 1983 we briefed members of the Subcommittee staff on the results of our preliminary work in Labor's (1) Office of Federal Contract Compliance Programs (OFCCP), which enforces section 503 government-wide, and (2) Office of Civil Rights (OCR), which enforces section 504 for Labor programs. In our briefing we provided (1) information on current policies and procedures for processing complaints and compliance reviews under the two sections and (2) data on workloads.

We also reported at that briefing that both OFCCP and OCR had made or were planning to make changes to provide for more efficient and effective complaint processing. Information we had obtained indicated that the changes, especially in OFCCP, covered many aspects of compliance activities. After discussing

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these changes with us, the Subcommittee staff agreed that a full review of OFCCP's and OCR's practices was inappropriate at that time. However, we agreed to obtain additional information about the initiatives from national office officials and to conduct additional work at the national office and at one Labor regional office to further document procedures and to determine whether the initiatives were being implemented.

In August 1983, we again briefed members of the Subcommittee staff on the results of our work. We reported that the initiatives covered a wide range of activities and were in various stages of implementation. We also reported that: OFCCP's section 503 complaint inventory represented, numerically, Labor's largest identifiable workload concerning handicapped enforcement; OFCCP is solely responsible for enforcing equal employment opportunity for the handicapped under section 503; and unlike section 504, individuals cannot privately sue employers under section 503. At the briefing the Subcommittee staff requested that we report the results of our work to you in writing. They agreed that our report should be limited to information concerning OFCCP's handling of section 503 complaints.

The enclosures to this letter provide information on OFCCP's complaint processing policies and procedures, statistical data on its complaint inventory and processing times, and a description of improvement initiatives underway. Although most of the initiatives discussed are not directed specifically at section 503 complaints, these complaints represented almost 73 percent of OFCCP's total complaint inventory and the initiatives are applicable to them. OFCCP's major initiatives include: (1) issuing revised complaint intake procedures, (2) issuing revised personnel performance standards, (3) taking steps to reduce its large inventory of old cases, (4) instructing its regional offices to establish case management systems, (5) taking steps to correct the data in its computerized Complaint Administration System, and (6) distributing information to the staff to help sensitize them to employment barriers affecting the handicapped.

Our analysis of OFCCP's computerized data indicated that between fiscal years 1981 and 1983 there was a decrease in the size and age of the section 503 complaint inventory, as well as a decrease in the average processing times for section 503 complaints. The data also show that OFCCP has experienced a decline in the number of complaints received since fiscal year 1981. However, we did not verify the accuracy of OFCCP's computerized data because it would require extensive, time-consuming file review. Although there are inaccuracies in the

computerized system's data, which OFCCP is taking steps to correct, we used these data because we believe they provide the most complete and consistent picture of OFCCP's section 503 activity. However, we did not determine the extent to which the decline in receipts, changes to the complaint processing system, or corrections to data in the computerized system contributed to the inventory decreases described above.

The Department of Labor's official comments on a draft of this report were provided orally by OFCCP's Acting Director and other OFCCP and Labor officials, and have been incorporated in enclosure I. The officials said the report accurately reflects trends in section 503 complaint receipts and in the size and age of the complaint inventory, as well as problems in section 503 complaint processing and initiatives taken to correct those problems.

As stated above, we believe that a full review of OFCCP's enforcement activities was not warranted in 1983 because of the initiatives being undertaken. We believe such a review could be undertaken after September 30, 1984, when all of the initiatives will have been in place for at least 1 fiscal year.

As arranged with the Subcommittee staff, copies of this report are also being sent to the Secretary of Labor and other interested parties.



Richard L. Fogel  
Director

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### ABBREVIATIONS

ARA	Assistant Regional Administrator
EOS	equal opportunity specialist
OFCCP	Office of Federal Contract Compliance Programs

THE OFFICE OF FEDERAL CONTRACT COMPLIANCE  
PROGRAMS' ACTIONS TO IMPROVE PROCESSING OF  
HANDICAPPED EMPLOYMENT DISCRIMINATION COMPLAINTS

Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793), is enforced by the Office of Federal Contract Compliance Programs (OFCCP).<sup>1</sup> The following sections provide background on OFCCP's enforcement policies and procedures, a scope and methodology description, data concerning OFCCP's section 503 workload, and a summary of initiatives OFCCP has undertaken to improve its complaint processing.

OFCCP ENFORCEMENT ACTIVITIES  
UNDER SECTION 503

Section 503 requires federal contractors and subcontractors with contracts in excess of \$2,500 to take affirmative action to employ and advance in employment qualified handicapped individuals. The act defines a handicapped person as any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. A handicap is defined as "substantially limiting" if it is likely to cause difficulty in "securing, retaining or advancing in employment."

