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BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

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Federal Efforts To Increase Minority Opportunities In Skilled Construction Craft Unions Have Had Little Success

Major Federal equal employment opportunity programs have had little success in increasing job opportunities for minorities in skilled construction craft unions, such as electricians, plumbers, and iron workers. Although the number of minorities participating in these craft apprenticeship programs has increased, the number of minority journeymen in these unions has increased only slightly. The Federal programs were neither effectively monitored and enforced nor adequately coordinated.



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

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To the President of the Senate and the
Speaker of the House of Representatives

This report describes the results achieved by Federal programs that affect minority opportunities in skilled construction craft unions. Although the programs have provided increased employment opportunities for minorities in the construction trades, they have had little success in enabling minorities to achieve journeyman status in skilled construction craft unions. Accordingly, the historically low representation of minority journeymen in these unions continues, and minority opportunities in the unions are still limited.

We are sending copies of this report to the Secretary of Labor; the Chair of the Equal Employment Opportunity Commission; and the Director, Office of Management and Budget.

A handwritten signature in black ink, reading "James A. Stacks".

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

FEDERAL EFFORTS TO INCREASE
MINORITY OPPORTUNITIES IN SKILLED
CONSTRUCTION CRAFT UNIONS
HAVE HAD LITTLE SUCCESS

D I G E S T

Ineffective enforcement and inadequate monitoring by Federal agencies resulted in minorities making little progress from 1972 through 1976 in increasing their representation among journeymen in skilled construction craft unions. Minority journeyman membership data obtained from unions in seven cities showed that their representation increased from 7.2 to 8.4 percent during this period. (See p. 5.)

Minority opportunities in these unions appeared limited because their access to the unions and the better paying crafts was through apprenticeship programs; whites attained journeyman status more easily without going through such programs. (See p. 7.)

Also, a comparison of white and minority earnings in one city for 1975 and 1976 showed that white apprentices and journeymen earned an average of \$1,565 to \$2,751 more than their minority counterparts. (See p. 9.)

The economic conditions of the mid-1970s clearly had some effect on minorities' limited progress in increasing their employment opportunities in the skilled construction crafts. However, this lack of progress occurred primarily because the Equal Employment Opportunity Commission and the Department of Labor ^{DOL} ~~the two Federal agencies~~ having major responsibilities in the area-- have neither actively monitored and enforced their programs nor adequately coordinated their activities. (See p. 9.)

The Equal Employment Opportunity Commission enforces title VII of the Civil Rights Act

of 1964, which prohibits discrimination by unions. The Commission is the Federal agency with the broadest and most direct authority over unions, yet it has done little to enforce that law for skilled construction craft unions. Although the Commission recognizes that broad-based self-initiated investigations are the most effective enforcement approach, it has made only one such investigation of a national construction craft union. Instead, its enforcement actions have been directed at complaints, even though it receives few of them against construction unions.] (See p. 11.)

Also, the Commission requires unions that refer members to contractors to file annual reports regarding the racial and ethnic makeup of their membership. However, [member-ship data that unions sent the Commission were inaccurate, incomplete, and not verified, thereby presenting a misleading picture of minorities' progress and status.] (See p. 14.)

To improve its enforcement program, the Commission should make self-initiated investigations of skilled construction craft unions, revise its instructions for collecting union membership data, and obtain apprenticeship data from Labor's Bureau of Apprenticeship and Training.] (See p. 19.)

The Department of Labor's enforcement of Executive Order 11246, which prohibits employment discrimination by Government contractors and requires them to take affirmative action to employ minorities, has been unsuccessful with unionized construction contractors. Construction unions basically control contractor employment; however, the Executive order does not give Labor authority over the unions since they are not a party to the Government contract.] (See p. 21.)

Consequently, various enforcement initiatives Labor attempted under the Executive order program have been unsuccessful. (See p. 22.)

Changes Labor made to the program in April 1978, and its recent implementation of Reorganization Plan No. 1, probably will not significantly add to the program's success--the authority limitations in the Executive order will not be overcome. (See p. 26.)

Since the Commission has authority over unions, the Office of Management and Budget should (1) direct Labor to discontinue enforcement of ~~the~~ Executive order for union construction contractors and (2) transfer the resources to the Commission for use in self-initiated investigations of construction craft unions ~~under title VII~~. (See p. 27.)

Labor's Bureau of Apprenticeship and Training is responsible for promoting and maintaining apprenticeship programs. Although minorities drop out of construction trades' apprenticeship programs at higher rates than whites, the Bureau has made no broad-based studies to determine why this occurs. (See p. 34.)

Also, the Bureau has focused its equal employment opportunity goals for construction craft union apprenticeship programs on achieving minority participation in the programs in proportion to their representation in the population or work force, rather than on increasing the number of minority journeymen in unions. The Bureau's approach has not been effective. (See p. 39.)

The Bureau should relate its equal employment opportunity goals to minorities' journeyman representation in unions. Also, the Bureau should study the reasons for the high apprenticeship dropout rate for minority apprentices. (See p. 41.)

Labor's Apprenticeship Outreach Program contractors and the Job Corps centers ~~included~~ in GAO's review had little success in placing minorities in construction apprenticeship programs. Outreach contractors did not meet their minority apprenticeship placement goals for the construction trades, and those who were placed may not have remained in the programs. (See p. 43.)

The four Job Corps centers GAO visited had not coordinated their construction craft training programs with either the Bureau of Apprenticeship and Training or the unions. Therefore, it was questionable whether the training given met apprenticeship standards or whether center graduates who received training in construction trades were placed in construction union apprenticeship programs. (See p. 47.)

Labor should direct:

--Apprenticeship outreach contractors to monitor the progress of minorities placed in apprenticeship programs.

--Job Corps officials to coordinate their construction craft training programs with the Bureau of Apprenticeship and Training and construction craft unions. (See p. 49.)

AGENCY COMMENTS AND
GAO'S EVALUATION

The Office of Management and Budget, the Equal Employment Opportunity Commission, and the Department of Labor disagreed for the most part with GAO's recommendations. (See pp. 19, 29, 42, and 49.)

Labor stated that it was concerned about the information in the report which indicated that minority apprentices seem to fare worse than whites. It agreed to study the apprenticeship program (see p. 42) and stated it was issuing guidelines to require apprenticeship outreach contractors to follow up on placements. (See p. 49.)

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ABBREVIATIONS

AOP	Apprenticeship Outreach Program
BAT	Bureau of Apprenticeship and Training
EEOC	Equal Employment Opportunity Commission
GAO	General Accounting Office
HRDI	Human Resources Development Institute
LEAP	Labor Education and Advancement Program
OFCCP	Office of Federal Contract Compliance Programs
OMB	Office of Management and Budget

CHAPTER 1

INTRODUCTION

Jobs in the unionized skilled construction crafts are among the highest paying in the country--wages in several crafts in July 1977 averaged over \$10 an hour. Historically and traditionally, however, few minorities have worked in these crafts for various reasons, including such discriminatory practices as nepotism and racial exclusion.

Since the passage of the Civil Rights Act of 1964, a number of Federal programs have been established to improve the representation of minorities in the unionized skilled construction crafts and to reduce employment discrimination. These programs involve (1) enforcing nondiscrimination laws and affirmative action regulations and (2) providing outreach to locate, train, and place minorities in construction apprenticeship programs. Some programs attempt to do this by helping minorities attain union journeyman membership, which provides such benefits as high pay and a degree of job security through union referrals to jobs with union contractors. Although they have some common purposes, Federal programs to improve minority representation in construction trades are generally administered separately without cohesive or comprehensive coordination.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The Equal Employment Opportunity Commission (EEOC) was established by title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) to enforce the act's prohibition against employment discrimination based on race, color, sex, religion, or national origin. The act covers all private employers with 15 or more employees and labor organizations with 15 or more members. EEOC enforces title VII mainly by investigating and resolving individual charges alleging employment discrimination. EEOC is also empowered to seek out and eliminate patterns and practices of discrimination in employment systems through self-initiated investigations. EEOC, headquartered in Washington, D.C., had 7 regional and 32 district offices throughout the country in fiscal year 1978. EEOC planned to revise substantially its field structure in fiscal year 1979. For fiscal year 1978 EEOC was appropriated about \$77 million and had a staff of about 2,300.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Executive Order 11246, as amended, issued September 24, 1965, prohibits employment discrimination by Federal

contractors and subcontractors on the basis of race, color, religion, sex, or national origin. The order also requires that Federal contractors and subcontractors, as a condition of their contracts, take affirmative action to ensure that minorities receive a share of federally financed employment. Contractors failing to comply with the Executive order are subject to contract cancellation, termination, or suspension and may be declared ineligible for future Government contracts.

The Secretary of Labor, who is responsible for administering the Executive order, has delegated this authority to Labor's Office of Federal Contract Compliance Programs (OFCCP). Through fiscal year 1978 primary responsibility for ensuring compliance with the Executive order for all Federal construction contracts was with eight other Federal agencies, referred to as compliance agencies. Enforcement activities included compliance reviews and monitoring functions, which were done mostly in the field by the compliance agencies. Responsibility for coordinating and reviewing these agencies' activities was in 13 OFCCP regional and area offices located in major U.S. cities. Beginning with fiscal year 1979, all compliance responsibilities were consolidated in OFCCP in accordance with the President's Reorganization Plan No. 1 of 1978.

In fiscal year 1978, OFCCP carried out its Executive order program of monitoring and coordinating activities nationwide with a staff of 113, and the compliance agencies had 1,571 staff positions with which to carry out their enforcement responsibilities.

RELATED PROGRAMS

The Department of Labor sponsors and funds various education and training programs designed to improve employment opportunities for economically disadvantaged persons, including training in the skilled construction crafts. These programs are designed to locate, recruit, tutor, and generally prepare persons for entry into industry-operated apprenticeship programs.

--The Bureau of Apprenticeship and Training (BAT) is responsible for (1) promoting and maintaining apprenticeship programs, including those in construction trades, to meet present and future community needs for skilled journeymen and (2) ensuring that minorities and women have equal opportunities in the programs. These programs are carried out in cooperation with local employers, unions, and State apprenticeship agencies.

--Apprenticeship outreach programs, operated in over 100 cities nationwide, assist young persons, usually minorities, to qualify for and gain entry into industry-sponsored apprenticeship programs. Although the programs concentrate on construction trades, they place minorities and women in other industries as well. The programs are carried out mainly through contracts with national organizations, such as the Urban League and the AFL-CIO Human Resources Development Institute.

--The Job Corps, authorized by title VI of the Comprehensive Employment and Training Act of 1973, provides a program of education, vocational training, and work experience, including training in the skilled construction crafts. The training is mainly done at residential Job Corps centers for unemployed youths and adults. Job Corps centers are either administered by an agency of the Federal Government or operated under contract with business firms, nonprofit organizations, and State and local governmental agencies. Since the 1960s Labor has contracted with unions to provide training in several Job Corps centers.

SCOPE OF REVIEW

Our fieldwork, which was completed in July 1978, concentrated on evaluating the impact of the major Federal programs on the representation of minorities in the unionized skilled construction crafts. We interviewed Federal program officials and reviewed agency policies, regulations, practices, and procedures at EEOC and Labor headquarters and field locations.

We also spoke with officials of State fair employment practices agencies, apprenticeship outreach program contractors, four Job Corps centers, unions in 14 skilled construction crafts, and Federal construction contractors.

For our review we defined the "skilled construction crafts" as including asbestos workers, brick masons, carpenters, cement masons, electricians, glaziers, iron workers, lathers, operating engineers, painters, plasterers, plumbers, roofers, and sheetmetal workers. We excluded the laborers' trade because it has a predominantly minority membership. We also analyzed union apprentice and journeyman membership data, which we obtained from union officials, and union members' earnings data, which we obtained from the Social Security Administration and the Bureau of Labor Statistics.

We did not analyze the participation of women in programs and construction unions because few women were in either the programs or the unions.

Our work was done in Atlanta, Georgia; Baltimore, Maryland; Cincinnati, Cleveland, and Columbus, Ohio; Chicago, Illinois; Dallas and Fort Worth, Texas; Indianapolis, Indiana; Louisville, Kentucky; Memphis, Tennessee; Philadelphia, Pennsylvania; and Washington, D.C. The Job Corps centers we visited were Atterbury in Indiana, Whitney Young in Kentucky, Woodstock in Maryland, and Gary in Texas.

CHAPTER 2

MINORITY STATUS IN SKILLED

CONSTRUCTION CRAFT UNIONS HAS CHANGED LITTLE

Minorities made little progress in increasing their representation in skilled craft construction unions between 1972 and 1976. According to data on minority journeymen obtained from unions in several cities, minority representation was 7.2 percent in 1972 and increased to 8.4 percent by December 31, 1976. The concentration of minorities in the lower paying crafts also continued, and white union members earned more than minority members. Moreover, minority employment opportunities in skilled construction craft unions continued to be limited: minorities usually achieved journeyman status only by completing apprenticeship programs, whereas white workers became journeymen more easily without apprenticeship training.

MINORITIES ARE STILL UNDERREPRESENTED IN SKILLED CONSTRUCTION CRAFT UNIONS

The following presumption is embodied in employment discrimination law and frequently cited by the courts in fair employment practices cases. In the absence of all discrimination, an employer's work force or a construction craft union's membership should reasonably represent the total labor market area work force or the community population. The extent to which the proportion of minorities in an employer's work force or a union's membership is less than the proportion of minorities in the population or work force is commonly called the "underrepresentation gap"--an underrepresentation of minorities. According to data obtained from construction craft unions we visited and nationwide data gathered by EEOC from such unions, minorities were underrepresented in most skilled construction craft unions in 1972, and there was little improvement through 1976.

Since 1967, EEOC has required referral unions to annually report their membership statistics by race, ethnicity, and sex. In 1972, minorities represented 9.3 percent of skilled craft union membership, ranging from a low of 3.7 percent for asbestos workers to highs of 23.4 percent for roofers and plasterers and 32.5 percent for cement masons. (See app. I.) In all but the latter two trades, minority representation was at least 2.0 percent less than in the national population,

which was about 17.2 percent. ^{1/} Based on these data, the overall minority underrepresentation gap was about 7.9 percent in 1972. In addition, the higher paying crafts (such as electricians, asbestos workers, and plumbers) tended to have the lowest minority representations, while the lower paying crafts (such as cement masons and roofers) tended to have the highest.

Although EEOC had not, as of September 1978, summarized construction craft union membership data reported by unions for 1976, it gave us preliminary data. A comparison of these data with EEOC's 1972 data yielded mixed results. Overall minority representation increased 3.5 percentage points, and the minority underrepresentation gap was reduced by 2.3 percentage points to 5.6 percent. (See app. I.) Some crafts (such as the lathers, iron workers, and operating engineers) showed significant gains in minority membership, while others (such as the painters, electrical workers, and sheetmetal workers) showed either small gains or losses. The extent of these gains, however, is uncertain because:

- The data are preliminary and may contain errors.
- The data may not be completely comparable because the same number of local unions did not report in both years (2,137 unions reported in 1972 and 1,879 in 1976) and unions that filed in both years could not be readily identified.
- The data include temporary union members (such as apprentices), among whom minorities are well represented, but who, as temporary members, generally do not achieve union journeyman status, which provides the greatest benefits of union affiliation. (This is discussed below and in chs. 3 and 5.)

We believe, therefore, that EEOC's preliminary 1976 minority membership data for construction craft unions may overstate the progress minorities have made in gaining access to construction unions.

^{1/}We based our computations on population data because reliable work force data by race, ethnicity, and sex was not available for 1976. In addition, we selected the 4-year period 1972-76 for review because the agencies did not have consistently reliable data for earlier years, and 1976 was the latest year for which complete data was available.

Because union membership data reported to EEOC generally included all members, not just journeyman members (see ch. 3), we obtained journeyman membership data from union officials in seven cities. The data were significantly different from EEOC's data. (See app. II.) For example, overall minority representation among union journeymen in the seven cities in 1972 was only 7.2 percent, ^{1/} compared to a 9.3-percent minority membership shown by EEOC's data; in 1976 minority journeymen represented 8.4 percent of union members, whereas data reported to EEOC showed a 12.8-percent minority membership. The difference between the figures EEOC reported and those we obtained was partly attributed to unions including nonjourneymen, such as apprentices, as members in the data reported to EEOC.

Regardless of which data we used, however, the results showed that minorities' representation in the skilled construction crafts (1) was less than their representation in the population and (2) increased slightly from 1972 to 1976. In the seven cities we visited, minority journeyman representation in skilled craft unions was less than half the minorities' representation in the population. This lack of substantial progress can be partly attributed to the economic downturn of the mid-1970s.

