

September 1995

# EQUAL EMPLOYMENT OPPORTUNITY

## DOL Contract Compliance Reviews Could Better Target Federal Contractors





**Health, Education, and  
Human Services Division**

B-262102

September 28, 1995

The Honorable Major R. Owens  
House of RepresentativesThe Honorable Julian C. Dixon  
House of Representatives

Women and minorities, comprising more than half of the U.S. workforce, continue to face instances of discrimination in the workplace, such as limited opportunities for hiring and promotion. One strategy for combating such discrimination has been to focus on the employment practices of the tens of thousands of contractors who do business with the federal government each year.

While several federal agencies promote equal opportunity in the workplace, the Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor (DOL) is charged with ensuring that federal contractors, subcontractors, and federally assisted construction contractors<sup>1</sup> actively seek to provide equal opportunity in their employment practices. With almost 200,000 federal contracts and federally assisted construction projects currently under its purview, OFCCP is responsible for ensuring that the businesses holding these contracts are taking affirmative action to ensure equal employment opportunity and are not discriminating on the basis of race, sex, color, religion, national origin, disability, or status as a special disabled or Vietnam era veteran.

Because of your concerns about how the federal government structures the enforcement of equal opportunity laws, you asked us to provide information on (1) how OFCCP fulfills its mission and responsibilities; (2) how OFCCP's resources have changed in recent years; and (3) whether the procedure OFCCP uses to select contractors for review, which entails aggregating data on racial minorities, could mask discrimination against specific minority groups.

To do our work, we interviewed OFCCP officials in the national office and reviewed the agency's policies, procedures, and other relevant documents. We did our work between September 1994 and July 1995 in accordance with generally accepted government auditing standards.

---

<sup>1</sup>Federally assisted construction contractors work on construction projects that are sponsored by another entity, such as a state government, but are financed in whole or in part with federal funds.

---

## Results in Brief

To fulfill its mission and responsibilities to identify and resolve instances of discriminatory employment practices by federal contractors, OFCCP uses compliance reviews as its main enforcement strategy. During these reviews, OFCCP compares the sex and racial composition of the contractor's workforce with that of the workforces of similar federal contractors in the area; OFCCP also reviews the contractor's employment policies and practices. In fiscal year 1994, OFCCP devoted about 80 percent of its enforcement hours to compliance reviews, completing about 4,000 such reviews.

OFCCP's financial and staff resources have declined over the past several years. From fiscal year 1989 to fiscal year 1994, OFCCP's budget decreased by 9 percent in inflation-adjusted dollars, and its authorized staff level decreased by 15 percent. As OFCCP's resources have decreased, so too has the number of compliance reviews it conducts; from fiscal year 1989 to fiscal year 1994, the number of completed reviews dropped by 33 percent.

One of the procedures OFCCP uses to select contractors for review raises concerns about its ability to effectively target potential violators. OFCCP receives data on the sex and individual racial groups that compose the contractor's workforce, yet OFCCP aggregates the data on all minority employees in a given company before completing its initial analysis. This practice could cause OFCCP to overlook companies that discriminate against one or more particular minority groups.

---

## Background

In 1941, President Roosevelt ordered all federal agencies to include in their wartime contracts a provision prohibiting contractors from discriminating against any worker because of race, color, creed, or national origin. President Johnson expanded this principle in 1965 when he issued Executive Order 11246, which required federal contractors and subcontractors, and federally assisted construction contractors, to refrain from discrimination and to take affirmative action to provide equal employment opportunity to all employees and job applicants, regardless of race, color, religion, sex, or national origin. In the early 1970s, equal employment responsibilities were expanded by statute to persons with disabilities and certain disabled and Vietnam era veterans. (See app. I for more information on the legal authorities for OFCCP.)

Established in 1966, OFCCP has seen its role evolve over time. Initially, OFCCP served as a policy-making body; using a small nationwide staff, it concentrated primarily on coordinating and monitoring enforcement,

---

while the actual day-to-day enforcement responsibilities were scattered among other federal agencies. In 1978, enforcement responsibilities were transferred from the various federal agencies to OFCCP in order to consolidate activities and improve the efficiency and effectiveness of the investigations. Since then, OFCCP has been primarily responsible for ensuring the compliance of federal contractors, subcontractors, and federally assisted construction contractors with their affirmative action and equal opportunity responsibilities.

Today, OFCCP operates with a budget of about \$59 million and is authorized for 825 full-time-equivalent (FTE) staff positions. OFCCP's national office in Washington, D.C., directs the nationwide enforcement of equal employment opportunity laws and regulations among federal contractors. Field staff in OFCCP's 10 regional offices and 57 district and area offices conduct the actual enforcement activities. These include reviewing federal contractors' compliance with the applicable laws and regulations, conducting investigations of individual complaints, and providing technical support to federal contractors.