Although not specifically part of our review, OFCCP is also responsible for enforcing 38 U.S.C. 2012, the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended, and Executive Order 11246. As provided in 38 U.S.C. 2012, covered contractors are required to take affirmative action to employ Vietnam era and disabled veterans. The executive order prohibits federal contractors from discriminating against employees based on race, color, religion, sex, or national origin. It also requires employers with federal contracts over \$10,000 to take affirmative action in hiring, training, and promoting qualified or qualifiable minorities and women.

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<sup>1</sup>OFCCP is part of Labor's Employment Standards Administration, which is headed by the Deputy Under Secretary of Labor for Employment Standards.

Complaint investigations and compliance reviews are two ways that OFCCP enforces these affirmative action and nondiscrimination provisions. OFCCP receives and investigates employment discrimination complaints. Generally, OFCCP's procedures for processing complaints are the same under section 503 and 38 U.S.C. 2012 and the executive order. Compliance reviews are also conducted to determine if a contractor maintains nondiscriminatory hiring and employment practices and is taking required affirmative action. OFCCP conducts compliance reviews which include the contractor's obligations under section 503, 38 U.S.C. 2012, and the executive order. Regarding section 503, the reviews generally focus on whether the employer has and is carrying out a written affirmative action program for handicapped employment.

OFCCP officials told us that OFCCP carries out its duties through a national office in Washington, D.C., 10 Labor regional offices, and 39 area offices and 20 field offices located in 55 cities. OFCCP's fiscal year 1983 appropriation was \$43.8 million. As of August 1983 it had 990 full-time staff. Fourteen percent of the staff is located in the national office.

#### Section 503 complaint processing procedures

Section 503 regulations provide that job applicants or employees who believe they have been discriminated against because of a handicap or perceived handicap may file a written complaint with OFCCP within 180 days from the alleged violation. OFCCP may extend the time for filing for good cause.

Under OFCCP's procedures, all complaints are initially screened in one of the regional offices. The regional office determines if (1) OFCCP has jurisdiction over the employer, i.e., the employer has a federal contract in excess of \$2,500, (2) the complaint is not frivolous and is about discrimination based on a covered handicap, and (3) the complaint is timely filed, i.e., filed within 180 days or an extended time approved by OFCCP. If one of the three criteria is not met, the regional office will close the complaint, and no investigation will be conducted. OFCCP may also close the complaint without completing an investigation if more information is requested but the complainant cannot be located or does not provide the requested information or if the complainant withdraws the complaint. If the complaint is not under OFCCP's jurisdiction but another federal agency might have jurisdiction, the regional office will refer the complaint to the other agency. If the criteria are met, the complaint is assigned to the appropriate area office where an equal opportunity specialist (EOS) conducts the investigation.

Once assigned to an area office, an investigation is begun as soon as resources permit. However, in some cases the complaint is referred to the contractor before an investigation begins. OFCCP regulations provide that if a contractor has an internal review procedure, and if the complainant agrees, the contractor must be given up to 60 days to try to resolve complaints by employees before OFCCP begins its investigation. If the contractor is successful in internally resolving the complaint to the complainant's satisfaction, then OFCCP will close the case. If the contractor is unsuccessful the investigation is begun as soon as possible.

If the investigation results in a finding of no violation, the case is closed and the complainant and contractor are notified of the finding. The complainant may, within 30 days of receipt of the finding of no violation, request a review of such finding by OFCCP's Director who may reopen the investigation if the complainant can provide new evidence not considered during the investigation. There is no further provision in the regulations for appeal or reconsideration of the Director's decision. Further, section 503 specifically provides for this administrative remedy through the Department of Labor, and several U.S. Courts of Appeals have decided that an individual does not have the right under section 503 to file a suit against an employer.

If the investigation shows that the contractor was in violation, OFCCP notifies the contractor of the violation(s) and attempts to secure voluntary contractor compliance and remedy past discrimination through conciliation and persuasion. Remedial actions could include such things as reinstatement, back-pay, or for a handicapped employee, accommodations (such as changing the physical layout of the job or providing special equipment). If the complaint cannot be resolved through conciliation, OFCCP may refer the case to Labor's Office of the Solicitor for consideration of legal enforcement proceedings. Actions that can be taken against the contractor include withholding payments due, terminating the contract, or debarring the contractor from receiving future federal contracts. (Enclosure II provides information compiled by OFCCP on the number of complaints received and how they were resolved for fiscal years 1981, 1982, and 1983.)