Opportunity for greater minority increase existed

Union data we obtained showed that the total increase in minority journeymen was much less than the available opportunities. In the seven cities visited, union officials estimated that 14,320 journeyman positions turned over--became available--during the 4-year period; however, only about 1,131 minority journeymen were added to union rolls, for a net increase of 766 minorities. (See app. III.)

APPRENTICESHIP IS MAIN MEANS OF MINORITY ACCESS TO JOURNEYMAN STATUS

As evidence of the lack of equal opportunities in skilled construction craft unions, minorities point to the fact that whites usually obtain union journeyman status directly (for

^{1/}Although total minority representation in 1972 was 6.7 percent, this included one local that had an abnormal increase in minorities by 1976. (See notes on p. 8 and in app. II.) If this local is not included, the minority representation in 1972 is 7.2 percent.

example, through member referrals or entrance tests), whereas minorities usually complete apprenticeship programs before they become union journeymen.

BAT, union, and outreach contractor officials agree that apprenticeship is the main route available to minorities for becoming journeymen in the construction trades. Moreover, in June 1978 an OFCCP official reportedly stated that most union members in the construction crafts attained journeyman status directly, having learned the trade through other on-the-job experience, not through formal apprenticeship programs.

As stated previously, total journeyman turnover between 1972 and 1976 was about 14,320 members in the selected union in the seven cities visited. Because our access to union records was limited, we could not analyze journeyman accessions to determine their sources. However, a comparison of data on apprenticeship completers and journeyman turnover in the seven cities suggested that apprenticeship programs are the major means for minorities to become journeyman members in some crafts, whereas whites attained journeyman status without going through an apprenticeship program.

In the seven cities the number of whites who completed apprenticeship programs was substantially lower than the amount of white turnover--about 4,900 completed apprenticeship, while about 13,000 jobs turned over--whereas the number of minorities who completed apprenticeship programs was close to the number of minorities becoming union journeyman members--592 apprentices completed, while 676 minority journeymen were added to unions. 1/

In the lower paying crafts (such as cement masons, roofers, and painters), however, most minority members entered these unions directly and less than 40 percent entered through apprenticeship. In higher paying crafts (such as plumbers, electricians, asbestos workers, and sheetmetal workers), the number of minorities who completed apprenticeship programs approximated the number of minority journeymen added to union rolls. This suggests that apprenticeship is perhaps the only means minorities have to become journeymen in the higher paying construction craft unions.

1/Although 1,131 minority journeymen were added to union membership (see app. III), 455 were added in one electricians' local that was the subject of a discrimination suit. Another electricians' local in the same city that was not involved in such a suit added only eight minority journeymen. Accordingly, we considered the increase of 455 to be an anomaly and excluded it from this analysis.

It also suggests that minorities are better able to become journeymen directly in the lower paying construction craft unions where minorities tend to be concentrated--a situation similar to whites in the higher paying trades.

MINORITIES EARN LESS THAN WHITES

Attaining union journeyman status is a significant accomplishment, but it is not necessarily a guarantee of equal employment opportunities. Minorities have alleged that unions discriminated in their membership practices in such ways as assigning minorities to short-term jobs or jobs further from their homes, while assigning whites to long-term jobs closer to their homes. Similar practices have been alleged for minority apprentices.

Although we did not review the unions' membership practices, we did sample the earning power of white and minority members for 11 unions in one city. We tested earnings data reported to the Social Security Administration for white and minority apprentices and journeymen in this city for 1975 and 1976. Our analysis showed that white journeymen earned an average of \$2,209 and \$2,751 more than minorities in 1975 and 1976, respectively. Similarly, white apprentices earned an average of \$1,565 and \$2,469 more than minority apprentices in 1975 and 1976, respectively.

Another analysis showed similar results. Each year the Bureau of Labor Statistics surveys a nationwide sample of 56,000 households to obtain earnings data. The May 1977 survey included 789 construction craft union journeymen: 729 whites and 60 minorities. A comparison of earnings showed that white journeymen earned an average of \$18 per week more than minority journeymen.

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We believe that minorities' lack of significant progress in increasing their membership and opportunities in the skilled construction craft unions is related to administrative weaknesses in Federal programs that could help them enter these unions. Federal activities to enforce title VII and to increase the number of minority journeymen have been characterized by ineffective enforcement approaches, inadequate monitoring of programs, misdirected goals, and inadequate coordination. For example:

--EEOC, the Federal agency having the broadest and most direct authority over unions, has not effectively used its authority. It has done one self-initiated pattern and practice investigation of a national construction craft union and has based its enforcement actions on complaints even though few complaints against construction unions have been received. (See ch. 3.)

--OFCCP's enforcement approach for Executive Order 11246 has not helped minorities gain union journeyman status because OFCCP lacks authority over construction craft unions. Consequently, its various initiatives for increasing minority opportunities in construction craft unions have been unsuccessful. (See ch. 4.)

--BAT has focused on obtaining minority participation in apprenticeship programs at rates approximating their representation in the population rather than on increasing the number of minority journeymen in construction craft unions. (See ch. 5.)

CONCLUSIONS

Minority representation in unionized skilled construction trades did not increase significantly between 1972 and 1976. The economic conditions of the mid-1970s had some effect, but the limited progress minorities made in this area can mainly be attributed to ineffective enforcement and inadequate monitoring by Federal agencies. Annual earnings disparities between minority and white journeymen and the small increase in the number of minority journeymen compared to journeyman turnover suggest that discriminatory practices also may have been a contributing factor.

CHAPTER 3

EEOC ENFORCEMENT ACTIVITY INVOLVING SKILLED CONSTRUCTION CRAFT UNIONS IS LIMITED

EEOC's enforcement activities in unionized construction crafts were generally directed at processing individual discrimination charges, with only one systemic case directed at a national construction union. Recently developed criteria for selecting systemic discrimination targets apparently would continue to exclude construction unions from EEOC enforcement practices. In addition, the data EEOC gathers from construction craft unions on their minority and female membership appear to be inaccurate and incomplete and overstate the progress made by minorities and women in trade membership. Similar problems exist for apprenticeship data EEOC gathers; however, the problems do not seem as severe, and EEOC could apparently obtain more complete and accurate apprenticeship data from BAT.

ENFORCEMENT ACTIVITY IS LIMITED TO CHARGE INVESTIGATIONS

Title VII of the Civil Rights Act of 1964, as amended, establishes two basic operating objectives for EEOC:

- To provide relief to victims of employment discrimination through the receipt, investigation, and resolution of individual charges alleging discrimination.
- To eliminate patterns and practices of discrimination in employment systems (usually referred to as systemic discrimination).

EEOC's enforcement activities have been directed primarily to the first objective--charge resolution. Past ineffective management led to a large backlog of charges and a decision to conduct all systemic investigations from headquarters. We discussed this large case backlog and other weaknesses in EEOC's management of its enforcement activities in an earlier report. ^{1/} With the appointment of the new Chair in May 1977, EEOC has reportedly reduced its case backlog and taken other measures to correct many of these weaknesses.

^{1/}"The Equal Employment Opportunity Commission Has Made Limited Progress in Eliminating Employment Discrimination" (HRD-76-147, Sept. 28, 1976).

Few discrimination charges filed
against construction unions

EEOC receives very few charges against unions, and most of these are against industrial unions. For example, in March 1977 EEOC's Indianapolis district office had a work inventory of about 3,000 charges, of which 13 were against skilled craft construction unions. Similarly, in February 1978 the Baltimore district office had an inventory of about 2,700 charges, of which 32 involved construction unions.

EEOC officials cited several reasons for the lack of discrimination charges against skilled construction craft unions:

- Members fear retaliation by union business agents in job referrals, length of time on a job, and type of job available.
- Most construction work is done by nonunion contractors.
- Minorities' response to opportunities in construction unions is poor: they are discouraged because they are convinced that the avenues of entry are not open.
- There is a lack of public awareness of EEOC in some cities, such as Louisville and Columbus, where EEOC does not have offices.

Another reason offered by a local government official was that minority union members do not view the union as a source of discrimination, since it is the contractor who hires, fires, and pays them.

EEOC plans to reorganize its field structure in fiscal year 1979 by adding 24 field offices throughout the country. This should help to reduce the problem of public awareness.

Little systemic investigation
of construction unions

EEOC's emphasis on resolving individual charges stems from its decision to withhold self-initiated systemic investigation authority from its field offices and to do all such investigations from its headquarters. EEOC devoted only about 1 percent of its resources to all types of systemic cases, and only one such case has involved a nationwide construction craft union. This case, in litigation since October 1973, involves separate actions in 40 cities.

Some of these actions have been settled; others are in process. Also, in some cities EEOC has deferred its action to private suits by minorities against unions.

In March 1978, EEOC's Chair announced new systemic target selection criteria. These criteria are to be used by EEOC's district offices in doing systemic investigations. According to the Chair, self-initiated systemic investigations are the enforcement approach that will have the greatest impact on improving equal opportunities for minorities and others. Although the criteria developed by EEOC apply to all those subject to title VII, they focus on employers. Systemic targets are to be selected on the following bases:

- Those who follow policies and practices that result in low use of available minorities and women despite the law's requirement that they fairly recruit, hire, and promote such persons.
- Those who employ minorities and women at a substantially lower rate than others who employ persons with the same general level of skills.
- Those who employ minorities and women, but at significantly lower rates in higher paid job categories.
- Those who follow employment policies that adversely affect groups protected by Federal antidiscrimination laws when such policies cannot be justified by business necessity.
- Those whose employment practices have restricted employment opportunities for minorities and women and who are likely to be emulated by other employers because of the company's size, influence in the community, or competitive position in the industry.
- Those who have an opportunity to hire and promote more minorities and women because of expansion or high turnover rates but whose practices may not provide them with fair access to such opportunities.

Because union construction contractor employment is controlled by construction unions--individuals have to be union members before they can work for a union contractor--and not employers, it appears that by using the new criteria EEOC would not select construction craft unions for systemic investigation. Based on the data discussed in chapter 2, particularly earnings disparities, we believe EEOC should

revise these criteria so construction craft unions are not excluded from possible selection. Consideration should be given to such factors as union journeyman membership data and the results of OFCCP and BAT compliance reviews.

MONITORING OF UNION AND APPRENTICESHIP
PROGRAM MEMBERSHIP IS INADEQUATE

EEOC requires referral unions and those administering apprenticeship programs to file annual reports on their membership by race, ethnicity, and sex. The information provided to EEOC by those reports appears to be incomplete and inaccurate and, therefore, does not accurately reflect the progress of minorities and women in the unionized skilled construction crafts.

Weaknesses in monitoring
union membership

To aid in enforcing title VII and assessing the progress of minorities and women in obtaining union membership, EEOC requires local referral unions to file an EEO-3 report yearly. The reported data include a breakdown of the union's membership by race, ethnicity, and sex.

According to EEO-3 filing instructions, a union is a referral union if it

- operates a hiring hall or hiring office either on its own behalf or through a joint council or other referral agent;
- has an arrangement under which one or more employers are required to consider or hire persons referred by the union or its agent; or
- has 10 percent or more of its members employed by employers which customarily and regularly look to the union, or any agent of the union, for employees to be hired on a casual or temporary basis, for a specified period of time, or for the duration of a specified job.

A union is not considered a referral union if it only occasionally refers members to an employer who relies on sources other than the union, or an agent of the union, for a substantial portion of its hires.

EEO-3 reports not filed
or contained inaccurate data

In 1974, the latest year for which complete data were available, EEOC sent over 20,000 EEO-3 forms to unions for filing. The unions returned about 50 percent of the forms without data, stating that they were not referral unions as defined on the form. Another 38 percent of the unions did not respond at all. Only about 2,280 building trades unions filed forms with the requested data, although the Bureau of Labor Statistics estimates that there were over 8,500 construction union locals in 1974. Because of insufficient resources EEOC neither followed up on nonreporting unions nor verified the information reported.

There are indications that some of the EEO-3 reports filed may have been inaccurate. For example, nationwide EEO-3 data for 1974 shows an unexpectedly large representation of women among construction electrical unions--2.8 percent, compared to 1.1 percent for other trades. One electricians' union we visited had filed an EEO-3 report showing 54 women members. However, an official of the union told us it had only one female member--an apprentice. He was not able to explain how 54 females were reported. Two EEOC district office officials questioned the accuracy of EEO-3 data filed with EEOC because the data were not verified.

About 42 percent of the unions we visited filed EEO-3 forms giving EEOC the data requested. Officials of unions which had not filed, or which had filed and claimed a nonreferral status, apparently interpreted the EEO-3 instructions to require the filing of the form only by unions that operated a hiring hall. Since these unions did not use a hiring hall in referring members to jobs, their officials believed that they either did not have to file the form at all or could file it without data. For example, a carpenters' union had a collective bargaining agreement which required the contractor to look to the union for workers and under which the union regularly referred members to contractors when requested. This union did not file an EEO-3 form because it did not operate a hiring hall. We believe that this union and others we visited that did not file an EEO-3 should have filed the form because their employment arrangements with contractors fell within EEOC's filing requirements. EEOC representatives agreed that these unions were interpreting the instructions too narrowly and that EEO-3 forms should have been filed.

There appears to be significant EEO-3 underreporting nationally by construction craft unions. As a consequence, EEOC has incomplete and inaccurate data about the progress made by minorities and women in the individual unions and nationwide in the construction crafts. We believe EEOC should verify EEO-3 data and revise the instructions for filing the EEO-3 form to require that all construction craft union locals having 100 or more members file the form. EEOC should also follow up with construction craft unions that fail to report or that claim a nonreferral status.

Need to revise union reporting requirements

The instructions for filing the EEO-3 form do not define the term "membership." Rather, each union can report all individuals whom it normally considers as union members. This practice inflates the membership figures reported to EEOC.

Construction craft unions were not consistent in whom they considered members. Thus, the membership data reported on an EEO-3 form for a union may include journeymen, apprentices, and trainees. Of the unions we visited, most considered apprentices as members and a few considered trainees as members. However, except for journeymen, the other membership categories represent union affiliation in which the individual does not enjoy the full benefits of union membership. In addition, including them in membership data on a union's EEO-3 form can overstate the progress of minorities and women in the union because (as discussed in ch. 5) they may never become journeymen and enjoy the full benefits of union affiliation. For example, 1974 EEO-3 data for an electricians' local claimed 48 minority members. Our discussion with a local official disclosed, however, that 38 of these minorities were apprentices. Reporting the 38 apprentices as members was misleading because (as discussed in ch. 5) the minority apprentice turnover rate is high and few become journeymen.

Therefore, we believe that data on journeyman members are a more effective and realistic measure of the progress of minorities and women in construction trade unions. EEOC should revise the instructions for the EEO-3 form to define membership as including only active dues-paying journeymen and require that only journeyman membership data be reported.

Weaknesses in monitoring
apprenticeship programs

EEOC requires joint labor-management apprenticeship committees and employers that conduct their own apprenticeship programs to file annual reports providing information about local area and industrywide apprenticeship programs and to help it enforce title VII. Each joint labor-management apprenticeship committee must file an Apprenticeship Information Report (EEO-2) if it has

- five or more apprentices in its program,
- at least one employer sponsoring the program that has 25 or more employees, and
- at least one union sponsoring the program that operates a hiring hall or has 25 or more members.

Employers must file an Apprenticeship Information Report (EEO-2E) for every establishment with 25 or more employees if it

- has a total companywide employment of 100 or more,
- conducts and controls an employer-operated apprenticeship program, and
- has five or more apprentices in the establishment.

Both the EEO-2 and EEO-2E forms require statistics to be reported by sex, race, and ethnicity on the number of apprentices, applicants, dropouts, and graduates. As with the EEO-3 reports, EEOC neither follows up on forms that are not filed nor verifies the accuracy of the data reported. For two cities we visited, 8 of 25 apprenticeship programs that were required to file EEO-2 forms had not done so. In seven programs that did file, apprenticeship data reported differed from data reported to BAT by more than 20 percent. Two EEOC district office officials believed that the EEO-2 and EEO-2E data are inaccurate; they lacked confidence in the information because EEOC does not verify it.

We believe that EEO-2 data are incomplete and inaccurate for some apprenticeship programs and, overall, may not be representative of the equal employment opportunity situation in apprenticeship for minorities and women. The process of collecting apprenticeship data is done by an EEOC contractor and costs about \$180,000 annually.

The apprenticeship data reported on the EEO-2 and EEO-2E forms are similar to information routinely accumulated and maintained by BAT. BAT field offices maintain records on apprentice program membership for each craft and program participant, and they verify these data during their regular onsite reviews of apprenticeship programs.