While OFCCP monitors the employment practices of federal contractors, OFCCP is actually one of several federal agencies responsible for enforcing equal opportunity laws and regulations. The Equal Employment Opportunity Commission (EEOC), under title VII of the Civil Rights Act of 1964, as amended, investigates charges of employment discrimination because of race, color, religion, sex, or national origin. EEOC also is responsible for investigating discrimination charges in employment based on age, unequal pay, and physical and mental disabilities. There is some overlap in activities of these agencies, and EEOC and OFCCP operate under a memorandum of understanding (MOU) and coordination regulations to minimize any duplication of effort. For example, under the MOU, individual complaints to OFCCP alleging discrimination under title VII are referred to EEOC. Under the coordination regulations, OFCCP acts as EEOC's agent in investigating charges of discrimination brought by certain persons with disabilities.<sup>2</sup>

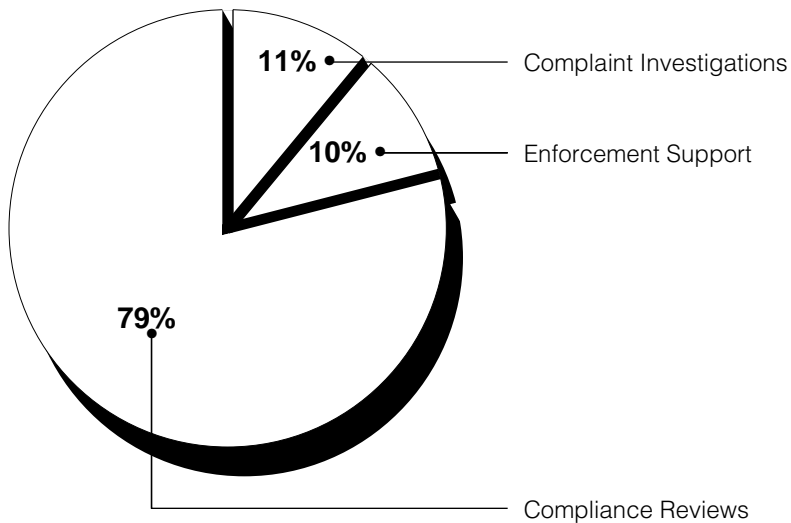
---

<sup>2</sup>The similar activities of OFCCP and EEOC have come to the attention of the 104th Congress in its effort to streamline government and to achieve cost savings. One of these efforts, which is part of a broader plan to merge the Departments of Education and Labor and EEOC, would place OFCCP's and EEOC's activities, as well as other programs responsible for enforcing equal employment opportunity laws, with an under secretary for civil rights. However, no legislation mandating such changes has been introduced to date. See Federal Reorganization: Congressional Proposal to Merge Education, Labor, and EEOC (GAO/HEHS-95-140, June 7, 1995).

## OFCCP's Enforcement Strategy Focuses on Compliance Reviews

In carrying out its mission and responsibilities, OFCCP focuses most of its resources on compliance reviews (see fig. 1). Through this mechanism, which includes a desk audit and a site visit in most cases, OFCCP analyzes a contractor's hiring and employment practices. OFCCP seeks to determine if these practices comply with laws that it enforces. In most of its reviews OFCCP identifies violations, many of which are considered major. Regardless of the exact nature of the violation, OFCCP's policy is to work with the contractor to resolve the case rather than to impose sanctions, such as canceling the federal contract. In addition to compliance reviews, OFCCP conducts complaint investigations and provides compliance support, such as technical assistance to help federal contractors understand the regulatory requirements and review process.

Figure 1: Compliance Reviews Composed Majority of OFCCP's Activities in Fiscal Year 1994



Note: Data points for this figure are presented in appendix II.

Source: GAO analysis of OFCCP data.

## Desk Audits and Site Visits Included in Most Compliance Reviews

A compliance review, which often takes between 3 and 6 months to complete, usually consists of two phases: a desk audit and a site visit. The desk audit is a systematic review of documents and materials that the contractor under review provides, explaining its efforts to ensure equal