#### SCOPE AND METHODOLOGY

We conducted our work between February and August of 1983 at OFCCP's national office, and in Labor's Atlanta regional and area offices in June 1983. We developed information on OFCCP's complaint processing policies, procedures and practices as well

as information on agency initiatives designed to improve complaint processing. The review was performed in accordance with generally accepted government auditing standards.

At the national office we interviewed OFCCP officials and reviewed pertinent regulations and directives as well as OFCCP's compliance manual to obtain information on OFCCP's complaint processing policies and procedures. We also reviewed selected OFCCP management reports to obtain information concerning complaint processing practices and data, such as the size and age of complaint inventories. However, these reports did not include all of the information we needed for our review, especially concerning average calendar-day processing times. Consequently, we analyzed data in OFCCP's computerized Complaint Administration System to develop information on OFCCP's section 503 complaint inventory as well as to calculate average processing times for section 503 complaints received in fiscal years 1981, 1982, and 1983. (See encs. III and IV.)

OFCCP's computerized system contains data on the receipt, processing, and final disposition, if any, of complaints. We copied the system's master tape which was current as of September 30, 1983. OFCCP verified the accuracy of the record layout we used to analyze this computerized file. The record layout identifies, among other things, the location of the data in the file. The system's master file contained 11,412 section 503 complaints filed since June 1974. The file was incomplete for 23 complaints, but OFCCP provided the necessary information for all but one complaint, which was filed in 1977. We believe our analysis could not be significantly distorted by the lack of information on this one case.

In performing our analysis, we noted that data in the computerized system did not correspond to data in OFCCP's official management reports concerning complaint receipts and end-of-year inventory. Until fiscal year 1983, OFCCP based these reports on manual systems, which OFCCP officials believe are more accurate. Because it would require extensive, time-consuming file review, we did not verify the data in either OFCCP's manual or computerized systems and we did not reconcile differences between the management reports and the data we developed from the computerized data base. Although OFCCP has identified problems with the computerized system, the section 503 data in this report are based on analysis of complaint activity as shown in that system because we believe that these data provide the most complete and consistent picture of OFCCP's section 503 complaint activity. Further, the differences in the data in the management reports and the computerized system do not alter the conclusions concerning overall trends.

We also conducted field work in the Atlanta regional and area offices to provide a better understanding of the procedures and practices followed. We chose the Atlanta region because it had one of the largest section 503 complaint inventories, it is relatively close to our Washington office, and our analysis of OFCCP management reports indicated that its performance was not atypical. This field work was not designed to develop information projectable nationally or to fully review the adequacy of the regional and area office operations.

In addition to interviewing officials and staff in the field offices, we reviewed small, randomly selected samples of section 503 case files. Our samples were selected using a random numbers table. At the regional office we randomly selected files from complaint summary reports provided by OFCCP which showed the status of complaints received in fiscal years 1981, 1982, and 1983. Our sample included 42 complaints closed by the region as of the date of the reports used. Because the reports were provided by OFCCP at different times during our review, the data on fiscal year 1981 and 1983 complaints were as of April 1983 and the 1982 data were as of February 1983. We used these reports because they had already been provided by OFCCP at the time we selected our sample and were therefore the most readily available. The 42 complaints represented 4.2 percent of the 988 complaints received by the region and 9.5 percent of the 440 it had closed during the periods shown.

The regional and area office case files were filed alphabetically and by calendar year, but the complaint summaries listed the complaints by complaint number. Consequently in the regional office we had to match each complainant's name to complaint number before we could obtain the sample files. Because this was a time-consuming process, in the area office we chose our sample directly from the files instead of from OFCCP's reports. We randomly selected files for 11 complaints closed between January 1, 1981, and the time of our visit in June 1983. The 11 cases represented 10 percent of the 110 cases closed during that period. We also reviewed all 10 of the section 503 complaints that were open at the time of our visit.

Information about the improvement initiatives was obtained from various national office sources, including review of agency directives and memoranda, discussions with officials, and review of management reports and congressional testimony. To determine whether the field offices were implementing the initiatives, we discussed each initiative with officials in the Atlanta regional and/or area offices as appropriate, met with EOSs and other staff, and reviewed files. Our work was not designed to assess the effectiveness of the initiatives.

OFCCP'S COMPLAINT INVENTORY

As early as fiscal year 1981 OFCCP officials began expressing concern about the size and age of the agency's complaint inventory. Since then, both the number of complaints in its inventory and their age have decreased. During our review OFCCP officials told us that by April 1984, the agency expects to be processing complaints within 60 to 120 days of their receipt. According to OFCCP's management reports, between fiscal years 1981 and 1982, the total number of complaints received under section 503 and 38 U.S.C. 2012 and the executive order dropped significantly--from 5,036 to 2,626. (As of January 1984 OFCCP had not computed total receipts for fiscal year 1983.) OFCCP also made changes in its complaint processing system in 1982. However, we did not determine the extent to which these or other factors contributed to the decreased inventory.