Apprenticeship programs are required to report to local BAT offices all changes in membership as they occur. BAT aggregates this information and reports it monthly to headquarters in its State-National Apprentice Reporting System. This report provides statistical information on all registered apprenticeship programs showing the number of participants by racial/ethnic characteristics. The information shows the number of participants at the beginning and end of the reporting period and the number added, completed, and dropped out. This is the same type of data that is reported to EEOC on the EEO-2 and EEO-2E forms. Although we found some inaccuracies in BAT's data, they appeared to be isolated errors rather than systemwide problems. The inaccuracies we identified were in BAT's summary reports; its files in the cities visited were generally accurate, providing a reliable source of data for other Federal agencies.

We believe, therefore, that EEOC should obtain apprenticeship data from BAT offices rather than from joint labor-management apprenticeship committees and employers. This should reduce the nonreporting and data accuracy problems and save EEOC the contract costs.

CONCLUSIONS

EEOC's enforcement approach for ensuring equal employment opportunities for minorities in skilled construction craft unions has been ineffective and has done little to improve minority representation in these unions. EEOC recognizes that its greatest payoff for enforcing title VII is obtained through self-initiated systemic investigations. However, it has only pursued one such case against a nationwide skilled construction craft union and has limited its enforcement activity to investigating isolated charges against union locals. Yet EEOC has received few charges against construction craft unions.

EEOC's enforcement capability is weakened by problems in how it monitors minorities' inroads into construction unions. EEOC neither verifies the accuracy of membership data reported by unions nor defines union membership. The data EEOC received from unions present an incomplete and inaccurate picture of minorities' status and progress in construction unions.

We believe the earnings disparities and the limitation on minority access to these unions through apprenticeship programs (discussed in ch. 2) demonstrate a need for EEOC to make self-initiated systemic investigations of skilled construction craft unions. Since its union monitoring activity is an adjunct to effective enforcement, EEOC also needs to (1) verify the data unions report, (2) revise the EEO-3 form instructions to require that journeyman data be reported and that all construction craft unions with 100 or more members file the form, and (3) arrange with BAT to obtain apprenticeship data.

RECOMMENDATIONS

We recommend that the Chair, EEOC:

- Revise the systemic target selection criteria to include consideration of skilled construction craft unions.
- Revise the instructions for the EEO-3 form to require that (1) all construction craft unions with 100 or more members file the form and (2) data on active journeymen be reported.
- Arrange with BAT to obtain apprenticeship data and discontinue use of the EEO-2 and EEO-2E forms.
- Verify EEO-3 data on a sample basis.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report (see app. IV), EEOC stated that, although its standards for selecting systemic targets do not specifically mention unions, unions are not excluded from coverage. EEOC added that, when it issues a systemic charge against an employer, the appropriate unions are included if EEOC believes the employer's relationship with the unions has contributed to the underutilization of minorities and women.

We believe that the standards should explicitly mention construction craft unions because their status is unlike that of unions in other industries. As pointed out in chapter 4, construction craft unions, unlike others, basically control contractor hiring since union construction contractors may hire only union members. Inasmuch as construction craft unions are autonomous from construction contractors and control their own membership, any underutilization of

minorities and women by union contractors is more likely to result from union membership practices than from contractor hiring practices. Therefore, we believe that EEOC should specifically emphasize construction craft unions in its systemic selection standards.

EEOC also took issue with what it said was our contention that it has not utilized its systemic enforcement authority against construction craft unions. It included a list of cases and other actions against construction craft unions in which it has been involved. We recognize that EEOC has been involved in a number of cases against local unions, but we concluded that EEOC has not adequately used its authority because it pursued only one systemic case against one national construction trade union. Our conclusion is also borne out by the list EEOC provided. Of the 48 listed cases, 29 (60 percent) were cases in which the Department of Justice originally filed suit and for which EEOC assumed monitoring responsibilities; while EEOC did bring suit on or initiate the remaining 19 cases and other actions, they represented isolated actions against union locals rather than systematic actions against the trades nationally. We believe that EEOC could more effectively carry out its enforcement responsibilities if it used its systemic authority against construction craft unions on a planned, systematic basis. One such method would be to target selected trades and take systemic actions against the individual locals in a number of cities throughout the country.

Regarding our recommendations about its data collection activities, EEOC acknowledged its problems in this area and said it would study these problems with the objective of developing a system that gathers reliable statistics and meets the needs of EEOC and other agencies. We believe that such a system should obtain journeyman membership data from construction craft unions and apprenticeship data from BAT.

CHAPTER 4

CONTRACT COMPLIANCE PROGRAM HAS HAD LIMITED

IMPACT ON MINORITY OPPORTUNITIES

IN CONSTRUCTION UNIONS

The Office of Federal Contract Compliance Programs' activities under Executive Order 11246, as amended, have not been effective in increasing the number of minority journeymen in the skilled craft construction unions. OFCCP lacks direct enforcement authority over unions, and its compliance strategies get minorities temporary employment rather than union journeyman membership.

Enforcement under the Executive order program focused on procedural requirements rather than substantive compliance with employment goals. Recent changes may improve the enforcement of the Executive order but will not affect OFCCP's lack of authority over unions. We believe that the Office of Management and Budget (OMB) needs to transfer the enforcement of that part of Executive Order 11246 affecting construction unions from Labor to EEOC.

OFCCP ENFORCEMENT AUTHORITY OVER CONSTRUCTION UNIONS IS INADEQUATE

Executive Order 11246 does not give OFCCP enforcement authority over construction craft unions. Consequently, OFCCP's activities did not significantly increase minority opportunities in construction unions. Enforcement efforts were directed to increasing minority employment by Federal contractors rather than helping minorities attain journeyman membership in construction unions.

Executive order requirements do not produce long-term benefits for minorities

OFCCP regulations require Federal construction contractors to employ minorities in accordance with goals established by OFCCP. The regulations require that the hours worked by minorities represent a certain proportion of all hours worked by the contractors' employees. Skilled construction unions generally do not have enough minority members to meet these goals.

Contractors told us that, if they find qualified non-union minority craftsmen and hire them to meet their employment goals, the unions may allow them to work on a permit basis for the duration of the project. However, permit holders--temporary workers--do not become union journeymen. Moreover, contractors said that they sometimes are able to meet their employment goals with nonjourneyman minority workers, such as apprentices and trainees, when they cannot locate and hire enough qualified minority craftsmen.

Enforcement strategies not successful
in meeting minority goals

To carry out the Executive order requirements for construction contracts, OFCCP devised three strategies--hometown plans, imposed plans, and special bid conditions. Only the hometown plan directly involves unions.

--The hometown plan is a voluntary agreement, subject to OFCCP approval, between contractors, construction unions, and community leaders in a city or geographic area. Under the plan the signatories agree to achieve goals in increasing minority employment in construction trades over a certain period. In April 1978, 33 plans were in effect. Where hometown plans could not be negotiated or negotiated goals were not met, OFCCP imposed employment goals for each craft on a contract-by-contract basis. These were called "Part II Bid Conditions."

--Imposed plans, which generally cover major metropolitan areas with substantial Federal or federally assisted construction, apply to projects in excess of \$500,000. Contractors subject to these plans agree to OFCCP-established minority employment goals for specified crafts. In April 1978, seven plans were in effect.

--Special bid conditions exist when contracting agencies establish goals for minority hiring on certain high-impact Federal construction projects outside hometown plan and imposed plan areas.

In the cities we visited, these strategies had questionable success in increasing the number of minority journeymen in the skilled craft construction unions.

Of the seven cities visited, one had a hometown plan, one had an imposed plan, and four were under special bid conditions. In the seventh city, a hometown plan was in

effect from 1972 to 1975 but became defunct because of union resistance. In three of the four cities with special bid conditions, OFCCP was unsuccessful in negotiating a hometown plan because of union resistance. Neither hometown nor imposed plan cities achieved their minority hiring goals or significantly increased minority journeyman membership.

--A hometown plan in one city had a hiring goal of 1,315 minorities for 1972 to 1976. During the 4 years, contractors placed 1,106 minorities under the plan, but most of the placements were in jobs of short duration, some as short as 8 hours. Minority journeyman membership in skilled construction unions increased by only 26--from 317 in 1972 to 343 in 1976.

--An imposed plan in another city, which had a minority population of about 23 percent, had hiring goals requiring contractors to hire one minority for every white worker hired through 1978. An OFCCP review in 1977, 4 years after the plan was imposed, showed that the goals were met for 147 of 603 contracts. Also, in 21 of the 209 skilled construction locals in the city, minority journeymen increased by 606 from 1972 to 1976 while whites decreased by 1,644; however, 455 minorities were admitted to one union only after a class action discrimination suit was filed against the union in Federal court. In April 1978 OFCCP revised its regulations for the construction compliance program and established new goals and timetables for this city.

We did not examine contractors' compliance with goals established under special bid conditions. Contractors that had been subject to these conditions, however, told us that they did not meet their goals. (See pp. 26 and 27.)

Union membership data we obtained in all cities visited (see ch. 2) showed little overall change in the number of minority journeymen regardless of the strategy OFCCP used during the 4-year period of our review. Studies by Labor and others of hometown and imposed plans in cities such as Miami, New York, and Boston have concluded that contractors operating under these plans did not meet their goals.

In April 1978, OFCCP revised the Executive order program. One revision involved discontinuing two of the three strategies--special bid conditions and imposed plans--and replacing them with predetermined minority employment goals for most of the country's major population centers. (See p. 25.)

Collective bargaining agreements:
an obstacle to contractor compliance

OFCCP regulations implementing the Executive order state that a contractor's failure to meet employment goals and other affirmative action obligations that are part of a construction contract will not be held against the contractor if it can demonstrate "good faith efforts" to achieve them. The regulations also stipulate that a contractor's reliance on a collective bargaining agreement cannot be used to justify its failure to meet such goals and obligations. A contractor is to attempt to meet such goals and obligations through sources outside the terms of any collective bargaining agreement, if necessary to comply with the contract provisions. Federal courts have agreed with this position, stating, in effect, that the existence of collective bargaining agreements does not relieve the contractor of affirmative action obligations agreed to when signing a Federal contract.

OFCCP's approach to providing increased opportunities for minorities in the unionized skilled construction trades fails to adequately recognize that a union construction contractor is largely at the mercy of the unions as to whom it can hire. According to Federal construction contractors we interviewed, the construction craft unions with which they have collective bargaining agreements essentially determine whom the contractor can hire and, therefore, whether contract hiring goals will be met. The contractors thought it impractical to go outside their collective bargaining agreements to hire workers since there are few qualified minority construction workers outside of the unions. If a union does not have minority members to refer to a Federal contractor, the contractors do not believe they have the freedom to seek nonunion workers to meet the affirmative action obligations while the union has idle members. Contractors fear they risk a strike and other retaliatory action by the union.

Should a contractor hire a nonunion worker, collective bargaining agreements typically stipulate that the worker must obtain a work permit from the union in 8 days to continue working. (A work permit is a temporary right to work granted by a union to a nonmember which permits him to work in the union's jurisdiction for the duration of a project. A permit holder receives a journeyman's wage and must pay dues, but receives no other benefits of membership.) If the union refuses to issue a permit--for example, because it has idle members--the collective bargaining agreement usually prohibits the contractor from employing the individual beyond 8 days.

An OFCCP regional official said that OFCCP has authority to force contractors into compliance by requiring them to go outside their collective bargaining agreements to hire minority craftsmen. He added, however, that such action is used sparingly because it could force a contractor out of business since unions would refuse to bargain collectively in the future with a contractor that violated an existing agreement. According to the official, the region attempted to force contractor compliance three times and each resulted in harm to the parties concerned. An example of union retaliation was a case in which union carpenters refused to work for a contractor as long as it employed a nonunion minority trainee hired pursuant to a State's affirmative action requirements. The union members' refusal to work effectively eliminated the contractor's access to carpenters.

We believe, therefore, that requiring contractors to go outside their union collective bargaining agreements is an impractical approach to increasing minority opportunities in construction craft unions. Although we recognize that contractors also can exert some pressure on unions to either admit minorities to journeyman ranks or issue them temporary work permits, we believe that, realistically, unions have the greater leverage in contractor hiring and that contractors are reluctant to violate their collective bargaining agreements.

Enforcement authority inadequate

OFCCP's leverage in enforcing Executive Order 11246 derives from the Government's right to establish the conditions under which it contracts for purchases of goods and services. As a condition of the contract, the contractor agrees not to discriminate in employment against minorities and women and to take affirmative action--that is, positive actions to employ such individuals in a specified proportion of its work force, usually termed "employment goals." Since labor unions are not a contracting party, affirmative action requirements do not directly apply to them. Therefore, Executive Order 11246 is an inappropriate means for the Government to use in seeking to improve minority opportunities in the skilled construction craft unions.

The Executive order's inherent lack of direct enforcement authority over unions undercuts efforts to improve equal employment opportunities for minorities in the unionized skilled construction trades. It is the basic cause for the failure

of various strategies and approaches devised under the Executive order program to increase opportunities for minorities in construction craft unions. Regional officials of OFCCP and contract compliance agencies said that the program cannot be effective in increasing minority membership in these unions because OFCCP lacks authority over the unions, which basically control contractor hiring.

Questionable effectiveness of new regulations

In April 1978, OFCCP adopted new regulations (41 C.F.R. 60-4) that make fundamental changes in implementing Executive Order 11246 for construction contractors. For example, imposed plans and special bid conditions were discontinued, and Executive order coverage was extended to include all construction contracts and subcontracts over \$10,000 and to include contractor employees (that is, employees of Federal contractors or subcontractors) working on non-Federal construction sites as well. While issuing these regulations, OFCCP also announced national employment goals for women and geographic employment goals in major population centers of the country for minorities for all contractors engaged in Federal or federally assisted construction. OFCCP issued the new regulations because of deficiencies in the imposed plan and special bid condition strategies, such as inconsistent minority hiring goals for the same area, confusion about the different types of plans, and the failure to establish goals under special bid conditions.

Although the new regulations should help correct the problems OFCCP cited, they probably will not be effective in increasing minority opportunities in skilled craft construction unions. As pointed out, the Executive order has an inherent weakness--the lack of authority over unions--and the program revisions do not overcome this weakness.

CONTRACT COMPLIANCE ACTIVITIES WERE INEFFECTIVE

Contract compliance agencies did not effectively carry out their responsibilities to enforce Executive Order 11246. The agencies enforced the procedural requirements (for example, filing of reports and plans) of the Executive order and its implementing regulations, but did not enforce substantive compliance with employment goals. Contractors told us that, as long as they submitted their monthly reports

showing hours worked by minorities on their Federal construction projects, the agencies did not contact them about compliance. According to contractors, this condition prevailed even though they reported failures to meet minority employment goals stipulated in their contracts because unions were not referring enough minorities to contractors and contractors were not able to locate qualified nonunion minority craftsmen. In addition, compliance agencies did not make required compliance checks and visits to construction sites.

One contractor representative stated that, if his company did not file the required monthly report, the compliance agency immediately contacted the company and threatened to suspend progress payments unless the report was filed. The agency, however, never inquired about the substance of the report.

OFCCP and compliance agency regional officials acknowledged the foregoing. They explained that, because of inadequate resources (for example, one OFCCP area office had two people monitoring 29,000 contracts), they could do no more than keep up with the paperwork of the compliance process. The effectiveness of the April 1978 revised regulations and the October 1978 consolidation of compliance authority (see p. 2) will depend on OFCCP having adequate resources for enforcement activities.

In addition to our concerns about OFCCP's authority over construction craft unions, these past problems with enforcing the Executive order will not necessarily be corrected by the October 1978 consolidation of compliance functions. OFCCP should consider these problems when establishing its procedures for enforcing the consolidated compliance program.

RESPONSIBILITY AND RESOURCES NEED TO BE TRANSFERRED TO EEOC

We believe that the most effective way for minorities to increase their employment opportunities in skilled construction craft unions is by attaining journeyman status. As pointed out above, OFCCP cannot do much to improve such opportunities since it has no authority over the construction craft unions that basically control construction hiring. However, as discussed in chapter 3, EEOC has direct enforcement authority over construction unions under title VII of the Civil Rights Act of 1964 and can initiate systemic investigations.

In our opinion, EEOC systemic investigations of skilled construction unions are the most effective way for the Federal Government to attack the problem of minority journeyman underrepresentation in construction unions and to provide improved equal employment opportunities for minorities in these trades. Accordingly, OFCCP enforcement efforts under the Executive order for union construction contractors should be discontinued, and the resources it used for this purpose should be transferred to EEOC for use in systemic investigations of skilled construction craft unions.