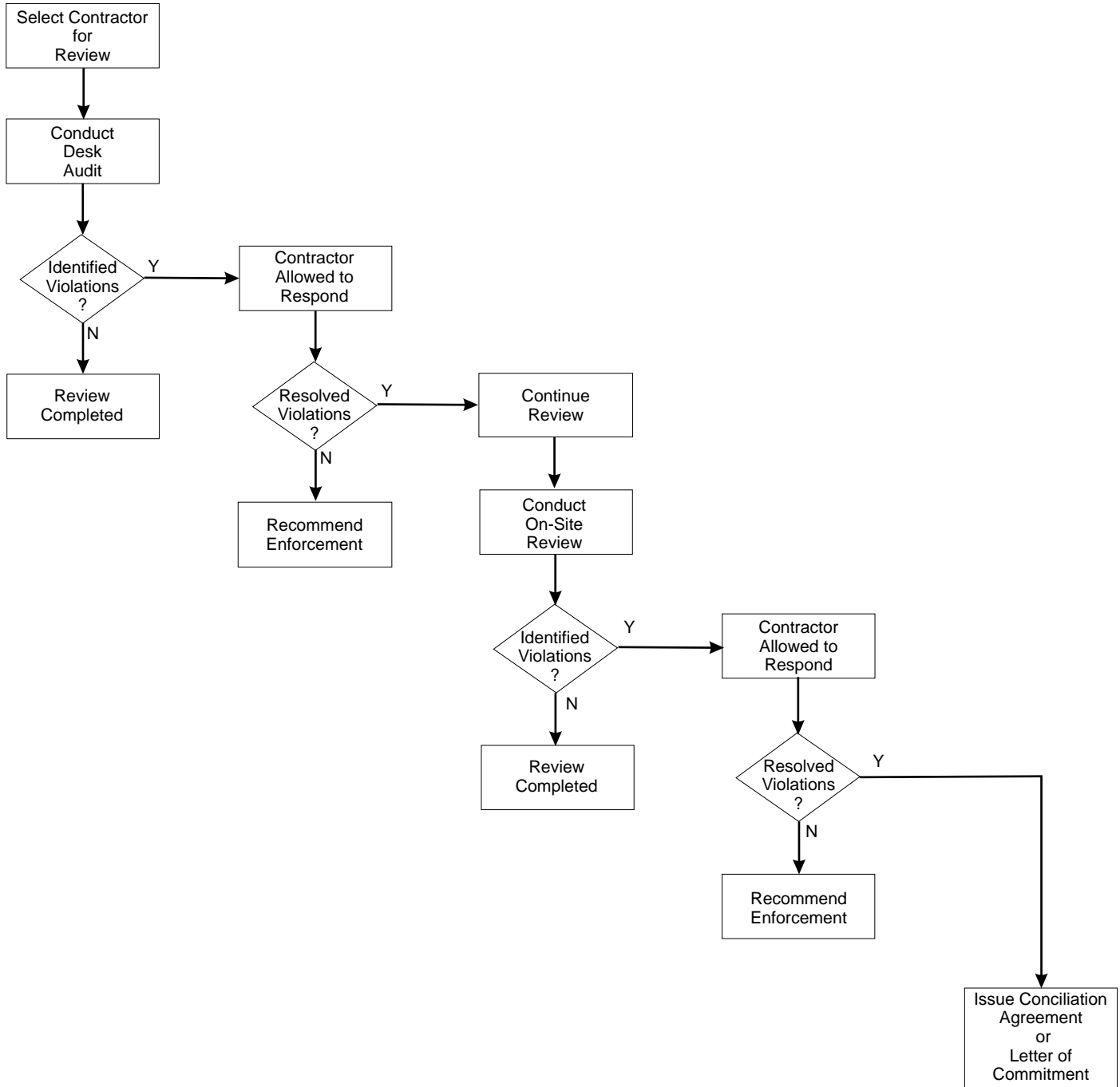
---

employment opportunities. As part of the desk audit, compliance officers compare the representation of women and individual minority groups in the contractor's workforce with that of the workforces of similar federal contractors in the area, and examine the contractor's affirmative action plan. Next, OFCCP usually conducts an on-site review at the contractor's establishment.<sup>3</sup> During this phase, compliance officers investigate potential violations identified in the desk audit, verify the contractor's activities to implement its affirmative action program, and obtain information needed to work with the contractor to resolve any violations. Activities include inspecting the contractor's facilities and reviewing its personnel files (see fig. 2).

---

<sup>3</sup>An on-site review may not be required when (1) the material submitted by the contractor does not demonstrate a reasonable effort to meet the requirements for an affirmative action program; or (2) the affirmative action program is determined to be acceptable at the desk audit, an on-site review has been conducted in the preceding 2 years, or the circumstances existing during the previous on-site review have not changed substantially.

Figure 2: General Steps of a Compliance Review



(Figure notes on next page)



---

Source: OFCCP's Federal Contract Compliance Manual.

---

## Contractor Violations Identified and Resolved in Most Reviews

Compliance reviews tend to uncover violations in the vast majority of cases. OFCCP identified violations in 74 percent of its completed compliance reviews in fiscal year 1994 (see table 1), and OFCCP classified these violations as either major or minor. In 73 percent of the reviews in which violations were identified, OFCCP resolved them with conciliation agreements. Conciliation agreements are used for major violations. Many conciliation agreements address violations such as a contractor's failure to complete a workforce utilization analysis or to correct for problems with its past performances. Some agreements do address outright discrimination, such as one case in which a compliance review uncovered a pattern of discrimination against African American applicants who had been denied jobs at a facility.

In addition to the actual conciliation agreement, OFCCP may require the contractor to provide financial compensation to the individual victims of discrimination. For example, in fiscal year 1994, OFCCP reached 553 financial agreements valued at \$39.6 million, and, in the case of the discrimination previously cited, the company agreed to pay over \$630,000 in back wages to the 32 qualified applicants who had been denied jobs. OFCCP resolved the remaining compliance reviews with letters of commitment, which are used for minor violations such as the need to make technical corrections to a contractor's affirmative action plan.

While OFCCP emphasizes bringing contractors into compliance with the employment laws rather than penalizing them for not complying, OFCCP may recommend enforcement proceedings—that is, legal actions—if a contractor fails to resolve discrimination or affirmative action violations. Seventy-five cases were referred for enforcement in fiscal year 1994, and in one such case OFCCP found that a contractor discriminated in compensating a class of minorities and women. The contractor refused to conciliate, and OFCCP then recommended the case for enforcement.