The size and age of the section 503 complaint inventory, which according to OFCCP's management reports represented almost 73 percent of OFCCP's total complaint inventory in fiscal year 1983, have also decreased. As shown below, our analysis of OFCCP's computerized complaint files indicated that both the number of complaints received and the size of the inventory have decreased since fiscal year 1981.

<u>503 complaints<sup>2</sup></u>	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>
Number received	2,235	1,462	1,409
End-of-year inventory	2,619	1,567	680

Also, as shown in the table below, our analysis showed that the age of the section 503 inventory decreased, although over 39 percent of the complaints were still more than 1 year old as of September 30, 1983.

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<sup>2</sup>Corresponding data from OFCCP's official management reports are shown on page 16.

Age of section 503 complaints	FY 81		FY 82		FY 83	
	No.	Percent	No.	Percent	No.	Percent
1-60 days	295	11.3	180	11.5	104	15.3
61-180 days	427	16.3	259	16.5	193	28.4
181 days to 1 year	568	21.7	199	12.7	116	17.1
More than 1 year to 3 years	1,082	41.3	661	42.2	136	20.0
More than 3 years	<u>247</u>	<u>9.4</u>	<u>268</u>	<u>17.1</u>	<u>131</u>	<u>19.3</u>
Total	<u>2,619</u>	<u>100.0</u>	<u>1,567</u>	<u>100.0</u>	<u>680<sup>a</sup></u>	<u>100.1<sup>b</sup></u>

<sup>a</sup>OFCCP officials told us that 104 of these complaints are being held in abeyance pending a decision by the Labor Department in OFCCP v. Western Electric Company.

<sup>b</sup>Total exceeds 100 percent due to rounding.

Our analysis of OFCCP's computerized complaint files (see enc. III) also showed that the average processing times for section 503 complaints are decreasing. As of September 30, 1983, OFCCP had closed over 95 percent of the section 503 complaints received in fiscal years 1981 and 1982 and about 71 percent of those received in 1983. Those complaints were closed in an average of 270 days, 162 days, and 74 days, respectively.

#### OFCCP'S ACTIONS TO IMPROVE COMPLAINT PROCESSING

Department of Labor officials recognized the need to make improvements in the agency's complaint processing, especially with regard to timeliness, and have made changes in many aspects of the complaint processing policies and procedures. Although OFCCP began making changes as early as fiscal year 1982, others were made as late as September 1983. Although most of the initiatives were not directed specifically at section 503 complaints, these complaints comprise almost 73 percent of the agency's case inventory and the new procedures are applicable to them. The major changes included:

- Issuing revised complaint intake procedures.
- Issuing revised EOS performance standards.
- Taking steps to reduce the large inventory of old cases.

- Instructing the regional offices to establish case management systems.
- Taking steps to correct the data in the computerized Complaint Administration System.
- Distributing information to OFCCP staff to help sensitize them about the employment barriers affecting handicapped persons.

#### Revised complaint intake procedures

According to OFCCP's Deputy Director, complaint intake procedures were revised to improve complaint screening and to ensure more timely processing. In March 1983, four directives were issued which revised

- regional office procedures for establishing jurisdiction over contractors,
- guidance on extending the complaint filing deadline,
- guidance on referring complaints to other agencies, and
- procedures for referring complaints to contractors.

Because our field work was conducted in June 1983, shortly after these new procedures were effective, we have not documented their use. However, officials did have the directives and told us they were being implemented.

#### Establishing jurisdiction over contractors

Regional offices use a variety of sources to determine if an employer has a federal contract. For example, the national office has several data bases which list, among other things, contractor names and contract amounts. Some of these data bases are multiagency and others cover single agencies. In some cases the regional offices ask the employer directly.

Under the old procedures regional offices had to contact the national office to obtain information from the data bases or other assistance in establishing jurisdiction before contacting the employer to ask if he was a federal contractor. The March 1983 directive on establishing jurisdiction stated that OFCCP has improved contract information available at regional offices by giving them two data bases formerly only available at the national office. The new procedures require the regional offices to contact the national office when the regional data

bases do not supply sufficient information. Also, for those cases where the national office must be contacted, the directive establishes a minimum time for the national office to provide a response. As under prior procedures, if such sources cannot provide the needed information, the region may still contact the contractor.