CONCLUSIONS

Under Executive Order 11246, OFCCP lacks authority over construction unions. This precludes its enforcement activities from significantly increasing the number of minority journeymen in these unions. At best, OFCCP enforcement efforts have provided only temporary employment opportunities to some nonunion minority workers on union contractor construction projects. Largely because of this lack of authority, the various enforcement strategies OFCCP used to implement the Executive order in the unionized construction sector have not been successful. Requiring contractors to go outside their union collective bargaining agreements to hire nonunion minority workers is impractical, and the contractors risk union retaliation for not complying with the referral provisions of their agreements.

EEOC has direct authority over unions and can act on its own to investigate union membership practices. The Federal effort to ensure minorities equal opportunities in construction craft unions, therefore, should be based on EEOC systemic investigations of these unions. Accordingly, the Office of Management and Budget should (1) direct OFCCP to cease enforcing Executive Order 11246 for union construction contractors and (2) transfer the resources used for such purposes to EEOC for use in systemic investigations of skilled construction craft unions under title VII of the Civil Rights Act of 1964.

RECOMMENDATIONS

We recommend that the Director, Office of Management and Budget:

--Direct Labor to discontinue enforcement of Executive Order 11246 for union-affiliated construction contractors.

--Transfer resources released by the above action to EEOC for pattern and practice investigations of construction craft unions.

AGENCY COMMENTS AND OUR EVALUATION

OMB comments

In commenting on a draft of this report (see app. V), OMB stated that the report appropriately points out past shortcomings of the Executive order approach in the unionized construction industry. However, OMB said it was not clear to what extent these failures resulted from the inherent deficiency of the indirect approach (that is, OFCCP's lack of direct authority over unions) or from the fragmented structure of the OFCCP program. Accordingly, OMB believed that action on our recommendations would be inappropriate at this time. Since under Reorganization Plan No. 1 of 1978 the President plans to determine by 1980 whether additional changes are needed in the administration of Federal equal employment opportunity programs, OMB believed at that time it would be in a position to make a final determination on our recommendations. According to OMB, by then, OFCCP would have had a reasonable opportunity to discharge its responsibilities under its new administrative structure.

We do not believe that OMB should delay in acting on our recommendations. The Executive order program's ineffectiveness in dealing with union construction contractors has been demonstrated by its past failures. Its lack of direct authority over construction unions cannot be overcome fully by OFCCP measures. The best way for minorities to make meaningful headway in improving their opportunities in skilled construction craft unions is by attaining journeyman status. The Executive order program is an inadequate vehicle for this since OFCCP cannot directly affect union practices. Moreover, the benefits of the Executive order program to non-union minority workers are short lived and limited because their employment depends totally on the existence of a Federal contract. Once the contract ends and the Federal presence ceases, the incentive for contractors to hire nonunion workers also ceases.

The benefits nonunion minority workers obtain under the Executive order program depend on the extent to which union contractors have Federal contracts. If the minority workers were union members, however, their ability to work for union contractors would not be dependent in this way. Accordingly,

we believe that Federal efforts to increase minority representation in construction trade unions would be more effective if OFCCP discontinued enforcing the Executive order for union contractors and the resources used for this activity were transferred to EEOC for systemic investigations of these unions.

Labor comments

In its comments on a draft of this report (see app. VI), Labor agreed that minorities have not made rapid progress in the unionized construction crafts and stated that in one instance this occurred because of discrimination. However, Labor generally disagreed with the reasons we cited for the lack of progress and with our recommendations to OMB. Labor said that OFCCP's efforts to increase minority representation in the construction trades have been productive and that the lack of greater progress was not necessarily attributable to OFCCP's lack of authority over unions. Labor said minorities' progress was impeded mainly by the economic downturn of the mid-1970s, which contributed to high unemployment in the construction industry. In addition, Labor stated that we failed to recognize that the Government and OFCCP's initial approaches to the construction industry in the early 1970s focused on creating avenues for minorities to enter the ranks of skilled workers through training programs. Labor said that these efforts have succeeded and that the effects are just beginning to be felt, as shown by (1) the increasing rate of minority participation in apprenticeship programs and (2) recent preliminary EEOC data showing that minority representation in construction unions in 1976 was 17.9 percent (not 12.8 percent as we discuss in ch. 2).

Labor's statements about the effects of the economic conditions of the mid-1970s on minority opportunities in construction trade unions are not supported by our data on journeyman turnover. As discussed in chapter 2, although some 14,320 journeyman positions became vacant and were refilled in the union locals we visited, only a small percentage of these positions went to minorities. Also, Labor's comments about the success of Federal training and apprenticeship programs do not address our finding (see ch. 5) that, although minorities participate in construction trades apprenticeship programs at rates approximating their representation in the population, relatively few of them complete these programs and become union journeymen. Moreover, the EEOC data Labor cited, which show that minorities represent

17.9 percent of construction union membership, is a misleading indicator of improved minority opportunities because (1) that figure includes the laborers trade (which we excluded from our review and which EEOC shows to be about 38 percent minority) and (2) the data are inflated since they include nonjourneyman members, as discussed in chapter 3.

Labor acknowledged that the fragmented nature of the contract compliance program also had impeded minority opportunities in construction trade unions. Labor asserted, however, that the consolidation of contract compliance responsibilities in OFCCP would improve minority employment in the unionized construction industry and correct the past enforcement deficiencies of the Executive order program. Although we believe that the OFCCP consolidation creates an improved framework for enforcing Executive Order 11246, the effectiveness of this consolidation depends on the extent to which OFCCP is able to overcome its past problems. Our review showed that inadequate enforcement staff for monitoring and following up on contractors appeared to be a major factor in the enforcement problems of the Executive order program. Thus, OFCCP's ability to enforce the Executive order will not be greatly enhanced by the consolidation if the number of staff it assigns to enforce the order is not much greater than the number the compliance agencies had. In effecting the consolidation, Labor received from the compliance agencies several hundred fewer personnel than the agencies used to enforce the Executive order.

According to Labor, our conclusion that the Executive order program resulted in only temporary employment benefits for nonunion minority workers showed a lack of understanding about employment patterns in the construction industry. Labor acknowledged that OFCCP's activities may tend to provide minorities with temporary jobs in the construction industry, but added that nearly all employment in the industry is intermittent and seasonal. Labor also stated that new OFCCP regulations (41 C.F.R. 60-4) specifically address the intermittent character of construction work by requiring contractors to retain and recall their minority employees as a part of their affirmative action obligation.

We recognize that employment in the construction industry is intermittent and seasonal. However, as we pointed out above, nonunion minority workers' employment benefits under the Executive order last only as long as the contractor is working on a Federal contract. Furthermore, contrary to Labor's assertion, its new regulations do not require

contractors to "recall and retain their minority employees." To comply with the regulations, a union contractor may find it necessary to employ nonunion minority workers on subsequent Federal contracts if unions are unable to provide enough minorities to meet employment goals. Again, this provides only temporary employment for minorities under Federal contracts.

Labor also disagreed with what it said were our assertions that (1) OFCCP's leverage with contractors counts for very little in according union membership to minorities and (2) contractors are at the mercy of construction craft unions. Labor cited two enforcement actions to illustrate its disagreement. In one case OFCCP and the Department of Justice obtained an injunction against a union that acted against a contractor attempting to hire minorities outside its collective bargaining agreement; in the other case a union defended a contractor and appealed OFCCP's debarment decision against it.

We did not say that contractors are totally at the mercy of unions. We believe, however, that realistically construction unions have the greater leverage in dealings with contractors on employment issues. In addition, Labor's examples highlight the weaknesses of the Executive order approach. Neither case was representative of the typical union construction contractor Executive order enforcement action. In the first case, enforcement actions against a union were started because it deliberately tried to thwart the contractor's attempt to comply with its contract employment goals; the basis of the enforcement action was not the union's membership practices or its violation of the Executive order. Rather, the basis was the union's interference with the contractor's efforts to comply with the Executive order program. The second case was an anomaly because normally unions are not involved in an Executive order enforcement action against a union construction contractor. Instead, union membership and referral practices may be used by contractors to explain why contract employment goals were not met. While a union may partly be responsible for contractors' failures to meet goals because it does not have enough minority members for referral to the contractors, only contractors have contracts with the Government and they are the defendants in Executive order enforcement actions.

Labor also listed a number of actions taken during 1977-78 to upgrade its enforcement activities in the construction industry. Since these actions were against contractors and

only indirectly affected unions, we believe the actions will not significantly improve minority opportunities in the unionized construction sector.

Labor said that implementing our recommendations would hamper the overall contract compliance effort. In Labor's opinion, this would refragment the program by undoing the President's recent reorganization, and prove confusing and counterproductive. Labor said the problems of identifying which contractors are union signatories and in which geographic areas they are located would be almost insurmountable from a technical standpoint.

We disagree with Labor. Refragmentation should not occur because we are recommending that the Executive order no longer apply to union construction contractors. EEOC, under title VII of the Civil Rights Act of 1964, would take enforcement actions against unions and contractors, as needed. Moreover, the difficulty in identifying which contractors are union affiliated is overstated. This could be done at the time of a contract's award. Under Labor regulations (41 C.F.R. 60-4.2(c)), OFCCP is to be notified, within 10 working days of a contract's award, of the contractor's name, address, telephone number, and the geographic area in which the contract is to be performed. For construction contracts this notification could also state whether the contractor is union affiliated.

CHAPTER 5

CONSTRUCTION CRAFT UNION APPRENTICESHIP

PROGRAMS PRODUCE FEW MINORITY JOURNEYMEN

From January 1973 to December 1976, minorities participated in construction craft union apprenticeship programs at rates approximating their representation in the population in the seven cities visited. Although minority participation in these programs has increased, the programs have not been effective in significantly increasing the number of minority journeymen in construction craft unions: few minorities complete apprenticeship training and become journeymen. The Bureau of Apprenticeship and Training needs to focus its efforts to assure that (1) minorities complete these programs and become journeymen and (2) the number of minority journeymen in craft unions is considered when equal opportunity goals for construction craft apprenticeship programs are established.

FEW MINORITIES COMPLETE APPRENTICESHIP PROGRAMS

Proportionately fewer minorities than whites successfully completed BAT apprenticeship programs in the skilled construction trades during the 4 years covered by our review. Whites dropped out of these apprenticeship programs at a rate of about 23 percent, but minorities dropped out at a rate of about 37 percent. Labor has not made any broad-based studies of the minority dropout rate. BAT assumes that all those completing these programs become journeymen, but this is not so.

High dropout rate for minority apprentices

Apprenticeship programs in the unionized construction crafts are administered by joint apprenticeship committees composed of an equal number of representatives from construction contractors and unions, who are also known as program sponsors. Although the practices among individual trades vary, to become an apprentice an individual generally has to meet an age requirement, have a high school diploma or its equivalent, and pass a series of tests including an interview with an apprenticeship program representative. Apprenticeship programs last 3 to 5 years and include both classroom and on-the-job training. Apprentice wages begin at 40 to 60 percent of the journeyman's scale and increase at regular intervals during the program.

In the cities visited, BAT efforts increased minority participation in apprenticeship programs even though the construction industry experienced a downturn. From 1970 through 1975 the number of active apprentices nationally declined from about 280,000 to 266,000 because of high unemployment. Similarly, in the seven cities we visited the number of construction apprentices decreased about 2,900 from the beginning of 1973 through the end of 1976. Yet minority representation among apprentices in these cities increased from 13.5 to 20 percent during the same period.

Nationally, minorities participated in skilled construction craft apprenticeship programs at rates exceeding their representation in the work force. However, among the 17,113 apprentices in the seven cities during the 4-year period January 1, 1973, to December 31, 1976, minorities dropped out at much higher rates than whites.

	Apprentice					
	Completers		Dropouts		In training at Dec. 31, 1976	
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent
Minorities (Range)	743	25 (12-38)	1,080	37 (22-65)	1,113	38
Whites (Range)	<u>6,510</u>	46 (29-57)	<u>3,218</u>	23 (10-45)	<u>4,449</u>	31
Total	<u>7,253</u>	42.4	<u>4,298</u>	25.1	<u>5,562</u>	32.5

Since annual apprenticeship program participation fluctuated widely in the cities visited, we analyzed the data on apprentices that left programs either because they completed the training or because they dropped out. This analysis compared dropouts with completers and showed an inverse relationship between the minorities and whites:

- minorities dropped out of the programs 1-1/2 times as often as they completed them (1,080 or 59 percent versus 743 or 41 percent), whereas
- whites completed the programs 2 times as often as they dropped out (6,510 or 67 percent versus 3,218 or 33 percent).

Also, BAT does not verify whether individuals who complete apprenticeship programs in the skilled construction crafts become union journeymen. Rather, BAT officials assumed that all completers became journeymen. Since our access to union records was limited, we could not determine how many of the 743 minority apprenticeship completers in the cities visited became journeymen. In one city, about 65 percent of the minorities that completed apprenticeship programs were listed among union journeymen. This suggests that not all minorities who complete apprenticeship programs become union journeymen. We believe, therefore, that BAT should ascertain the extent to which apprenticeship completers become union journeymen and the reasons that some do not. BAT officials agreed.

An alternative to apprenticeship

In one city the operating engineers' union had a minority journeyman membership of about 8 percent in 1976, well above the area average of about 5.4 percent. It appeared that the relatively high minority journeyman membership rate was attributable to a special highway construction trainee program the union ran. The trainee program was similar to apprenticeship, but it only lasted about a year and its entrance requirements were lower. The program, sponsored by the Department of Transportation, is partially funded by the Department of Labor under the Comprehensive Employment and Training Act of 1973; contractors are partially reimbursed for the training. The primary objective of the program is the training and upgrading of minorities and women toward journeyman status. More minorities entered the union through this program than through apprenticeship.

According to one contractor, participants learn to operate only 1 out of 40 major types of construction equipment. This limits the trainee's skills and opportunities for work in the trade, since operating engineers are referred to jobs according to their equipment skills. Moreover, journeyman classifications and wage rates are based on skills--those with the least skills receive the lowest classifications and wages. The contractor believed that the program was ineffective in aiding minorities to establish permanent associations or attain fully skilled journeyman status in the trade.

We did not evaluate the program's merits because our emphasis was on apprenticeship. The program, however, seems to represent an alternative route for minorities to achieve journeyman status.

The high minority dropout
rate needs to be studied

According to BAT officials, Labor has not made any broad-based studies of union construction craft apprenticeship programs to determine the reasons for the high dropout rate, particularly among minority participants. BAT regional officials believed that minorities had made inroads in the unionized construction trades since they were participating in the programs at rates approximating their representation in the population. Some BAT officials were not aware that minorities dropped out at such high rates. One official attributed the high minority dropout rate to lowered selection standards used by some apprenticeship program sponsors to admit minorities who are not fully qualified.

Union officials told us that minorities drop out of apprenticeship programs for a number of reasons, including (1) a lack of adequate transportation to and from worksites, (2) a lack of work in economic downturns, (3) nonpayment of union dues, (4) a lack of adequate qualifications (less qualified individuals are accepted to meet affirmative action goals), (5) a lack of self-discipline, resulting in habitual absences from or tardiness in reporting to work, (6) a failure to attend required classroom training in such subjects as trade arithmetic and measurements and blueprint reading, and (7) the seasonal, intermittent, and physically demanding nature of the work, which must often be done under adverse weather conditions. The officials added that minorities not fully qualified for the work are accepted into apprenticeship programs through outreach programs (see ch. 6) that train minorities to pass entrance aptitude tests.

An outreach contractor official told us that progressively more difficult classroom training and labor costs are significant contributing factors causing minorities to drop out of apprenticeship programs. This official believed that minority apprentices have no trouble in doing the work assigned them, but that they have problems with the classroom training--particularly reading and math. According to the official, classroom work is necessary in becoming a fully qualified journeyman, and classroom training becomes more difficult in the last years of apprenticeship.

The official added that the high cost of labor has also contributed to the number of apprentices not completing their programs. For example, a beginning apprentice earns wages at only about 40 to 60 percent of a journeyman's rate, while

an apprentice nearing completion of the program earns wages at 85 to 90 percent of that rate. If an apprentice nearing completion of his apprenticeship has not developed adequate skills, he is viewed by contractors as a financial burden. Such apprentices are likely to be dropped from the program because of absences or other infractions that might be overlooked under different circumstances.

To obtain an indication of why apprentices drop out of skilled construction trades apprenticeship programs, we selected 31 individuals in one city who dropped out of apprenticeship programs: 17 whites and 14 minorities. This was a very limited test, and we were only able to contact 15 former apprentices: 5 whites and 10 minorities. Of these:

- The five whites and six of the minorities said they dropped out because they were not referred to contractors for work or they desired to have a steady job and income instead of unsteady construction work.
- One minority dropped out to join the service.
- One minority had a medical problem.
- One minority was expelled because of poor attendance.
- Only one minority said he dropped out because he felt he was discriminated against on the job. He stated that he was assigned to dangerous and dirty work that white apprentices were not required to do.