After an administrative hearing, the Secretary of Labor may order that a contract be suspended or cancelled, and the contractor may be debarred from doing business with the federal government. Debarments, however, are rare, with five contractors debarred in fiscal year 1994. In two of these cases, the contractors did not honor their conciliation agreements by failing to recruit and hire women, and by filing false reports.

**Table 1: Resolution of Compliance Review Violations in Fiscal Year 1994**

<b>Compliance reviews</b>	<b>Number of actions taken</b>
Completed reviews	4,179
Reviews resulting in identified violations	3,094
Resolved with letter of commitment	784
Resolved with conciliation agreement	2,262
Financial agreements reached and value	553 agreements, \$39.6 million
Amount of back pay and number of beneficiaries	\$14.4 million, about 11,000 people
Cases referred for enforcement	75
Contractors debarred	5

Source: OFCCP data.

## Complaint Investigations and Compliance Support Also Provided

Enforcement resources not devoted to compliance reviews are used for complaint investigations and other support activities. OFCCP dedicates about 11 percent of its enforcement hours to investigating specific complaints of employment discrimination. OFCCP investigates cases involving groups of people or patterns of discrimination, as well as individual or group complaints filed under the disability and veterans' laws. In fiscal year 1994, OFCCP completed 802 complaint investigations and found violations in 19 percent of the cases.

OFCCP devoted the remainder of its enforcement resources—about 10 percent—to various support activities. Staff give technical assistance, such as advising contractors on how to meet their equal employment opportunity obligations. OFCCP provides this assistance by answering individual questions and sponsoring seminars on OFCCP policies and regulations. OFCCP staff also spend time supporting litigation efforts and completing other activities, such as (1) linking contractors to specific community recruitment and training resources that can help fill workforce deficiencies and (2) reviewing periodic progress reports required by agreements reached during compliance reviews.

## OFCCP's Decreasing Resources Coincided With a Decrease in Number of Reviews and Investigations

In fiscal year 1989, OFCCP's staff size was larger than it had been since the early 1980s, and the agency completed a record number of compliance reviews. By fiscal year 1994, OFCCP's budget had decreased by 9 percent in real dollars (see table 2).

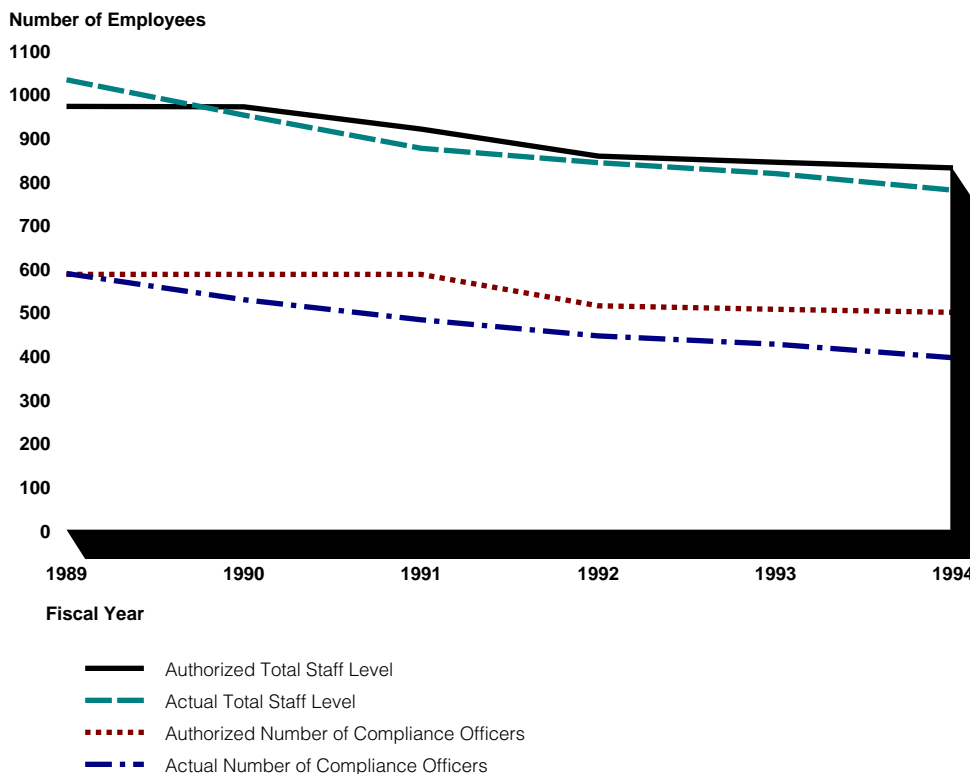
**Table 2: OFCCP's Budget Decreased in Inflation-Adjusted Dollars**

Fiscal year	Authorized budget (in thousands)	
	Nominal dollars	Real dollars (based on 1994)
1989	\$51,863	\$61,963
1990	53,045	60,142
1991	52,584	57,219
1992	54,655	57,714
1993	55,695	57,123
1994	56,306	56,306

Source: OFCCP data and GAO analysis.