Although regional officials said they had implemented the new procedures and were using the data bases, we could not document the extent to which procedures had changed because (1) documentation was insufficient in the files we reviewed and (2) our sample did not include enough complaints that were received after the new procedures were implemented. Of the 42 regional office files we reviewed, 25 were closed because of lack of jurisdiction over the contractor. Files for 13 of those 25 contained letters from the contractor indicating there was no federal contract. There was no other documentation in those 13 or the other 12 as to what, if any, other sources the regional office used to determine that the contractor had no federal contracts. None of the 21 files we reviewed in the area office (that is, cases in which the region had established that the contractor had a federal contract) contained letters from the contractor or any other indication of how the existence of the contract was established.

We discussed the lack of documentation with both national office and regional office officials and noted that the new directives do not contain documentation requirements other than providing a form to document information obtained from the national office. The officials stated that case files should better document the actions taken to establish jurisdiction and that they would take steps to ensure improvements are made. Since that time the Atlanta region has developed a form to be used to identify the sources used in determining jurisdiction.

#### Extending the complaint filing deadline

OFCCP regulations require that complaints be filed within 180 days of the alleged violation unless the time for filing is extended by OFCCP for good cause. As shown in enclosure II, in fiscal year 1983, OFCCP closed 151 complaints, 10 percent of the section 503 complaints it received, because of untimeliness.

Before March 1983, OFCCP section 503 procedures allowed either the Assistant Regional Administrator (ARA) or OFCCP's Director to approve such extensions. The new directive limits the ARA's extension approval authority to those section 503 cases in which the extension does not exceed an additional 90 days from the date of the alleged violation. Extensions for more than 90 days must be approved by the Director.

The new directive also provides some clarification for determining complaint timeliness. For example, it states that the date of the alleged violation should be considered to be the date the complainant knew or should have reasonably known of the alleged violation, not necessarily the actual date on which the violation occurred.

#### Referring complaints to other agencies

If the regional office cannot establish jurisdiction over a complaint, it will, if appropriate, refer it to another federal agency. As shown in enclosure II, 133 (9 percent) of the section 503 complaints received in fiscal year 1983 were referred. If no other federal agency is believed to have jurisdiction, but the region believes a state agency might have jurisdiction, it will so notify the complainant.

OFCCP's March 8, 1983, directive on referrals provided more detailed information to help regions identify the appropriate referral agencies. The directive provided a list of federal referral agencies, including the addresses of the Equal Employment Opportunity Commission's district offices, and a summary of state laws covering affirmative action and nondiscrimination in employment.

#### Referring complaints to contractors

Section 503 regulations state that under certain conditions OFCCP should refer complaints to contractors for up to 60 days to encourage their resolution before OFCCP initiates its investigation. The March 1983 directive states that:

"Because of the volume of complaints received, a backlog has developed which results in delay between receipt of a complaint and its investigation. During this period, OFCCP wishes to assure that the contractor has full notice of complaint contents, can attempt early internal resolution, and retains relevant records."

One major change is in the timing of the referral. The previous procedures did not specify a time period for providing complaints to contractors. The revised procedures state that within 2 weeks after receiving a complaint file from the regional office, the area office should send the contractor a copy of the complaint. Our analysis of OFCCP's case file data showed that area offices took an average of 52 days to refer cases received in fiscal year 1982 and 23 days for cases received in fiscal year 1983.

The new directive also extends this procedure to complaints by applicants as well as by employees. However, for cases involving applicants, OFCCP is not required to allow a full 60 days and can begin its investigation at any time after notifying the contractor of the complaint.

#### Revised EOS performance standards

In a January 6, 1983, memorandum, OFCCP provided prototype EOS performance standards to the regions. The memorandum said that the standards were intended to promote consistency and comparability across the regions in completing compliance activities and were also aimed at ensuring separate consideration of the quantity, quality, and timeliness of the EOS's production.

The performance standards developed by the Atlanta region in response to the January memorandum became effective in May 1983. At the time of our visit no EOSs had been evaluated based on these standards. However, our review of the standards as they relate to complaint investigations indicated that the new standards were more specific, especially concerning time frames for complaint investigation, and more stringent than the region's previous standards. For example, under the region's old standards, an EOS met the performance standard when 80 to 90 percent of the cases initially submitted to the supervisor met at least 95 percent of the relevant quality requirements. These standards did not specify a number of days in which cases had to be submitted.

Under the new performance standards, as specified in the national prototype, an EOS meets the performance requirements when 90 percent of the cases initially submitted to the supervisor meet all of the relevant requirements having to do with process and procedures and are submitted within 60 days after the initiation of the investigation.

Several EOSs in the region described the current performance standards as unrealistic or too high. OFCCP's Deputy Director told us that OFCCP plans to review the performance standards after they have been in use to determine if any additional revisions should be made. The review will include a determination as to whether the new performance standards are unrealistic.