In view of our findings and BAT's lack of knowledge of why apprentices--whites and minorities--are not completing apprenticeship programs, BAT needs to study how minority apprentices are assigned to jobs, why they drop out, and how many actually become journeymen. Such a study would point out whether discrimination is occurring in the apprenticeship program. It should also give BAT the management data it needs to determine the basic causes of high minority dropouts and the actions needed to reduce them.

INCREASING MINORITY JOURNEYMEN
SHOULD BE CONSIDERED WHEN
SETTING APPRENTICESHIP EQUAL
OPPORTUNITY GOALS

BAT programs have the potential for significantly increasing the number of minority journeymen in unionized skilled construction trades through apprenticeship. BAT equal opportunity goals, however, are directed only at achieving a participation rate for minorities in construction apprenticeship programs equal to their representation in the population or work force. These goals are not linked to the representation of minority journeymen in a craft, nor does BAT emphasize that minorities complete apprenticeship and become journeymen.

Goals not linked to minorities
completing apprenticeship
and becoming journeymen

Labor regulations (29 C.F.R. 30) for equal employment opportunities in apprenticeship programs identify several criteria that apprenticeship program sponsors must use to determine whether minority participation goals and timetables need to be established for their programs:

- The minority working age population of the area.
- The size of the area's minority labor force.
- The representation of minorities in the craft as apprentices.
- The availability of minorities with the capacity for apprenticeship.
- The representation of minorities in the craft as journeymen and the extent to which the apprenticeship program should be expected to correct any deficiencies by achieving goals for the selection of apprentices.

Although these factors recognize that the basic objective of BAT apprenticeship programs is to produce skilled journeymen, the programs we reviewed had minority goals based on achieving a minority participation rate equal to minority representation in the population of the area or its labor force. BAT regulations were not being followed in that the

goals were not related to the proportion of minority journeymen in a craft. In addition, the number of minorities completing apprenticeship was not a factor in setting goals. The BAT staff manual, which implements 29 C.F.R. 30 and which is used to set equal opportunity goals, does not relate goals to either (1) the number of minority journeymen in a particular craft or (2) the number completing apprenticeship.

We believe that these two factors should be considered when setting minority participation goals in apprenticeship programs. Without including these factors, apprenticeship programs may not produce significant increases in minority journeymen.

Some BAT regional officials believed that, if minority affirmative action goals were linked to the number of minority journeymen in a union, the goals would increase substantially. The higher goals could force some sponsors to withdraw from the apprenticeship program. BAT officials, however, agreed that inconsistencies between the regulations and the manual should be resolved, although they said this may require additional staff and funds.

SOME COMPLIANCE REVIEWS INADEQUATE

BAT requires compliance reviews of apprenticeship programs to determine whether all equal opportunity program requirements are being met and whether corrective action is necessary. A compliance review, which is to include onsite visits, is to consist of a comprehensive analysis and evaluation of each aspect of an apprenticeship program, such as whether (1) minority goals are being met, (2) the apprentice selection process is appropriate, and (3) good faith efforts are being made to meet goals. In addition to periodic monitoring visits, compliance reviews are required to be made of apprenticeship programs not meeting minority goals.

Compliance reviews in some BAT regions included in our review varied in quality. Some reviews were done infrequently and superficially. Some programs were reviewed only once in 5 years, and others not at all. In one instance, compliance reviews were not made because the corresponding staff position was vacant. In another instance, reviews were superficial because many regional investigators were inexperienced and information they developed required followup to resolve questions raised.

In one BAT regional office, a compliance staff member routinely did compliance reviews over the telephone. Union officials in one city in this region said they listed as current some apprentices who had dropped out; they did this to satisfy affirmative action goals. However, the BAT compliance reviews did not disclose these inactive apprentices, nor did BAT find that one apprentice completed an apprenticeship program without BAT knowing the individual was enrolled.

Department of Labor officials told us that (1) BAT is taking steps to upgrade its compliance review activities and (2) recent revisions to the BAT manual should result in improvements to the compliance review process.

CONCLUSIONS

BAT apprenticeship programs are a viable means of minority access to union journeyman status in skilled craft construction unions. However, BAT's administration of its equal employment opportunity regulations for construction apprenticeship programs could have been more effective, and minorities have yet to realize the full potential of these programs as avenues to union journeyman status. BAT's equal opportunity goal has been to increase minorities' representation in apprenticeship programs in proportion to their representation in the population or work force, but this has not resulted in a significant increase in the number of minority journeymen in construction craft unions. Since relatively few minorities complete construction trade union apprenticeship programs, minority access to these unions remains limited. BAT officials, although aware of the relatively high apprenticeship dropout rate, made no broad-based studies to identify the reasons for it.

RECOMMENDATIONS

We recommend that the Secretary of Labor direct the Bureau of Apprenticeship and Training to

- link minority participation goals in construction trades apprenticeship programs to minority journeyman representation in the craft unions and
- study construction trades union (1) job referral practices to determine how apprentices are assigned to jobs, (2) apprenticeship programs to determine the reasons why individuals, particularly minorities, drop out of construction craft apprenticeship programs, and (3) apprenticeship programs to determine how many apprenticeship graduates become journeymen and why others do not.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report (see app. VI), Labor agreed with our recommendation to make a broad-based study of the apprenticeship program. Labor was concerned about our findings which showed that minority apprentices seem to fare worse than whites; it believed that a broad-based study, as we recommended, would be useful and directly pertinent to BAT's responsibilities. According to Labor, such a study would be actively considered in formulating its fiscal year 1980 research plans.

Labor disagreed with our recommendation that construction trades' apprenticeship affirmative action goals be linked to minority journeyman representation in craft unions. Labor stated that, while minority journeyman participation should be considered in determining such goals, the major factor used should be the percentage of minorities in the labor force in the surrounding labor market area. In Labor's opinion, our recommendation would result in requiring substantially higher goals, which might impose unrealistic targets and constitute unreasonable burdens on apprenticeship program sponsors. According to Labor, the apprenticeship system can and should make a meaningful contribution in this area, but its capacity to correct industrywide racial imbalances is not as great as we suggest.

We believe that goals based on minority journeyman membership in construction craft unions are necessary if minorities are to make meaningful progress in a reasonable time to achieve journeyman membership in these unions. Such goals would of course be higher and may seem unrealistic, but they are necessary given the high minority dropout rate from construction craft apprenticeship programs and the fact that these programs appear to be the only means of minority access to some craft unions. Without such goals it would take many years for minority journeyman representation in these unions to approximate minority representation in the labor force.

In addition, we did not state, as Labor asserts, that the apprenticeship program should bear the major burden of improving minority opportunities in skilled construction craft unions. This would result from the combination of improved enforcement and administration of the various programs as recommended in this report. We believe that the apprenticeship program has the potential for making a significant contribution, particularly in the highly skilled trades, through goals based on minority journeyman membership.

CHAPTER 6

, OUTREACH AND JOB CORPS PROGRAMS HAVE LIMITED IMPACT ON MINORITY MEMBERSHIP IN CONSTRUCTION CRAFT UNIONS

The Department of Labor funds several programs intended to provide construction-related employment and training services to minorities and other economically disadvantaged persons. Two such national programs are the Apprenticeship Outreach Program (AOP) and the Job Corps Program. In the cities included in our review, these programs had limited success in placing minorities in skilled construction craft union apprenticeship programs.

OUTREACH PROGRAMS PLACED FEW MINORITIES IN CONSTRUCTION UNION APPRENTICESHIP PROGRAMS

AOP's major objective is to place minorities into apprenticeship programs, primarily in the construction trades, to overcome minorities' past difficulties in gaining entry into the skilled construction craft unions and to increase the number of minorities in these crafts. Labor operates AOP by contracting with public or private nonprofit organizations to locate minorities with apprenticeship potential and to prepare them for entry into apprenticeship programs. The contractors' activities include recruiting interested individuals, counseling them about construction trades and apprenticeship entrance requirements, tutoring them in test areas (such as mathematics and manual dexterity), and referring them to local joint union-management apprenticeship committees for apprenticeship applications and testing. AOP contracts typically target a certain number of placements to be made during the contract period.

For fiscal years 1970 through 1977, Labor funding for AOP totaled \$87.4 million. As of December 31, 1977, AOP had 102 active projects nationwide, operated primarily by three organizations as follows:

	<u>Number of projects</u>
Urban league (operates AOP programs locally under the Labor Education and Advancement Program (LEAP))	31
Recruitment and Training Program (formerly the Joint Apprenticeship Program of the Workers Defense League and A. Philip Randolph Educational Fund; also called the Workers Defense League Outreach Program)	31
Human Resources Development Institute (created by the AFL-CIO in 1968 to function in the area of manpower training and job placement, emphasizing minorities and the disadvantaged)	22
Others (includes State agencies, local trade union leadership councils, and locally organized civil or minority groups)	<u>18</u>
Total	<u>102</u>

Labor usually negotiates one contract with the national office of each organization for all its projects. The national office subcontracts the projects to its affiliates in cities throughout the country.

Few statistics are available that accurately measure the impact of AOP on minorities in construction apprenticeship programs. In a 1976 report analyzing AOP contractors' performance, Labor showed that AOP helped place 37,000 apprentices in construction trades nationwide from fiscal year 1967 through fiscal year 1975. An estimated 95 percent of these individuals were minorities. The report also compared AOP-reported placements to nationwide apprenticeship accessions in 1974. Labor concluded, based on this comparison, that AOP contractors placed 40 percent of all minorities entering apprenticeships in 1974. Labor data also showed that in fiscal year 1976, AOP placed 3,655 minorities in construction apprentice programs.

During our review of LEAP and Human Resources Development Institute (HRDI) programs, we found that these programs had placed few minorities in apprenticeship programs and that there is a need for followup on placements claimed by the contractors. There were no Recruitment and Training Program activities in the cities in our review.

In an earlier report, 1/ we discussed several management weaknesses in AOP program administration as it applied to the construction industry. We pointed out that AOP placements appeared overstated and that there was a high unemployment rate among those placed. The need for AOP appeared questionable because of its limited results and the alternatives available, such as Labor's employment service. We recommended, among other things, that Labor establish effective criteria for AOP contractor performance, including the length of time an individual needs to be employed before an AOP contractor can claim a placement credit.

According to Labor, although our recommendation had merit, its adoption would not be consistent with Labor's reporting systems for other programs. However, Labor said it was seriously considering requiring AOP contractors to provide followup services to those placed for up to 12 months after placement.

LEAP program activities

There were LEAP programs in four of the seven cities included in our review. LEAP contractors had data showing annual placements for only the last 2 years of the 4-year period covered by our review. Data LEAP had for 1975 and 1976 showed that these programs did not meet their contract minority placement goals in construction apprentice training.

<u>Year</u>	<u>Minority placement goal</u>	<u>Minority apprentice placements</u>	<u>Percent placed</u>
1975	535	231	43
1976	565	159	28

The goals were not met in part because of the downturn in construction activity in these years. Also, contractor officials reportedly had difficulty in finding minorities who would qualify as construction apprenticeship applicants because those who would qualify either preferred other types of work or went to college.

LEAP contractors used different criteria in claiming individuals as placements, which may have resulted in inflated and misleading results. At the time of our review, Labor had

1/"Questionable Need for Some Department of Labor Training Programs" (HRD-78-4, Apr. 10, 1978).

not established requirements on how long an individual had to remain in an apprenticeship program before the contractor could claim the person as a placement. For example, one contractor considered a person as a placement after he completed 2 weeks of work; another, if he worked at least 8 hours; and a third, as soon as he reported to work as an apprentice. One AOP contractor normally claimed a placement when an individual went directly to a construction contractor or union, which made the actual placement. According to one union's officials, minorities whom they recruited for their apprenticeship program were claimed as placements by the local LEAP contractor.

LEAP contractors maintained very limited data on the retention of those placed in apprenticeship programs. According to the contractors, their recordkeeping systems were not set up to identify dropouts and they did not follow up on placements because the contract did not require it. In addition, LEAP contractors believed that apprenticeship programs were not successful in retaining minorities because classroom training, particularly reading and math, was difficult for them and because they lacked transportation to work sites. As mentioned in chapter 5, one contractor believed that the progressively more difficult classroom training was the reason for many minorities dropping out of apprenticeship.

HRDI activities

HRDI administers and coordinates AFL-CIO programs for recruiting and preparing primarily minority youths for entering apprenticeship in the construction trades. HRDI also operates other programs to foster understanding and acceptance of Federal programs aimed at helping the unemployed, underemployed, and economically disadvantaged.

Two of the cities included in our review had HRDI programs. The program in one of the cities placed only 38 minorities in the construction trades during the 3 years 1975-77. Only one of the officials of 25 construction unions in this city had contact with HRDI at all: an HRDI representative verified the union's enrollment in the apprenticeship program.

In the other city HRDI was not engaged in apprenticeship outreach. Rather it was sponsoring and administering for the second year a job development program called the Vocational Exploration Program, which was funded by Labor for \$75,000. The program was to expose minority and other economically disadvantaged youths 16 through 21 years of age to the

building trades of bricklaying, plumbing, carpentry, iron work, sheetmetal work, and electrical work. The program enrolled 90 disadvantaged youths, of whom 80 percent were minorities, and was organized to provide enrollees with 1 week of exposure by observation in each of the six crafts. Each participant was paid \$2.30 per hour for a 40-hour week. According to the HRDI program director, the 1977 program differed from the previous year's program in that the iron workers' union agreed that all 90 enrollees would be notified about the schedule for applying for the union's apprenticeship program to begin in the fall.

JOB CORPS HAS QUESTIONABLE SUCCESS
IN PLACING MINORITIES IN
CONSTRUCTION APPRENTICESHIP PROGRAMS

The training provided by Job Corps centers we visited appeared to have little impact on improving minority representation in the skilled construction craft unions. Few center graduates given construction craft training were placed in construction union apprenticeship programs.

Job Corps' vocational skills training programs are designed to provide participants with structured training that will enable them to obtain and keep vocation-oriented jobs. According to Labor, some programs are operated by construction unions, which generally use the same curriculum that they used during the first 2 years of their apprenticeship programs. Labor stated that this type of training is unique to the Job Corps and that local joint apprenticeship committees will often recognize Job Corps training as satisfying the prerequisites for entering apprenticeship. The Job Corps increased its emphasis on construction in recent years, and about one-quarter of its available training spaces are allocated to the construction trades.

We visited four Job Corps centers that offered training in the construction crafts, because such training is a means for minorities to become journeyman members in construction unions. Our objective was to obtain an indication of the impact Job Corps training was having on minority membership in construction craft unions. We found that, even though Labor emphasizes the uniqueness of union participation in the Job Corps training and the use of apprenticeship curriculum for center training programs, none of the four centers offered such training and it was questionable whether such training was comparable to that available in union apprenticeship programs. At the centers we visited, 961 of the 3,765 enrollees were in construction training.

The directors of three centers had not contacted local BAT or construction trades union apprenticeship programs when establishing their training programs in the construction trades. One center director did not know whether the construction training offered was compatible with that of union apprenticeship programs; another director acknowledged that the training provided by his center was not comparable. A third director remarked that his primary concerns were center management and discipline problems, and he had not coordinated the center's construction training with BAT and unions. At the fourth center, construction training was conducted by trade union members, but the center had no formal contacts with construction unions in the area.

Job Corps centers generally did not directly place graduates in jobs but referred them for placement to employment agencies, such as the State employment service. The four centers, thus, did not have data on the work experience of graduates who received training in the construction trades. The centers' directors offered the following comments:

- One center was unable to obtain the cooperation of construction unions in its area, and no center graduate with construction training had been placed in a construction job in over 2 years. It was doubtful whether the center had placed any minorities in a construction apprenticeship program since the center was established over 10 years ago.
- Another center had no record of graduates with construction training being placed in an apprenticeship program or finding work in a skilled trade.
- At a third center about 50 percent of the construction training graduates failed the math and reading parts of apprenticeship program tests and about 50 percent of all center graduates quit work after 30 days. Many of the center's graduates entered the Armed Forces.

The director of the fourth center said that 75 percent of its construction training graduates were placed in residential construction apprenticeship programs sponsored by the National Association of Home Builders. Since about 90 percent of the area's residential construction is performed by non-union labor, center graduates apparently had little opportunity to become construction union apprentices.

CONCLUSIONS

The AOP and Job Corps programs had little impact on alleviating minority underrepresentation in skilled craft construction unions in the cities we visited. AOP placed relatively few minorities in construction union apprenticeship programs, and it was doubtful whether any Job Corps graduate found work in these programs. Moreover, our review of the BAT program indicates that few of those placed by AOP or Job Corps would have completed the apprenticeship programs. Furthermore, the AOP placement data appeared misleading as an indicator of the program's effectiveness because (1) a placement can mean that a person worked for 8 hours or less and (2) the contractors are not required to follow up on placements to determine their employment status.