As OFCCP's budget decreased in real terms, so did the size of its staff. From fiscal year 1989 to fiscal year 1994, OFCCP's total FTE staff decreased by 15 percent, from 970 to 820 (see fig. 3). Moreover, the actual number of compliance officers working at OFCCP decreased by 33 percent and has been below the authorized level since fiscal year 1990, primarily because of attrition and hiring freezes.

**Figure 3: OFCCP's Staff Level Dropped Between Fiscal Years 1989 and 1994**



Note: Data points for this figure are presented in appendix II.

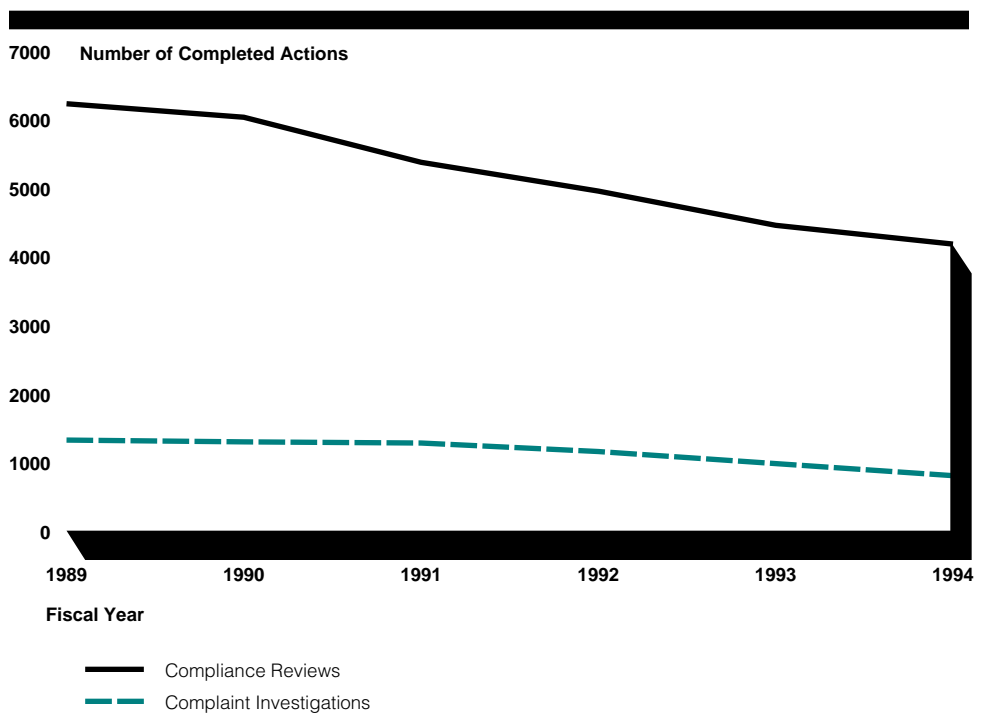
Source: OFCCP data.

During this time the number of completed compliance reviews decreased by 33 percent, from 6,232 to 4,179. OFCCP officials explained that part of this decline was due to the decrease in OFCCP's funding and staff levels, as well as a changing emphasis from reviewing a single establishment to undertaking more labor intensive lengthy reviews such as corporate management reviews and construction mega-project reviews.<sup>4</sup>

<sup>4</sup>Corporate management reviews (CMR), also called "glass ceiling reviews," include all aspects of a standard compliance review but give special attention to developmental and selection processes and practices for advancement into mid- and upper-level corporate management positions. A construction mega-project review examines all the various contractors working on a major construction project. These are multimillion-dollar construction projects expected to take at least 1 year and have major economic and employment impacts on communities. Such projects include the construction of federal buildings, courthouses, and airports.

The number of complaint investigations, in which OFCCP reacts to specific complaints filed by a person or persons, also decreased by 39 percent during this period. This drop, from 1,321 to 802 (see fig. 4), was due in large part to a reduction in the number of complaints actually received by OFCCP, according to OFCCP officials.

**Figure 4: OFCCP's Enforcement Activities Declined Between Fiscal Years 1989 and 1994**



Note: Data points for this figure are presented in appendix II.

Source: OFCCP data.

## OFCCP's Use of Aggregated Data Could Overlook Discrimination

One of the procedures OFCCP uses to initially identify contractors for compliance reviews may not lead to appropriate targeting of contractors. Because OFCCP aggregates data pertaining to all minority groups in a company during its initial selection stages, rather than focusing on data pertaining to each minority group separately, it could overlook companies that discriminate against one or more particular minority groups.

Contractors are required to report on the race, ethnicity, and sex of their workforce in each of nine occupational categories. OFCCP then uses these

---

data as part of its process to determine which contractors should be targeted for compliance reviews. This includes comparing the percentage of all minorities and the percentage of women in a contractor's workforce to that of all other federal contractors in similar industries and geographic areas.<sup>5</sup> In completing these comparisons, OFCCP combines the data pertaining to all minorities because, according to OFCCP officials, the aggregated data provide a large enough number of observations for a statistically valid analysis.