Also, OFCCP's former Director<sup>3</sup> emphasized that even though the standard of 60 days has been established, OFCCP does not expect all complaint investigations to be completed within that time. She said there are legitimate reasons, beyond the EOS's control, for granting an extension, such as problems encountered if a contractor's employees strike or if conflicting medical opinions must be resolved.

#### Efforts to reduce complaint inventory

OFCCP officials told us that they had placed a priority on reducing the size of the agency's complaint inventory and on completing cases which have been in process for extended periods. To reduce the size of its complaint inventory and to expedite processing of the older complaints, OFCCP (1) increased its resource allocation for section 503 complaint processing, (2) established target dates for completing older complaints, and (3) detailed staff or reassigned complaints to area offices where complaint processing could be expedited.

In testimony before the Senate Committee on Labor and Human Resources on May 26, 1982, the Deputy Under Secretary of Labor for Employment Standards noted that OFCCP's section 503 inventory was growing and that OFCCP had increased the proportion of its resources allocated to enforcing section 503. According to OFCCP information, staff years allocated to section 503 complaint processing doubled between fiscal years 1981 and 1982, from 6.2 to 12 percent. Projections for staff year allocations remained at about 12 percent for fiscal year 1983, but according to OFCCP, estimates were reduced to 6.8 percent in fiscal year 1984 because of the anticipated reductions in complaint inventories and complaint receipts.

In a September 2, 1982, memorandum to the regions, OFCCP's former Director stated that the Complaint Administration System showed that a large number of complaints had been in OFCCP for more than 2 years. She described this as an unacceptable time period for complaints to remain unprocessed. She instructed each region to establish target dates for completing at least its 15 oldest complaints by March 30, 1983, and target dates for additional complaints for each successive 6-month period until the complaints awaiting processing are eliminated. According to OFCCP officials, as of September 30, 1983, 553 complaints had been targeted for completion and 497 of those had been completed.

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<sup>3</sup>The Director, OFCCP, resigned effective November 30, 1983. An Acting Director has been appointed.

OFCCP officials told us that another step used to reduce the size of the complaint inventory was to detail staff from area offices with lower workloads to contiguous area offices with large complaint inventories or to reassign complaints to area offices with lower caseloads. Atlanta regional officials confirmed that they had reassigned complaints between area offices to expedite complaint processing.

Establishing regional office  
case management systems

In testimony before a subcommittee of the House Committee on Education and Labor on April 15, 1983, the Deputy Under Secretary of Labor for Employment Standards stated that OFCCP had instituted a case management system in each region through which ARAs could track and monitor all work in process to ensure that compliance reviews and complaint investigations are completed within established time frames. The memorandum which first instructed the regions to establish case management systems covered only compliance reviews and was issued in April 1982. It gave general guidance, but permitted each region to design its own system. OFCCP's Deputy Director told us that since then, OFCCP had given oral instructions to include management of complaint investigations as well as compliance reviews. Also, OFCCP has established minimum criteria under which the systems must

- establish responsibility and accountability at all levels of management,
- ensure that the scheduling of complaint investigations and compliance reviews is appropriate and will lead to the achievement of OFCCP's established goals for its compliance activities,
- facilitate the timely completion of complaint investigations and compliance reviews,
- ensure that extensions are requested in a timely manner in instances where delays in completing compliance activities are encountered,
- monitor the length of time used to complete compliance reviews and complaint investigations, and
- provide information to all levels of regional management on the status of all open complaint investigations and compliance reviews at scheduled times.

OFCCP officials told us, however, that the regions were slow in responding to the April 1982 instructions. OFCCP provided information that showed that seven of the regions submitted their systems between September 1982 and January 1983. OFCCP could not provide submission dates for three regions. During our review an OFCCP official told us that systems for 9 of the 10 regions had been approved. However, in September 1983, OFCCP's former Director sent comments to each region identifying needed system modifications, some of which appear to us to be significant. For example, the national office recommended that:

- Nine regions delineate responsibility and accountability at all levels of management.
- One region expressly set forth the number of days and number of hours for completing reviews and complaints.
- Five regions establish checkpoints to track and monitor timely completion of reviews and complaints.
- Five regions establish specific points in the process to request timely extensions by the national office.
- One region include complaint investigations as well as compliance reviews in the system.

#### Correction of information in the Complaint Administration System

OFCCP officials have identified inaccuracies in the computerized Complaint Administration System data and have taken actions to correct them. This automated system is designed to track and monitor processing of all complaints. OFCCP issues monthly reports based on the system's data for use by OFCCP managers. The system's manual emphasizes the importance of maintaining accurate information in the system so that management reports accurately reflect complaint activity.