We believe that Labor should require AOP contractors to follow up on apprenticeship placements in the construction industry and report their status to Labor periodically. In addition, the Job Corps needs to ensure that construction craft training offered at its centers is coordinated with BAT and unions. Also, minorities placed in construction apprenticeship programs may need remedial training in such subjects as math and reading, and Labor should consider expanding the AOP concept to include such training.

RECOMMENDATIONS

We recommend that the Secretary of Labor

- require AOP contractors to follow up on apprenticeship placements in the construction industry periodically and report their status to Labor,
- consider expanding the apprenticeship outreach program to include remedial services during apprenticeship to help minorities complete the training, and
- direct Job Corps officials to ensure that construction craft training programs are coordinated with unions and BAT.

AGENCY COMMENTS AND OUR EVALUATION

Labor generally agreed with our recommendations concerning AOP. (See app. VI.) Labor stated that followup on apprenticeship placements should occur and that it was issuing guidelines to effect this. It said the guidelines will require that followup action be documented and the employment

status of individuals be noted in AOP contractors' records. Labor also agreed that expanding AOP activities to include remedial services to individuals after they are placed as apprentices would probably increase the retention of those involved. However, according to Labor, such services would be costly and would not be justified considering budgetary constraints and the commensurate improvement in the overall effectiveness of the programs.

Labor disagreed with our recommendation that the Job Corps ensure that its construction craft training programs are coordinated with BAT and unions, stating that our findings and conclusions were without merit. Labor said that we had misconceived the Job Corps training activities that we reviewed and that our study did not include any of the union-operated training programs that were being offered at many Job Corps centers. According to Labor, construction training at the centers we visited was designed to be the equivalent to high school shop training, which generally lasts about 6 months, and not apprenticeship training. Labor believed that the construction trades unions are sufficiently involved in its training programs and that apprenticeship-type training is already being offered at many centers. Accordingly, Labor does not intend to act on our recommendation.

Labor's characterization of construction training at the centers we visited is different from what center officials told us. However, regardless of the purpose of Job Corps construction craft training, we believe it should be coordinated with unions and BAT to ensure that it meets their standards. This would help to assure that Job Corps graduates who enter construction union apprenticeship programs get credit for their Job Corps training.

COMPARISON OF MINORITY MEMBERSHIP IN SELECTED
SKILLED CONSTRUCTION CRAFT UNIONS BETWEEN 1972 AND
1976 AS REPORTED BY THE UNIONS TO THE EQUAL
EMPLOYMENT OPPORTUNITY COMMISSION

Trade	Minority membership			Minority underrepresentation gap (note a)		
	1972	1976	Increase or decrease (-)	1972	1976	Increase or decrease (-)
(percent)						
Asbestos workers	3.7	6.4	2.7	13.5	12.0	-1.5
Bricklayers	13.1	13.9	0.8	4.1	4.5	0.4
Carpenters	11.2	13.3	2.1	6.0	5.1	-0.9
Electrical workers	7.5	10.7	3.2	9.7	7.7	-2.0
Iron workers	9.3	18.3	9.0	7.9	0.1	-7.8
Lathers	14.2	20.6	6.4	3.0	b/-2.2	-5.2
Marble polishers	15.2	14.4	-0.8	2.0	4.0	2.0
Operating engineers	6.2	11.6	5.4	11.0	6.8	-4.2
Painters	14.8	17.8	3.0	2.4	0.6	-1.8
Plasterers and cement masons	32.5	36.6	4.1	b/-15.3	-18.2	-2.9
Plumbers	4.5	8.0	3.5	12.7	10.4	-2.3
Roofers	23.4	22.7	-0.7	b/- 6.2	- 4.3	1.9
Sheetmetal workers	7.0	8.9	1.9	10.2	9.5	-0.7
Total	9.3	12.8	3.5	7.9	5.6	-2.3

a/The minority underrepresentation gap is the difference between minority proportional representation in the craft and in the national population: minorities represented 17.2 percent of the national population in 1972 and 18.4 percent in 1976.

b/The proportion of minorities in the craft is greater than the proportion of minorities in the national population.

MINORITY JOURNEYMEN IN SELECTED SKILLED
CONSTRUCTION CRAFT UNIONS IN SEVEN CITIES VISITED BY GAO

Trade	Number of locals	Journeyman membership December 1972			Journeyman membership December 1976			Percent of increase or decrease (-) in minority membership
		Total	Minority	Percent minority	Total	Minority	Percent minority	
Asbestos workers	4	646	11	1.7	639	17	2.7	1.0
Bricklayers	7	5,948	779	13.1	5,305	821	15.5	2.4
Carpenters	11	11,554	774	6.7	9,333	708	7.6	0.9
Cement masons	6	3,284	749	22.8	2,955	714		
Electrical workers	8	10,589	269	2.5	11,041	a/825	24.2 7.5	1.4 5.0
Glaziers	5	836	45	5.4	812	55	6.8	1.4
Iron workers	7	3,832	230	6.0	3,764	304	8.1	2.1
Lathers	5	729	18	2.5	583	23	3.9	1.4
Operating engineers	5	9,747	505	5.2	8,879	551	6.2	1.0
Painters	10	4,648	436	9.4	4,083	489	12.0	2.6
Plasterers	7	1,054	114	10.8	858	116	13.5	2.7
Plumbers	10	6,194	204	3.3	6,162	265	4.3	1.0
Roofers	6	1,687	406	24.1	1,568	354	22.6	-1.5
Sheetmetal workers	6	7,808	72	0.9	7,738	136	1.8	0.9
Total	97	68,556	4,612	a/6.7	63,720	5,378	8.4	1.7

a/Of this membership, 455 belonged to one local in one city that was the subject of a discrimination suit brought by minorities. (See app. III.) If this local is excluded from the table, the minority representation for all trades becomes 7.2 percent for 1972 but is unchanged for 1976; therefore, the change from 1972 to 1976 becomes 1.2 percent.

CHANGE IN MINORITY JOURNEYMEN MEMBERSHIP FROM DECEMBER 1972 TO DECEMBER 1976 IN SELECTED
SKILLED CONSTRUCTION CRAFT UNIONS IN SEVEN CITIES VISITED BY GAO

Trade	City A		City B		City C		City D		City E		City F		City G		Total	
	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
Asbestos workers	5	2.3	0	.1	0	.5	(a)		(a)		1	.5	(a)		6	1.0
Bricklayers	-8	-.9	-12	-2.5	8	2.7	10	1.3	48	4.3	-4	-.1	(a)		42	2.4
Carpenters	-2	.2	-26	-1.8	-34	-.1	-44	-	11	.6	29	3.4	(a)		-66	.9
Cement masons	-46	.5	-6	5.2	-2	7.3	(a)		25	1.9	-6	-	(a)		-35	1.4
Electrical workers	18	1.6	1	.2	(a)		4	1.1	b/463	6.6	63	10.9	7	1.9	556	5.0
Glaziers	3	3.2	1	1.1	1	1.7	(a)		5	1.6	0	-.8	(a)		10	1.4
Iron workers	22	2.9	7	1.3	17	2.8	-18	-2.6	8	3.0	38	7.9	0	.6	74	2.1
Lathers	3	4.3	0	-.9	0	.3	(a)		0	.9	2	.9	(a)		5	1.4
Operating engineers	5	.4	56	2.8	22	.8	(a)		(a)		28	11.9	-65	-3.0	46	1.0
Painters	4	1.5	11	3.2	8	1.6	0	.9	18	3.7	5	2.7	7	1.9	53	2.6
Plasterers	-1	-1.1	0	-	2	3.7	(a)		3	3.3	-2	2.3	0	1.0	2	2.7
Plumbers	11	1.1	7	.7	16	1.7	62	4.3	-1	-.2	-34	-.9	0	-	61	1.0
Roofers	14	-	-25	.7	-2	.7	(a)		2	-.2	-27	-17.0	0	-	-52	-1.5
Sheetmetal workers	<u>12</u>	1.8	<u>10</u>	1.2	<u>15</u>	2.1	<u>3</u>	.7	<u>24</u>	.4	(a)		(a)		<u>64</u>	.9
Total	<u>26</u>	.4	<u>24</u>	.7	<u>51</u>	1.0	<u>17</u>	.3	<u>606</u>	3.0	<u>93</u>	3.9	<u>-51</u>	-.7	<u>766</u>	b/1.7

For each city: Column 1 = change in number of minorities
Column 2 = percent change in minorities

a/No data.

b/Of this change, 455 involved one local that was the subject of a discrimination suit brought by minorities. In 1972 this local had 195 minorities. If this local is excluded, the change from 1972 to 1976 is 1.2 percent.



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D. C. 20506

January 11, 1979

OFFICE OF THE CHAIR

Gregory J. Ahart, Director
Human Resources Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Ahart:

I appreciate your giving the EEOC the opportunity to comment on your proposed report to the Congress on Federal efforts to increase minority opportunities in the skilled construction craft unions.

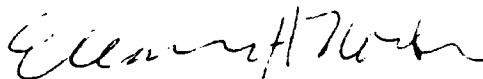
There are a number of points that we wish to make. First, the proposed report criticizes the Commission's standard for the selection of systemic targets because they seemingly exclude the possibility of unions as respondents. EEOC has had the historical practice of treating unions identically to employers because of the unions' relationship with management in such employment processes as hiring and promotions. While our standards do not refer specifically to unions and do, in fact, stress the failure to "employ" minorities and women, unions are not excluded from coverage by the standards. Furthermore, whenever we consider the issuance of a systemic charge and there is reason to believe that the employer's relationship with a union or several unions has an effect on the employer's underutilization of women or minorities, we will charge the appropriate union or unions as well as the employer. For instance, in the first charge that was issued by the Office of Systemic Programs on August 29, 1978, eleven unions were charged along with the respondent employer. In conclusion, the Commission believes that its standards for selection of systemic targets do make provisions for unions.

Second, the GAO proposed report contends that EEOC has not utilized its systemic enforcement authority against the construction craft unions. That contention raises questions as to whether all relevant data were analyzed. You will find attached hereto a list of the cases in which the Commission has been involved and they include: (1) direct suits, both Sections 706 and 707 filed by the Commission; (2) suits filed by the Department of Justice and subsequently transferred to EEOC; (3) suits in which EEOC has intervened; and (4) the number of charges filed against the craft unions under the Commission's 707 program along with the number of craft union respondents that those charges cover.

Third, there are a number of recommendations which pertain to the EEO-2, EEO-2E, and EEO-3 forms. Information concerning those workers who have achieved "journeyman" status is important. However, the Commission has found that the statistics for the number of trainees and apprentices are valuable when investigating a union which consistently has permitted women and minorities to enter the apprenticeship program, but then has failed to permit them to advance to journeyman status. I have asked staff to study the data collection problems in light of the report's recommendations and the many questions in this area which have been brought to my attention. They are to prepare recommendations which will result in the development and implementation of a system which gathers reliable statistics and meets the needs of this agency and the needs of other Federal, state and local agencies. This is particularly important now that the Commission has inter-agency coordination responsibility in equal employment opportunity policy.

Again, I appreciate the opportunity to comment on this proposed draft and if I can be of further assistance please let me know.

Sincerely,



Eleanor Holmes Norton
Chair

Enclosure

A. Court Enforcement Activity

- (1) EEOC v. Local 53, Asbestos Workers
Civil Action No. 66-749 (E.D. La.)

Suit was filed by the Department of Justice on February 4, 1966, alleging race discrimination as to referrals, admissions and recruitment. Judicial relief was granted sub nom Vogler v. McCarthy, Inc. 294 F. Supp. 368 (E.D. La. 1976); aff'd sub nom Asbestos Workers, Local 53 v. Volger, 407 F. F. 2d 1047; (5th Cir. 1969); see also, 2 FEP Cases 491 (E.D. La., 1970); 4 FEP Cases 11 (E.D. La. 1971) aff'd 451 F. 2d 1236 (5th Cir. 1971). The Commission assumed responsibility for this matter on July 1, 1974. The court's decree has been fulfilled but not formally closed out.

- (2) EEOC v. IBEW Local 38
Civil Action No. C-67-575 (N.D. Ohio)

The Department of Justice filed suit on August 8, 1967, alleging race discrimination as to admissions, referrals and recruitment. Judicial relief has been granted in this matter as report at 1 FEP Cases 673 (N.D. Ohio 1969); cert. denied 400 U.S. 943 (1970); consent order modified at 3 FEP Cases 362 (N.D. Ohio 1971). The Commission has on-going responsibility for monitoring this matter.

- (3) EEOC v. Cincinnati Iron Workers Local 44 and 372, et al.,
Civil Action No. 6590 (S.D. Ohio)

Suit was filed by the Department of Justice on December 7, 1967, alleging race discrimination with respect to recruitment, admissions and testing. A consent decree was entered into by the original parties, and the Commission since receiving responsibility for this matter on October 9, 1974, has extended the original consent decree and subsequently reached a new agreement modifying the existing decree. The decree is currently being monitored by the Commission.

- (4) EEOC v. Los Angeles Steam Fitters Local 250, et al.,
Civil Action No. 68-109 (C.D. Cal.)

This suit was filed by the Department of Justice on February 7, 1968, alleging discrimination based on race, with respect to recruiting, admissions, and referrals. A consent decree was reached which provided for goals and affirmative recruiting efforts. The Commission assumed responsibility for and monitored that decree which expired on May 25, 1978.

- (5) EEOC v. Indianapolis Local 73 Plumbers, et al.
Civil Action No. P-68-C-45 (S.D. Ind.)

This case was originally filed by the Department of Justice on February 8, 1968, alleging race discrimination with respect to admissions, referrals and recruiting. Judicial relief was granted as reported at 314 F. Supp. 160 (S.D. Ind. 1969). A subsequent consent order was entered into. This order was modified by the Commission upon receipt of the case on March 24, 1974, and a modified consent order was entered into on March 1, 1977, and is currently being monitored by the Commission.

- (6) EEOC v. Las Vegas Electrical Workers Local, 357, et al.
Civil Action No. LV-1112 (E. Nev.)

Suit was filed by Department of Justice on February 19, 1968, alleging race discrimination with respect to recruiting, referrals and admissions. Two separate consent decrees were entered into and have been monitored by the Commission since it assumed responsibility for this matter in May of 1974. The decree with respect to the named defendant provides that a 75% ratio of black apprentices be admitted to the apprenticeship program. Judicial relief was also granted in this matter and is reported at 356 F. Supp. 104 (D. Nev. 1972) and 6 FEP cases 388 (D. Nev. 1972).

- (7) EEOC v. Iron Workers Local No. 1
Civil Action No. 68-C676 (N.D. Ill.)

This case was filed by the Department of Justice on April 12, 1968, alleging race discrimination with respect to recruiting, admissions and referrals. The Commission assumed responsibility for this matter in April of 1975 and has been monitoring a consent decree which provides for non-discriminatory referrals, goals, training, and journeymen membership.

- (8) EEOC v. Local 46, Wood, Wire Metal Lathers
Civil Action No. 68-CIV-2116 (S.D.N.Y.)

This suit was filed by the Department of Justice on May 22, 1968, alleging race discrimination with respect to admissions and referrals. A consent decree was entered into which provides for goals and back pay. The Commission has been monitoring this matter and is currently involved in negotiations to amend the consent decree.

- (9) EEOC v. Cleveland Pipe Fitters, Local No. 120, et al.,
Civil Action No. C-68-473 (N.D. Ohio)

Suit was filed by Department of Justice on June 28, 1968, alleging race discrimination with respect to recruiting, admissions and hiring. A consent decree was entered into by the Department of Justice providing for priority referrals, increased minority membership and goals. The Commission assumed responsibility for this matter on March 24, 1974, and has monitored and extended the terms of the consent decree.

- (10) EEOC v. E. St. Louis Operating Engineers Local No. 520
Civil Action No. 69-9 (E.D. Ill.)

Suit was filed on January 17, 1969, by the Department of Justice alleging race discrimination with respect to recruiting, admissions and referrals. A consent decree was entered into which provides for training, recruiting, a non-discriminatory referral system and revised membership requirements. The Commission has been monitoring this decree since it assumed jurisdiction of this matter in 1974.

- (11) EEOC v. E. St. Louis Electrical Workers Local 309
Civil Action No. 69-10 (E.D. Ill.)

Suit was filed by the Department of Justice on January 17, 1969, alleging race discrimination as to recruiting, admissions and referrals. A consent decree was entered into and the Commission has been monitoring that decree since it assumed jurisdiction of this matter in 1974.