Aggregated data may conceal possible discrimination against specific minority groups. For example, if 30 percent of a contractor's workforce is composed of minorities, and this percentage mirrors the average minority employment for all similar federal contractors in the area, then the contractor is not as likely to be targeted for review. However, assume that all 30 percent of the contractor's minority workforce are Hispanic when the workforces of similar federal contractors in the area are 15 percent Hispanic and 15 percent African American. While this imbalance in the racial composition of the contractor's workforce indicates that the contractor may be discriminating against African Americans, under OFCCP's current practice of aggregating the data, the contractor may not be identified for a compliance review.<sup>6</sup> OFCCP officials acknowledge that this type of discrimination could occur and that some areas have large enough minority populations for statistically valid analyses. In commenting on a draft of this report, a DOL official stated that OFCCP will test the feasibility of using disaggregated data in identifying contractors for compliance reviews.

---

## Conclusions

Compliance reviews—the cornerstone of OFCCP's enforcement strategy—have been successful in identifying violations in nearly three-quarters of the cases. However, the number of such reviews has decreased, as have the agency's resources. At the same time, OFCCP has continued its practice of aggregating data when initially selecting contractors for compliance reviews, which may be inappropriate. Although firms report data by individual racial groups, OFCCP aggregates the data before making its selections, thereby losing an opportunity to target firms that may discriminate against particular racial groups.

---

<sup>5</sup>For more detail on the data and procedures OFCCP uses to select contractors for review, see appendix III.

<sup>6</sup>This is a hypothetical example and is not based on an analysis of the actual data.

---

## Recommendation

In order to reduce the likelihood of overlooking contractors that may discriminate against particular racial groups, we recommend that, in targeting contractors for review, OFCCP use existing data on individual minority groups in geographic areas where the minority populations are large enough so that statistically valid analyses can be completed.

---

## Agency Comments

In reviewing a draft of this report, DOL and OFCCP officials concurred with our recommendation and said they planned to test its feasibility as part of OFCCP's fiscal year 1996 efforts to revise its selection procedures. A copy of DOL's written comments on this report is in appendix IV. OFCCP also provided oral suggestions to clarify certain technical issues, which we incorporated as appropriate.

---

We are sending copies of this report to the Secretary of Labor and the Director of OFCCP, and will make copies available to others on request.

Please contact Wayne B. Upshaw, Assistant Director, or me on (202) 512-7014 if you or your staff have any questions about this report. Major contributors to this report are listed in appendix V.

*Cornelia M. Blanchette*

Cornelia M. Blanchette  
Associate Director  
Education and Employment Issues

---

# Contents

---

Letter		1
Appendix I Legal Authorities for Office of Federal Contract Compliance Programs		16
Appendix II Data Points for Figures in Letter		17
Appendix III Details on Selecting Contractors for Compliance Reviews	OFCCP Reviews Two Types of Contractors Compliance Review Data and Selection Procedures Vary by Type of Contractor	18 18 18
Appendix IV Comments From the Department of Labor		21
Appendix V GAO Contacts and Staff Acknowledgments		22
Tables	Table 1: Resolution of Compliance Review Violations in Fiscal Year 1994 Table 2: OFCCP's Budget Decreased in Inflation-Adjusted Dollars Table II.1: Data Points for Figure 1—Compliance Reviews Composed Majority of OFCCP's Activities in Fiscal Year 1994 Table II.2: Data for Figure 3—OFCCP's Staff Levels Dropped Between Fiscal Years 1989 and 1994	8 9 17 17



---

Table II.3: Data for Figure 4—OFCCP’s Enforcement Activities Declined Between Fiscal Years 1989 and 1994	17
Table III.1: Average Resources Used and Number of Employees Reviewed During Each Type of Compliance Review, Fiscal Year 1994	18

---

**Figures**

Figure 1: Compliance Reviews Composed Majority of OFCCP’s Activities in Fiscal Year 1994	4
Figure 2: General Steps of a Compliance Review	6
Figure 3: OFCCP’s Staff Level Dropped Between Fiscal Years 1989 and 1994	10
Figure 4: OFCCP’s Enforcement Activities Declined Between Fiscal Years 1989 and 1994	11

---

**Abbreviations**

CMR	corporate management review
DOL	Department of Labor
EEDS	Equal Employment Data System
EEOC	Equal Employment Opportunity Commission
FMLA	Family and Medical Leave Act of 1993
FTE	full-time equivalent
IRCA	Immigration Reform and Control Act of 1986
MOU	memorandum of understanding
OFCCP	Office of Federal Contract Compliance Programs

---

# Legal Authorities for Office of Federal Contract Compliance Programs

---

Executive Order 11246: This order, issued in 1965, prohibits discrimination in hiring or employment opportunities on the basis of race, color, religion, sex, and national origin. It applies to all contractors and subcontractors holding any federal contracts, or federally assisted contracts exceeding \$10,000 annually. In addition, the rules implementing the executive order require contractors and subcontractors with federal contracts of \$50,000 or more and 50 or more employees to develop a written affirmative action program that identifies any problem areas in minority employment and provides in detail for specific steps to guarantee equal employment opportunity keyed to the problems.