OFCCP's Deputy Director told us that one reason inaccurate information was being entered into the system was that the area offices were using various manual information systems to track complaint workload activity instead of relying on the automated system. Consequently, they reported data to the national office from their manual systems that were both inaccurate and inconsistent with the information reported for the automated system.

During our field work we did not determine what information the area office was reporting to the national office, although

we discussed what information officials used to track their case inventories. Area office officials said they used some of the automated reports but that they also used manual systems. However, we also found evidence that information accurately reported by the area offices may not have been accurately entered into the automated system by the national office. We found several memoranda from area offices in the region requesting the national office to correct previously reported information, especially to close cases shown as open.

OFCCP has taken steps to correct the system's data. To ensure the uniformity and accuracy of data reported by the regions, OFCCP notified them that regional performance concerning workload output would be assessed only against information in the system, so that to receive credit they have to report it. Also, in September 1982 OFCCP instructed the regions to notify the national office of all cases reported in the system as open, but which in reality had been closed. However, as of July 1983 problems still existed and OFCCP repeated those instructions to the regions. In August 1983, OFCCP officials told us that the regional responses had identified 262 complaints, involving all OFCCP programs, which were inaccurately reported and that all but 3 of those had been removed from the system.

OFCCP officials told us that they recognized a need not only to correct the data currently in the system but to ensure future data are correctly reported and entered. As one means to accomplish this, in September 1983, OFCCP conducted a training course on the system's purpose and use attended by staff from each regional office. The training included instructions for regional staff on preparing the documents used by the national office for entry into the system.

#### Handicapped awareness program

During testimony before the Senate Committee on Labor and Human Resources on May 26, 1982, the Deputy Under Secretary of Labor for Employment Standards stated that OFCCP was developing a handicapped awareness program designed to (1) sensitize staff to the employment barriers affecting handicapped persons, (2) help staff recognize and understand the different types of handicaps, and (3) help staff develop interviewing skills and investigative techniques that consider the differences between handicap discrimination and other forms of discrimination.

During our survey, OFCCP officials said they had taken the following steps as part of the handicapped awareness training program:

--In April 1982, OFCCP showed several handicapped-related films to its national office staff in order to create a greater awareness and understanding of the abilities and potential of handicapped individuals.

--In May 1983 and June 1983, OFCCP issued reading materials to all of its EOSs designed to increase their knowledge and awareness when interviewing a handicapped individual.

OFCCP officials also told us that additional materials concerning the handicapped were being developed and would be issued to the staff at a later date.

During the May 1982 testimony the Deputy Under Secretary stated that each region had been instructed to plan local programs to achieve the objectives of the awareness program. OFCCP officials told us they had distributed the reading materials to assist the regions but the regions were to use their own resources and provide programs on an as-needed basis. During our field work we found that the Atlanta region had received the reading materials, but regional officials were unaware of any requirement to develop an awareness program.

#### AGENCY COMMENTS

The Department of Labor's official comments on a draft of this report were provided orally by OFCCP's Acting Director and other OFCCP and Labor officials. The officials said that this report is a fair and accurate representation of the problems and conditions that exist relative to section 503 complaint processing and of the initiatives that OFCCP has taken to correct these conditions. However, they reiterated, as noted on page 4, that the data on complaint receipts and end-of-year inventory in the report, which we calculated from the data in OFCCP's computerized Complaint Administration System, do not correspond to data in OFCCP's official management reports. They agreed, however, that the data we reported based on the computerized system accurately reflect trends in the number of complaint receipts, and the size and age of inventory.

According to OFCCP's reports, in fiscal years 1981, 1982, and 1983, respectively, OFCCP received 2,703, 1,418, and 1,506 complaints. Corresponding end-of-year inventories were 2,733, 1,506, and 686. OFCCP's reports were based on manually compiled data in fiscal years 1981 and 1982 and on data from the computerized system in fiscal year 1983. As noted on page 4, we did not reconcile the differences in OFCCP's reports and the data we calculated. However, for 1983, the differences in these data-- as well as data previously calculated by OFCCP and reported in

enclosure II--may have occurred because (1) calculations were made on different dates and the data base may have been updated between those dates and (2) there may be minor differences in the computer programs used by GAO and OFCCP.