- (12) EEOC v. E. St. Louis Cement Masons, Local 90
Civil Action No. 69-11 (E.D. Ill.)

Suit was filed by the Department of Justice on January 17, 1969, alleging race discrimination as to recruiting, admissions and referrals. A consent decree was entered into providing for affirmative recruiting, specific referral relief, all tests to be reevaluated, and revised qualifications. The Commission has been monitoring this decree since it assumed responsibility for this matter in 1974.

- (13) EEOC v. Sheet Metal Workers, Local 10, et al.
Civil Action No. 489-69 (D.N.J.)

Suit was filed on April 25, 1969, by the Department of Justice alleging race and national origin discrimination with respect to admissions and referrals. The case was resolved by consent decree which provided for ratio indenture of minority apprentices,

goals for indenturing them and referrals of minority workers based on previous work experience. The Commission is currently monitoring this decree.

- (14) EEOC v. Local 377, International Association of Bridge Structural and Ornamental Iron Workers, et al.
Civil Action No. C-51592 (SAW) (N.D. Cal.)

Suit was filed by the Department of Justice on June 24, 1969, alleging race discrimination as to recruiting, referrals and admissions. A consent decree was entered into which provided for goals, a non-discriminatory referral system, a prohibition against using unvaladited tests, affirmative recruiting efforts and an over age apprentice program. The Commission received responsibility for this matter in May of 1974 and is currently involved in litigation to enforce the decree.

- (15) EEOC v. Local 86, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Local 302, International Union of Operating Engineers, et al. Association General Contractors of America, Seattle Chapter
Civil Action No. 8618 (W.D. Wash.)

This suit was filed on October 31, 1969, by the Department of Justice alleging race discrimination with respect to recruiting, referrals and admissions. Relief was granted, in part judicially, and in part by consent decree. The consent decree in this matter provides for goals, recruiting efforts, training, and specific referral relief. The Commission assumed responsibility for this matter in May of 1974 and is currently involved in negotiations concerning the monitoring of this matter. See U.S. Local 86 Iron Workers, 315 F. Supp. 1202 (W.D. Wash. 1970); aff'd 443 F. 2nd 544 (9th Cir. 1971); cert. denied sub nom Iron Workers, Local 86 U.S. 404 U.S. 984. See also 4 FEP Cases 1147, 1150, 1152 (W.D. Wash. 1972).

- (16) EEOC v. E. St. Louis Iron Workers, Local 392, et al.
Civil Action No. 70-78 (E.D. Ill.)

Suit was filed on June 2, 1970, by the Department of Justice alleging race discrimination with respect to recruiting, admissions and referrals. A consent decree was entered into which provides for specific referral relief, training, recruiting, revised membership criteria, and objective testing. The Commission assumed responsibility for this matter in 1974 and is currently involved in monitoring the decree.

- (17) EEOC v. E. St. Louis Carpenters, Local 169 and 480, et al.
Civil Action No. 70-167 (E.D. Ill.)

Suit was filed on November 25, 1970, by the Department of Justice alleging race discrimination with respect to membership and referrals. A decree was entered after appeal in this matter resolving all issues. The Commission has been monitoring compliance with the decree since it received the case in 1974. See U.S. v. Local 169, Carpenters, 3 FEP Cases 445 (E.D. Ill. 1971); rev'd 457 F 2d 210 (7th Cir. 1972); cert. denied, sub nom Local 169, Carpenters v. U.S., 409 U.S. 851 (1972)

- (18) EEOC v. Memphis Bricklayers Local No. 1 et al.
Civil Action No. 76-231-P (S.D.A.S.) (W.D. Tenn.)

Suit was filed on February 11, 1971, by the Justice Department alleging race discrimination based on recruiting, referrals and admissions. A final decree was entered on January 26, 1973, which provided for back pay relief. After assuming responsibility for this matter the Commission engaged in contempt proceedings which resulted in a subsequent settlement providing for back pay relief, contempt liability, posting in hiring halls, referrals without reference to local membership and general injunctive relief. See U.S. v. Local 1, Bricklayers 5 FEP Cases 863 (W.D. Tenn. 1973). Aff'd sub nom U.S. v. Masonry Contractors Assn. of Memphis, Inc. 497 F. 2d 871 (6th Cir. 1974).

- (19) EEOC v. United Association of Journeymen Local 24
Civil Action No. 444-71 (D.N.J.)

Suit was filed on March 25, 1971, by the Department of Justice against the Electricians Cluster, the Iron Workers Cluster and the Operating Engineers Cluster. Consent decrees were reached in each instance providing for goals, training and admissions of experienced minority electricians, iron workers and engineers. The Commission has monitored these decrees since assuming responsibility for this matter. See U.S. v. Local 24, Plumbers, 364 F. Supp. 808, 831, (D.N.J. 1973); see also 9 FEP 1355.

- (20) EEOC v. Local 378, International Association of Bridge Structural and Ornamental Iron Workers
Civil Action No. C-71-954 SAW (N.D. Cal.)

The Justice Department filed suit on May 18, 1971, alleging race discrimination. A consent decree was entered into which provided for goals, a non-discriminatory referral system, affirmative recruiting, a prohibition against using unvalidated tests and an over age apprenticeship program. The Commission is currently involved in litigation concerning compliance with this decree.

- (21) EEOC v. Local 638, Steamfitters, et al.
Civil Action No. 71-CIV-2877 (S.D.N.Y.)

Suit was filed by the Department of Justice on June 29, 1971, alleging race and national origin discrimination against the Steamfitters, Local 28 of the sheet metal workers and Locals 40 and 580 of the Ironworkers with respect to recruiting, referrals and admissions. The Commission is currently monitoring compliance of separate consent decrees entered into by the unions and the Department of Justice following partial judicial relief. The decrees generally contain affirmative action goals for non-white membership, specific referral hall regulations, reduced initiation fees for certain applicants and specific procedures for entrance into apprenticeship programs. The Commission is currently involved in contempt proceedings with respect to one of the defendants in this matter. See U.S. v. Local 638, Steam Fitters, 360 F. Supp. 979 (S.D.N.Y. 1973); Aff'd. sub nom Rios v. Local 638 Steam Fitters, 501 F. 2d 622 (2nd Cir. 1974)

- (22) EEOC v. IBEW, Local 130, et al.
Civil Action No. 71-1779 (E.D. La.)

The Department of Justice filed suit on June 30, 1971, alleging race discrimination against, inter alia IBEW Local 130, Local 60 of the Plumbers and Local 11, Sheetmetal Workers with respect to recruiting, referrals, and admissions. The Commission is currently involved in contempt proceedings with respect to enforcement of the consent decrees entered into by the Department of Justice in this matter.

- (23) EEOC v. Operating Engineers Local 3, et al.
Civil Action No. C-71-1277 (N.D. Cal.)

The Department of Justice filed suit on July 2, 1971, alleging race and national origin discrimination with respect to recruiting, referrals and admissions. A consent decree was entered into which provided for goals, back pay and the elimination of testing. The Commission is currently monitoring that decree.

- (24) EEOC v. Local 396 of the Bridge, Structural and Ornamental Iron Workers, et al.
Civil Action No. 71-C-5592 (E.D. Mo.)

The suit was filed on September 8, 1971, by the Department of Justice alleging race discrimination against 19 defendants in St. Louis building trades with respect to recruiting, referrals, admissions and testing. Consent decrees have been reached both by the Department of Justice and the Commission to provide relief including affirmative action goals for minority journeymen and apprentices. The Commission is currently monitoring this case.

- (25) EEOC v. International Union of Elevator Constructors, Local No. 5 Civil Action No. 72-516 (E.D. Pa.)

Suit was filed on March 15, 1972, by the Department of Justice alleging race discrimination as to admissions referrals and implementation of the Philadelphia Plan. Judicial relief was granted requiring Local 5 to achieve a level of minority membership of approximately 23% and a 1/3 goals of referrals of minority helpers. The Commission is currently monitoring this case.

- (26) EEOC v. International Union of Operating Engineers Locals 14 & 15, et al.
Civil Action No. 72-CIV-2498 (V.L.B.) (S.D.N.Y.)

Suit was originally filed by the Department of Justice on June 13, 1972, alleging race discrimination as to referrals, admissions, testing and retaliation. The Commission is currently engaged in settlement negotiations with union defendants.

- (27) EEOC v. IBEW, Local 505, et al.
Civil Action No. 7206-72-P (S.D. Ala.)

Suit was filed by the Department of Justice on June 21, 1972, alleging race discrimination against inter alia, the Electricians, Ironworkers, Plumbers, and Sheet Metal Workers with respect to admissions, referrals and recruitment. Consent decree was entered into between the unions and Department of Justice providing for goals, a non-discriminatory referral system, specific relief and back pay. The Commission is currently monitoring those decrees.

- (28) EEOC v. Local 38, Plumbers Union, et al.
Civil Action No. 73-0645 (N.D. Cal.)

The Commission filed suit in this matter on April 20, 1973, alleging discrimination based on race, sex and national origin and is currently monitoring compliance pursuant to a consent decree entered into with the defendants.

- (29) EEOC v. Local 45, Bricklayers
Civil Action No. C-73-192 (W.D. NY)

The Commission filed suit on April 23, 1973, alleging discrimination based on race and national origin and is currently monitoring a consent decree which provides for, inter alia, 14.7% referrals of minorities during each year of the decree.

- (30) EEOC v. Chicago Sheet Metal Workers Local 73, et al.
Civil Action No. 73-C-2039 (N.D. Ill.)

Suit was filed on August 10, 1973, by the Department of Justice alleging race and national origin discrimination with respect to recruiting, admissions and referrals. Consent decrees were entered into by the Justice Department providing for membership and apprenticeship goals and timetables. The Commission is currently monitoring the decrees.

- (31) EEOC v. Cement Masons Local 681
Civil Action No. 73-H-275 (S.D. Tex.)

The Commission's suit in this matter was resolved by consent decree enjoining the union and trade association from discriminating with regard to referrals, hiring, assignment and training cement masons and apprentices. The decree sets out procedures designed to eliminate past discrimination with regard to the processing of referral requests at the union hiring hall and is currently in effect.

- (32) EEOC v. Ohio Operating Engineers Apprenticeship Fund
Civil Action No. 73-166 (S.D. Ohio)

Suit was filed in 1973 by the Commission alleging race discrimination with respect to admissions and apprenticeship selection. A consent decree was entered into by the parties and filed with the Court on February 5, 1975, providing for 1 to 1 hiring until there are 600 minority apprentices and for the admission of 95 prior applicants who were found to be qualified. The decree is currently in effect.

- (33) EEOC v. International Association of Ironworkers, Local 16
Civil Action No. M-74-3 (D. Md.)

Suit was filed on January 2, 1974, by the Department of Justice against 13 Baltimore building trades defendants alleging race discrimination with respect to recruiting, training, and admissions. The case was partially settled by consent decree and the Commission is currently monitoring those decrees and negotiating others.

- (34) EEOC v. Local 13 Plumbers and Pipefitters
Civil Action No. 74-384 (W.D. NY)

The Commission filed suit on August 8, 1974, alleging national origin discrimination with respect to admissions. The case is currently in litigation.

- (35) EEOC v. Carpenters Local 213, et al.
Civil Action No. 74-H-724 (S.D. Tex.)

The Commission filed suit on May 28, 1974, alleging race and national origin discrimination with respect to admissions, referrals and recruiting. A consent decree entered into by the parties on January 31, 1977, provides for full relief and is currently in effect.

- (36) Local 36, Plumbers and Pipefitters
Civil Action No. 75-96 (W.D.N.Y.)

The Commission filed suit on March 7, 1975, alleging race discrimination with respect to admissions and recruiting. The case is currently in litigation.

- (37) EEOC v. Local 11, Wood, Wire, and Metal Lathers
Civil Action No. 75-164-N (E.D. Va)

The Commission filed suit on April 14, 1975, alleging race discrimination with respect to admissions and referrals. A consent decree entered into on January 23, 1976, provides for back pay, membership and apprenticeship goals and timetables. The decree is currently in effect.

- (38) EEOC v. Asbestos Workers Local 113
Civil Action No. 75-C-140 (S.D. Tex)

The Commission filed suit on September 25, 1975, alleging discrimination based on race and national origin with respect to recruiting and membership. A consent decree entered into on August 17, 1978, provides for back pay, goals and timetables, the elimination of a high school diploma requirement for membership and the elimination of nepotism. The consent decree is currently in effect.

- (39) EEOC v. Sheet Metal Workers Local 104, et al.
Civil Action No. C-76-2427 WAI (N.D. Cal.)

The Commission filed suit on November 1, 1976, alleging race and national origin discrimination with respect to membership and referrals. A consent decree was entered into in February 1978 providing for full relief in this matter. That consent decree is currently being monitored for compliance.

- (40) EEOC v. Operating Engineers Local 701
Civil Action No. 76-577 (D. Ore)

The Commission filed suit on June 22, 1976, alleging race discrimination with respect to membership and referrals. The case is currently in litigation.

- (41) EEOC v. Local 12, Sheet Metal Workers
Civil Action No. 76-1234 (W.D. Pa.)

Suit was filed by the Commission on September 28, 1976, alleging race discrimination with respect to retaliation and referrals. This case is currently in litigation.

- (42) EEOC v. Iron Workers Local 405
Civil Action No. 76-810 (E.D. Pa.)

Suit was filed by the Commission on March 17, 1976, alleging race discrimination as to referrals and recruiting. This case is currently in litigation.

- (43) EEOC v. Local 451, Iron Workers
Civil Action No. 76-119 (D. Del.)

The Commission filed suit on March 25, 1976, alleging race discrimination with respect to admissions, recruiting and referrals. This case is currently in litigation.

- (44) EEOC v. Local 399, Iron Workers
Civil Action No. 76-0551 (D.N.J.)

The Commission filed suit on March 25, 1976, alleging race discrimination with respect to admissions, referrals and recruiting. This case is currently in litigation.

- (45) Argetsinger, et al. and EEOC v. Carpenters Local 1243, and Associated General Contractors of America a/w/a Fairbanks Alaska Carpenter Training Center
Civil Action No. F-76-29 (D. Alaska)

The Commission intervened in this matter on September 28, 1977. Suit alleges sex discrimination with respect to hiring and referrals. The case is currently in litigation.

- (46) EEOC v. Local 103, IBEW
Civil Action No. 77-3675-G (D. Mass.)

Suit was filed by the Commission on December 5, 1977, alleging retaliation based on race. This case is currently in litigation.

- (47) EEOC v. International Union of Elevators Constructors, Local 1 Consolidated with Goding v. International Union of Elevator Constructors Local 1
Civil Action No. 78-CIV-128 (R.J.W.) (S.D. NY)

Suit was filed by the Commission on June 5, 1978, pursuant to Section 707 of Title VII alleging discriminatory practices based on race. This case has been resolved by consent decree which provides for back pay, attorneys fees for the named plaintiff, and covers hiring, promotion, training, admission to membership, other conditions of employment, specific conditions for referrals, and quarterly testing for minority applicants and trainees. The decree also contains provisions covering recruiting, hiring, and promotion goals, inspection of union and company files and the submission of quarterly reports. The decree will be in effect for a period of three years.

- (48) EEOC v. Sheet Metal Workers Local 108
Civil Action No. 78-3490 (I.H.) (C.D. Cal.)

Suit was filed by the Commission on September 11, 1978, alleging discrimination based on race, sex and national origin with respect to admissions and referrals. The case is currently in litigation.

B. 707 Commissioner Charges

Eight separate Commissioner Charges involving skilled craft unions have been issued by the Commission pursuant to Section 707 of the Act. These charges cover 16 trade union respondents. One of the charges has completed the administrative process and has been filed in court pursuant to Section 707. Another of the charges has been approved for litigation and suit is expected to be filed shortly. The others are at various stages of the administrative process.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 29, 1978

Mr. Allen R. Voss
Director
General Government Division
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Voss:

Thank you for the opportunity to comment on the draft report to the Congress on Federal programs to increase minority opportunities in skilled construction-craft unions. The draft appears to have been thoroughly researched and indeed underscores several significant problems which have hampered efforts to increase minority participation at the journeymen level in the construction trades.

On page 44 of the report it is recommended that the Director, Office of Management and Budget:

- Direct OFCCP to discontinue enforcement of Executive Order 11246 for union affiliated construction contractors.
- Transfer resources released by the above action to EEOC for pattern and practice investigations of construction craft unions.

The current Federal effort designed to increase the number of minorities at the journeymen level in the construction trades is a two-pronged approach; direct enforcement over unions through Title VII and indirect pressure through government contractors under Executive Order 11246. The draft report appropriately points out the past shortcomings of both approaches.