Section 503 of the Rehabilitation Act of 1973: This statute requires government contractors to take affirmative action to employ and advance in employment qualified persons with disabilities. It applies to firms with federal contracts of \$10,000 or more annually.

Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212): The affirmative action provision of this statute requires federal contractors and subcontractors to undertake affirmative action for qualified special disabled veterans and Vietnam era veterans. It applies to all federal contracts of \$10,000 or more annually.

Equal Employment Opportunity in Apprenticeship and Training (29 C.F.R. Part 30): This federal regulation requires equal employment opportunity and affirmative action in apprenticeship programs. It applies to all apprenticeship programs registered with the Department of Labor or with recognized state apprenticeship organizations.

In addition, during the course of compliance reviews and complaint investigations, OFCCP checks for compliance with certain aspects of the Immigration Reform and Control Act of 1986 (IRCA) and the Family and Medical Leave Act of 1993 (FMLA). IRCA requires all employers to maintain a verification form pertaining to the citizenship and/or immigration status of new employees. OFCCP examines these records and reports its findings to the Immigration and Naturalization Service. FMLA requires employers to permit employees to take unpaid leave for certain family and medical reasons. Generally, any employee who takes this leave is entitled, upon return, to be restored to the same or an equivalent position without loss of benefits. OFCCP checks for compliance with this act and reports any apparent violations to the Wage and Hour Division of the Department of Labor.

# Data Points for Figures in Letter

**Table II.1: Data Points for Figure 1—Compliance Reviews Composed Majority of OFCCP’s Activities in Fiscal Year 1994**

Enforcement activity	Number of enforcement hours
Compliance reviews	482,731
Complaint investigations	66,841
Enforcement support	63,265

**Table II.2: Data for Figure 3—OFCCP’s Staff Levels Dropped Between Fiscal Years 1989 and 1994**

Fiscal year	Authorized levels (FTEs)		Actual level	
	Total staff	Compliance officers	Total staff	Compliance officers
1989	970	585	1,031	587
1990	969	585	950	527
1991	918	585	874	481
1992	856	513	841	444
1993	842	505	816	425
1994	829	498	778	394

**Table II.3: Data for Figure 4—OFCCP’s Enforcement Activities Declined Between Fiscal Years 1989 and 1994**

Fiscal year	Number of compliance reviews	Number of complaint investigations
1989	6,232	1,321
1990	6,033	1,295
1991	5,379	1,278
1992	4,953	1,157
1993	4,455	979
1994	4,179	802

# Details on Selecting Contractors for Compliance Reviews

## OFCCP Reviews Two Types of Contractors

OFCCP divides federal contractors into two types: supply and service contractors, and contractors working on federally funded or federally assisted construction projects. Because of the differing nature of the businesses and the amount of time people are employed, OFCCP uses different data and selection criteria when selecting contractors for reviews. Once the contractor is selected, the compliance review procedures are similar, although, on average, supply and service contractor reviews require almost 3 times as many hours to complete as construction contractor reviews and cover almost 10 times as many workers (see table III.1).

**Table III.1: Average Resources Used and Number of Employees Reviewed During Each Type of Compliance Review, Fiscal Year 1994**

	Supply and service contractor	Construction contractor
<b>Compliance review</b>		
Average number of hours to complete	146	53
Average number of employees reviewed	602	65

## Compliance Review Data and Selection Procedures Vary by Type of Contractor

### Data Used in Selecting Supply and Service Contractors for Review

OFCCP's Equal Employment Data System (EEDS) serves as the basis for selecting supply and service contractors for review. EEDS is developed from the information submitted to a joint reporting committee, which is composed of OFCCP and Equal Employment Opportunity Commission representatives, via the Employer Information Report (EEO-1). This report includes information on the race, ethnicity, and sex of employees in each of nine job categories and is to be filed annually by September 30. Federal regulations require most contractors and subcontractors with 50 or more employees and a federal contract worth more than \$50,000 to file the EEO-1 form. Any establishment that serves as a depository of government funds or is a financial institution that is an issuing and paying agent for U.S. savings bonds is required to file. Also, all private sector employers with 100 or more employees are required to file regardless of whether they hold federal contracts.

---

## Most Reviews Are to Be of “Flagged” Supply and Service Contractors

OFCCP policy directs that approximately 84 percent of the establishments selected for review be from a rank listing of “flagged” contractors. Using the information in EEDS, OFCCP ranks contractor establishments on the basis of each contractor’s “average utilization value” of minorities and women, with separate values calculated for each. The average utilization rate is derived by first comparing the contractor’s percentage of minorities (or women) employed in each of the nine occupational categories to the average employment of minorities (or women) for all federal contractors in the specified industry and geographic area. These nine values are then averaged to arrive at one number that is used as the average utilization value. Contractors are then ranked on the basis of their minority or female utilization value, whichever is lower. In addition, the EEDS produces a “concentration index” that is used to examine how minorities and women are distributed throughout a contractor’s workforce. In developing this index, more weight is given to those occupational categories that receive higher wages.