OFCFP SECTION 503 COMPLAINT ACTIVITYFOR COMPLAINTS RECEIVED INFISCAL YEARS 1981, 1982, AND 1983<sup>a</sup>Status of Complaints Received and Closed

	<u>Fiscal year received</u>		
	<u>FY 81</u>	<u>FY 82</u>	<u>FY 83</u>
Open	70	70	501
Closed	<u>2,099</u>	<u>1,343</u>	<u>966</u>
Total received	<u>2,169</u>	<u>1,413</u>	<u>1,467</u>

Closures Without Resolution<sup>b</sup>

Total	1,346	859	688
Reason for closure:			
Referred to other agencies	296	144	133
Untimely filing	128	132	151
Complainant cannot be located	34	14	2
Frivolous	8	35	19
Complaint withdrawn	180	86	41
No response to request for additional information	187	77	50
Other	513	371	292

Closures With Resolution<sup>b</sup>

Total	749	483	274
Type of resolution: <sup>c</sup>			
No violation	547	349	196
Training		1	
Reinstatement	49	39	14
Hired	21	14	9
Promotion	8	7	1
Restored seniority	16	22	4
Accommodation	30	22	17
Retroactive benefits	14	18	9
Backpay	56	40	16
Other monetary settlements	23	33	10
Other	91	28	27

<sup>a</sup>This information was compiled by OFCCP as of November 14, 1983, and we did not verify it. However, we did note some discrepancies in OFCCP's report, for example, no reason for closure was given for four cases reported as closed for 1981. We also noted that total receipts and closures as reported here are different than the totals we calculated and reported on pages 6, 7, and 20. The OFCCP official who prepared the information said that the discrepancies may have resulted from errors in the computer program OFCCP used to generate the information. However, he estimated that the information is at least 95 percent accurate.

<sup>b</sup>"Without resolution" refers to cases closed without investigation. "With resolution" refers to cases closed after an investigation determines whether a violation has occurred.

<sup>c</sup>A case can be closed with more than one resolution, for example, promotion and backpay. Therefore, the total number of resolutions can exceed the total number of cases closed with resolution.

AVERAGE TIMES IN SELECTED IN-PROCESSING STEPSFOR SECTION 503 COMPLAINTS BY YEAR OF RECEIPT<sup>a</sup>

<u>In-processing step</u>	<u>Received in fiscal year 1981</u>		<u>Received in fiscal year 1982</u>		<u>Received in fiscal year 1983</u>	
	<u>Number of cases completing step</u>	<u>Average number of days in the step</u>	<u>Number of cases completing step</u>	<u>Average number of days in the step</u>	<u>Number of cases completing step</u>	<u>Average number of days in the step</u>
Regional office receipt to closure at regional office	915	95	690	67	607	35
Regional office receipt to assignment to an area office	1,320	74	772	57	744	28
Area office receipt to assignment to an EOS	1,251	57	719	45	571	12
Area office receipt to referral to contractor	479	103	286	52	272	23
Referral to contractor to EOS investigation initiated	417	91	225	80	165	60
EOS investigation initiated to investigation completed	894	116	545	60	303	35
EOS investigation completed to complaint closure	882	35	525	33	288	13
<b>TOTAL PROCESSING TIME<sup>b</sup></b>	<b>2,168</b>	<b>270</b>	<b>1,392</b>	<b>162</b>	<b>997</b>	<b>74</b>

<sup>a</sup>This table shows the average number of days OFOCP used to complete major complaint processing steps. The number of cases completing each step differs because not all complaints go to each step (for example, only some complaints are sent to the contractor) or because some complaints are open and have not reached the next step. Data are as of September 30, 1983.

<sup>b</sup>This is not a total of the above columns. It includes all complaints closed at either the regional or area offices.

AVERAGE TIMES IN SELECTED IN-PROCESSINGSTEPS FOR SECTION 503 COMPLAINTS OPEN AS OFSEPTEMBER 30, 1983, BY YEAR OF RECEIPT<sup>a</sup>

<u>Last in-processing step</u>	<u>Received in</u> <u>fiscal year 1981</u>		<u>Received in</u> <u>fiscal year 1982</u>		<u>Received in</u> <u>fiscal year 1983</u>	
	<u>Number of</u> <u>cases in</u> <u>the step</u>	<u>Average</u> <u>days in</u> <u>the step</u>	<u>Number of</u> <u>cases in</u> <u>the step</u>	<u>Average</u> <u>days in</u> <u>the step</u>	<u>Number of</u> <u>cases in</u> <u>the step</u>	<u>Average</u> <u>days in</u> <u>the step</u>
Area office receipt	11	640	13	371	43	123
Assigned to an EOS	26	599	22	248	88	84
EOS investigation initiated without referral to contractor	2	213	5	292	25	93
Under investigation by contractor	4	415	3	385	59	79
EOS investigation completed	3	262	2	284	4	33
Referred for enforcement	4	390	5	285	2	30

<sup>a</sup>This table shows the number of open complaint cases in selected in-processing steps and the average time they had been in that step as of September 30, 1983. The steps shown include most of OFCCP's open cases, but some cases were also open at other steps not listed here.