Using these two calculations, establishments are then flagged by EEDS as appropriate candidates for further OFCCP review. A contractor is flagged when the establishment’s utilization rate is less than 80 percent of the industry average of either minorities or women, and there is a relatively high concentration of either minorities or women in lower wage occupations. Each district office then receives a listing of flagged establishments in its jurisdiction, which are then examined to determine if they are eligible to be reviewed. Contractors are eligible for review if they have not been reviewed in the past 2 years, are not under a court order resulting from equal employment opportunity legislation, and hold a current federal contract.

---

## Selection Procedures Include District Directors’ Discretion and Random Sample

OFCCP policy also directs that about 15 percent of the contractors reviewed are to be chosen at the discretion of OFCCP district directors. In making these discretionary selections, directors are to consider complaints and community concerns about employers, awards of large federal contracts that may increase employment opportunities, establishments that do not file required reports, expansion of employment in an industry or at specific locations, and significant reductions in employment that impact minorities or women. OFCCP does not compile statistics on the specific reasons for selecting contractors for review under the district directors’ discretion.

---

The remaining 1 percent of compliance reviews target a randomly selected sample from EEDS. District offices are required to review the randomly selected contractor establishments with more than 100 employees unless the establishment is under a court order resulting from equal employment opportunity litigation; has been reviewed in the last 2 years; or cannot be reviewed for some reason, such as it is no longer in business.

---

**Different Data and**  
**Selection Procedures for**  
**Construction Contractors**

Because of the fluctuating and temporary nature of the construction industry, the Department of Labor has historically treated construction contractors separately from supply and service contractors. While those construction contractors that meet the EEO-1 filing requirements should file reports that would be contained in EEDS, the EEDS information is not used in selecting construction contractors for compliance reviews. Instead, OFCCP relies on other sources for information.

OFCCP's national office purchases listings of active construction projects in each district and area office's jurisdiction. These listings summarize information on publicly funded construction projects compiled by F.W. Dodge, a private company that publishes construction industry information. They include the contract value and the type of construction project but not the name of the contractor or any information concerning the contractor's employees.

The district directors select "likely candidates" from this list. A district director then orders a profile sheet for each project, and this sheet includes owner and general contractor information. OFCCP staff then contact the prime contractor to obtain the names, addresses, and size of the major subcontractors, including the number of personnel and the value of the subcontracts. In selecting construction contractors for review, a district director gives first priority to contractors that have not been reviewed for the longest time, have received substantial federal or federally assisted contracts resulting in large workforces, and employ fewer minorities or women than would reasonably be expected.

# Comments From the Department of Labor

**U.S. Department of Labor**

Assistant Secretary for  
Employment Standards  
Washington, D.C. 20210



AUG 17 1995

Ms. Cornelia M. Blanchette  
Associate Director  
Education and Employment Issues  
U.S. General Accounting Office  
Washington, D.C. 20548

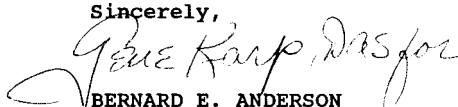
Dear Ms. Blanchette:

We have reviewed the recommendation made by General Accounting Office (GAO) in its report, Equal Employment Opportunity: OFCCP could enhance its Targeting of Federal Contractors for Review and concur that the analysis of employment patterns by individual minority groups may identify additional contractors with potential problems in carrying out the requirements of Executive Order 11246, as amended.

The Office of Federal Contract Compliance Programs (OFCCP) is planning to revise its selection procedures during FY 1996. The type of data collected and its ultimate utilization will be closely scrutinized. During this process OFCCP will test the feasibility of the GAO recommendation. Should OFCCP determine that additional contractors can be identified for review, using disaggregated minority employment patterns, the approach recommended by GAO will be incorporated into the revised selection system.

We appreciate the opportunity to respond to your report.

Sincerely,

  
BERNARD E. ANDERSON

*Working for America's Workforce*

# GAO Contacts and Staff Acknowledgments

---

## GAO Contacts

Wayne B. Upshaw, Assistant Director, (202) 512-7006  
Jill W. Schamberger, Evaluator-in-Charge, (202) 512-7045

---

## Acknowledgments

In addition to those named, the following individuals contributed to this report: Larry Horinko and Robert Sampson did the initial audit work; Nancy Kintner-Meyer assisted with augmenting the audit work and analysis; and Timothy Silva and James Spaulding reviewed and commented on early drafts of the report.



---

### Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

#### Orders by mail:

U.S. General Accounting Office  
P.O. Box 6015  
Gaithersburg, MD 20884-6015

#### or visit:

Room 1100  
700 4th St. NW (corner of 4th and G Sts. NW)  
U.S. General Accounting Office  
Washington, DC

Orders may also be placed by calling (202) 512-6000 or by using fax number (301) 258-4066, or TDD (301) 413-0006.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (301) 258-4097 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

[info@www.gao.gov](mailto:info@www.gao.gov)

---

**United States  
General Accounting Office  
Washington, D.C. 20548-0001**

**Bulk Rate  
Postage & Fees Paid  
GAO  
Permit No. G100**

**Official Business  
Penalty for Private Use \$300**

**Address Correction Requested**

---