It is not clear, however, the extent to which the failure of the Executive order effort has been due to the inherent deficiency of the indirect approach or due to the fragmented structure of the OFCCP program. We believe that the latter problem has been remedied through the President's consolidation of the Executive order program in the Department of Labor. Accordingly, it appears that some time should be

given to the Department of Labor under its new consolidated authority to test the effectiveness of the indirect approach. This would avoid the danger of scuttling a potentially effective tool. It also would provide an opportunity to gather additional and more accurate data upon which to base a sound decision. As your report points out, much of the data available to the GAO during the study were preliminary and in some cases erroneous.


To ensure that the Department of Labor and the Equal Employment Opportunity Commission have every opportunity to carry out effective programs, including those directed at the construction industry, the Office of Management and Budget has worked closely with these agencies. We have attempted to provide them with the resources and management assistance necessary to facilitate their success. In addition, we have been and will continue monitoring their progress on a regular basis.

Added incentive for improved enforcement by the Department of Labor with respect to the construction trades also has resulted from a recent court order. Judge Corcoran of the U.S. District Court for the District of Columbia recently issued an order to the Department of Labor (Civil Action No. 76-527) under which the Department's attention is directed to the importance of the Executive order's construction program and specifically to the need to increase the number of women in the construction trades.

Finally, the President, in announcing Reorganization Plan No. 1 of 1978, indicated a desire to review the entire Federal equal employment effort in 1980 to determine the desirability of further alterations or consolidations. We believe that by that date the EEOC and the Department of Labor will have had a reasonable opportunity to discharge their respective responsibilities and accordingly we then can make a final determination on the advisability of your recommendation.

We appreciate the opportunity to comment on your report. If we can be of any further assistance, please do not hesitate to call upon us.

Sincerely,



James T. McIntyre, Jr.
Director

GAO note: Page reference in this letter may not correspond to the page number in the final report.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

January 30, 1979

Mr. Gregory J. Ahart
Director
Human Resources Division
United States General
Accounting Office
Washington, D.C. 20548

Dear Mr. Ahart:

Thank you for affording us an opportunity to review and comment on the draft report prepared by the General Accounting Office, entitled "Federal Efforts to Increase Minority Opportunities in Skilled Construction Craft Unions Have Had Little Success". We have enclosed a paper that gives our comments regarding the principal findings and recommendations contained in the draft report.

Sincerely,



R. C. DeMarco
Inspector General - Acting

Enclosure

GAO note: Material included in draft report but revised in, or deleted from, final report.

COMMENTS OF THE DEPARTMENT OF LABOR
REGARDING THE DRAFT REPORT OF THE
GENERAL ACCOUNTING OFFICE, ENTITLED --

"FEDERAL EFFORTS TO INCREASE MINORITY
OPPORTUNITIES IN SKILLED CONSTRUCTION CRAFT
UNIONS HAVE HAD LITTLE SUCCESS"

U.S. Department of Labor
January 1979

INTRODUCTION

This paper presents the views and comments of the Department of Labor (DOL) regarding the principal findings and recommendations contained in the draft report of the General Accounting Office (GAO), entitled "Federal Efforts to Increase Minority Opportunities in Skilled Construction Craft Unions Have Had Little Success." In addition to activities performed by the Equal Employment Opportunity Commission (EEOC), the report deals with four programs and activities carried out by DOL --

- o Enforcement activities performed by the Office of Federal Contract Compliance Programs (OFCCP) in the Employment Standards Administration (ESA).
- o Enforcement activities performed by the Bureau of Apprenticeship and Training (BAT) in the Employment and Training Administration (ETA).
- o The Targetted Outreach Program (formerly known and referred to in GAO's draft report as the Apprenticeship Outreach Program) administered by ETA.
- o The Job Corps, also administered by ETA.

The GAO's draft report discusses each of these DOL programs and activities separately. This paper will address their findings and recommendations in the same manner.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

In GAO's draft report, the recommendations pertaining to OFCCP are stated as follows:

We recommend that the Director, Office of Management and Budget

- Direct OFCCP to discontinue enforcement of Executive Order 11246 for union affiliated construction contractors.
- Transfer resources released by the above action to EEOC for pattern and practice investigations of construction craft unions.

These recommendations are based on GAO's conclusion that OFCCP's efforts to increase employment of minority persons in the organized sector of the construction industry have not had good effect. The principal reason cited for this ineffectiveness is that OFCCP, unlike EEOC, lacks direct authority over construction unions.

While we agree that minorities have not progressed rapidly enough in unionized construction crafts, we disagree strongly with the recommended elimination of OFCCP's contract compliance activities in this area and a corresponding transfer of OFCCP resources to EEOC for systemic investigations of construction unions. Moreover, we disagree with the basic reasoning that underlies the GAO recommendations, namely that the limited impact of contract compliance programs on minority opportunities in construction crafts is primarily attributable to OFCCP's lack of authority over unions and that changes encompassed in the Reorganization Plan for OFCCP will not overcome prior defects in OFCCP's efforts in this area. Additionally, we take exception to GAO's assessment of the overall effectiveness of OFCCP compliance efforts in the unionized construction industry.

Rather, we contend that the lack of significant progress in increasing minorities' opportunities in the construction crafts during the years of the study, 1972-1976, is primarily the result of the fact that the years in question represent a period of high unemployment in the construction industry and it was during these years that government efforts to increase minorities' opportunities were only begun. Furthermore, we strongly believe that the new regulations published in April 1978 and the new consolidation and reorganization of OFCCP will correct the deficiencies of ineffective enforcement and inadequate contractor monitoring.

Initially, we feel that the GAO report, although recognizing that "the economic conditions of the mid-1970's had some effect" on attempts to increase minority representation in construction trades, failed to sufficiently evaluate the impact of high unemployment in the construction industry during this period on attempts to increase the numbers of minorities in the construction crafts. Nor did the report acknowledge the progress that was made during this difficult period. During such a period of high unemployment when there is not even enough work for journeymen, any attempts to bring in new members or workers, in

this case minorities, are going to suffer. Yet given this fact and the fact that during the specific period in question every craft under study experienced an overall decline in membership, minority membership actually increased in all but two trades.

Secondly, the report overlooks the fact that all of OFCCP's initial approaches to the construction industry focused on the creation of avenues of entry into the ranks of skilled workers. During the early 1970's, the Government's main concern was to generate skilled minority workers through training programs who could be absorbed into the industry in the course of time and who, because of their skills, could be assured of reasonable employment prospects in years to come. Data for 1977 shows that these efforts did have an effect, as the rate of minority group members in apprenticeship programs continues to increase. (See Enclosure 1--Chart on Percentage of Minority Representation in Apprenticeship Programs.) However, given the length of most apprenticeships, from 3 to 5 years, and other formalized skills training in the construction industry, the major impact of OFCCP's activities on journeyman membership are only now starting to be felt. Recent preliminary figures from EEOC show that greater improvement is being made in minority representation in unions than the figures in the GAO report indicate. Thus, the GAO report shows that in 1976 minority membership in selected construction craft unions was only 12.8 percent, an increase of 3.5 percent from 1972. However, EEOC preliminary data for 1976 based on reports from 2339 local unions (unions with 100 or more members and unions with hiring halls) indicate that minority representation of total membership is 17.9 percent. The figures break down as follows:

Total membership	1,393,274	
Black	127,776	- 9.2%
Hispanic	95,426	- 6.8%
Asian & Pacific Islanders	6,630	- 0.5%
American Indians & Alaskan Indians	19,617	- 1.4%
White non-Hispanics	1,143,825	- 82.1%

Early and continuing emphasis on access to apprenticeship and other formalized training is a dictate of sound policy in this area. Creating a demand for skilled minorities in the construction industry would be to little purpose without a supply of skilled minority workers to fill that

demand. In this regard, we feel that GAO gives little credit, if any, to the positive impact of the Executive Order in generating opportunities for minorities in apprenticeship and other formalized work-training programs. Indeed, GAO is strongly critical of the employment of minority apprentices and trainees on construction projects that are under OFCCP cognizance. However, the need to provide training opportunities for minorities as well as jobs for minority journeymen clearly justifies the employment of minority apprentices and trainees as a means to help satisfy affirmative action requirements.

We also believe that GAO's criticism regarding temporary employment is unwarranted and reflects a lack of understanding concerning the pattern of employment in the construction industry. While it is true that OFCCP's activities may tend to provide minorities with temporary jobs in the construction industry, it is also true that nearly all employment in the construction industry is of an intermittent or seasonal nature. This is the case for union as well as non-union workers. It should be noted, too, that new OFCCP regulations at 41CFR 60-4 specifically address the intermittent character of work in the construction industry by requiring contractors to retain and recall their minority employees as a part of their affirmative action obligation.

The draft GAO report points out that many contractors resort to "permit workers" to fulfill their affirmative action requirements. While their discussion of this practice is critical, the employment of permit workers has historically had beneficial results in terms of subsequent union membership for non-minority workers. The problem is discrimination. Craft unions do have a requirement to test and admit to membership individuals who have worked under permit for a certain number of hours. One of the major issues involved in the national craft union law suit mentioned in the report was the union's failure to conduct such tests and admit workers.

Additionally, we disagree with GAO's assertions that OFCCP's leverage with contractors counts for very little in according union membership to minorities and that contractors are "at the mercy of construction craft unions" Two examples serve to contradict such a contention. On one occasion when a union acted against a contractor that attempted to meet its affirmative

obligations by hiring outside the bargaining agreement, the Justice Department joined with OFCCP and won a permanent injunction against such interference. In another case, in an appeal of a recent debarment action by OFCCP, the contractor was actually defended and an appeal was made by the trade union involved.

Moreover, contractors and unions have historically had standing agreements outside of the negotiated settlement, providing for the immediate entry of individuals referred by the contractor. Unions have also been able to respond with rapid referrals of minority workers when large numbers of opportunities for their non-minority members are threatened by enforcement action.

Furthermore, OFCCP is taking steps to directly involve all unions in enforcement actions or proposed conciliation agreements which involve a collective bargaining agreement. Staff have been directed to establish contact with and include in discussions, all unions which may be affected by a proposed action. Additionally, revisions currently being considered in OFCCP's regulations could directly involve unions in formal enforcement proceedings citing the bargaining agreement. Thus, OFCCP's lack of direct authority over unions will be mitigated by these measures designed to increase cooperation between the unions, contractors and OFCCP through more direct involvement of the unions in compliance efforts.

We also challenge GAO's unsubstantiated assertion that the recently completed consolidation of contract compliance responsibility within the Department of Labor will not have any effect on correcting past problems of enforcement. While on the one hand, GAO, as its major criticism of past OFCCP efforts, cites the lack of coordinated and consistent enforcement by the previous compliance agencies, it dismisses the consolidation plan by stating that "the enforcement for the Executive Order will not necessarily be corrected with the October 1978 consolidation..." OFCCP's major deficiencies in the past have stemmed from the lack of direct control over operational resources and a confused regulatory base. The reorganization will correct the problem of control and the new regulations represent for the first time regulatory support for OFCCP's enforcement efforts. The regulations eliminate unsuccessful

policies and procedures and establish a new enforcement approach with new standards for compliance. Although the regulations retain the hometown plan voluntary compliance approach, they change the individual requirements placed on contractors under the plans. The regulations definitely provide a structure that will cause changes in union practices and actions required to achieve contractor compliance. Thus, we believe that OFCCP, with the combination of direct centralized control of all contract compliance activities and the new regulatory framework, will have a broad impact upon overall employment and retention of minorities within the industry, including the unionized sector.

Additionally, OFCCP is in the process of developing an automated data processing system which will allow the utilization of accurate and timely information for targeting compliance review and enforcement activity on those contractors with the most serious utilization deficiencies and the greatest opportunities for employment.

It should be noted that the Department has taken vigorous action, even prior to the consolidation, to upgrade its enforcement activities in the construction industry. During 1977 and 1978, 8 administrative enforcement actions have been initiated against construction contractors. The current status of these actions is as follows:

- 1 contractor debarred
- 1 administrative law judge recommendation for debarment awaiting final agency action
- 1 administrative law judge grant of summary judgment in favor of the government awaiting final agency action
- 2 consent decrees entered
- 3 consent decrees under negotiation

During the same period, two additional construction contractors were debarred as a result of enforcement procedures initiated earlier. Many of the cases referenced above involve goals and timetables. Of greater significance, however, are the recent reforms to the OFCCP regulations and the consolidation of the contract compliance functions under Reorganization Plan No. 1. Contrary to GAO's opinion, we believe that these two recent actions will provide us with the necessary tools to strengthen our enforcement procedures.

GAO's position that sharper EEOC focus should be given to construction unions is well taken. Greater emphasis by EEOC on the systemic approach would, in our view, be extremely important to the improvement of minority representation in these unions. However, to accomplish this at the expense of the OFCCP Contract Compliance effort would prove to be a pointless and self-defeating undertaking. While EEOC efforts in this area would certainly open union journeymen membership to larger numbers of minorities and women, membership in a construction craft union does not assure employment.

As GAO itself points out, EEOC's primary mechanism for assuring fair access to jobs--i.e., the individual complaint procedure--would be of extremely doubtful effectiveness in overcoming systematic exclusion of minorities and women from jobs in the construction industry. Given the hiring practices that typify this industry, the availability of jobs to minorities and women, even those who attain union membership as journeymen, will continue to depend in large measure on the contract compliance program.

This issue becomes even more significant in light of the fact that unionized construction workers have declined from 43 percent in 1970 to 36 percent in 1977. Thus, an increase in employment of minorities in the construction trades is going to depend, to a large extent, not only upon expanding the number of minorities in the unionized construction sector, but also upon efforts by OFCCP to help all contractors meet their minority hiring requirements. A pilot program is already underway between OFCCP and the Employment and Training Administration to match contractors' EEO requirements with trained, skilled minority applicants. Note should also be taken of OFCCP's new regulations providing for the first coverage for women in the construction industry.

The GAO recommendations for discontinued enforcement by OFCCP over union affiliated construction contractors and transfer of resources to EEOC would also have adverse implications for the overall contract compliance effort. It is our firm belief that refragmenting the contract compliance function in the manner suggested--i.e., limiting it to non-union contractors--would prove confusing and counterproductive. The problems of

identifying which contractors are union signatories and in what geographic areas would be almost insurmountable from a technical standpoint. It would in fact undo the President's recently completed reorganization while at the same time removing the single most significant force for creating a demand for minority workers in the unionized sector.

In summary, we contend that OFCCP's efforts to increase minority representation in the construction trades have been productive and the lack of greater progress, during the years of the study, is not so much attributable to OFCCP's lack of authority over unions as it is to certain other factors, namely: (1) economic conditions in the construction industry during the mid 1970's, (2) government programs aimed at increasing the minority representation in construction trades are only now beginning to have an effect, and (3) the uncoordinated approach to compliance programs. We believe that the recent reorganization and consolidation of compliance programs in OFCCP will correct many of the prior deficiencies in the program, and that GAO is premature in its assertion that these measures will not enhance the accession of minorities to journeyman status and union membership.

BUREAU OF APPRENTICESHIP AND TRAINING

GAO's recommendations pertaining to BAT are stated as follows:

We recommend that the Secretary of Labor direct the Bureau of Apprenticeship and Training to

- link minority participation goals in construction trades apprenticeship programs to minority journeymen representation in the craft unions;
- study construction trades union (1) job referral practices to determine how apprentices are assigned to jobs, (2) apprenticeship programs to determine the reasons for individuals, particularly minorities, dropping out of construction craft apprenticeship programs, and (3) apprenticeship programs to determine the number of apprenticeship graduates that become journeymen and why others do not;

[See GAO note, p. 70.]

These recommendations were framed in the context of GAO's findings that BAT's efforts to increase minority representation in apprenticeship programs have not resulted in a significant number of minorities achieving journeyman status in unions. According to the GAO findings, there appear to be three reasons for this: (1) minorities enter the unions mainly through apprenticeship programs whereas whites are able to attain journeyman status both through apprenticeship and through other means that have not been readily accessible to minorities; (2) minorities drop out of apprenticeship programs at higher rates than do whites; and (3) not all minorities who complete apprenticeship attain journeyman status.

With regard to the recommendation concerning affirmative action goals for apprenticeship programs, GAO correctly points out that the percentage of minority journeymen in a craft is only one of the factors that must be considered in establishing goals and timetables for the accession of minority apprentices pursuant to the regulations at 29CFR 30.4(e). GAO maintains, however, that the percentage of minority journeymen should be regarded as the key factor in setting such goals and that the BAT manual does not give adequate discussion to the use of this factor in setting apprenticeship program goals.

We would like it noted that the BAT manual is currently being revised and any inconsistencies between it and the regulations will be corrected. However, we disagree with GAO's position that apprenticeship goals should be based primarily on minority participation as journeymen. While journeyman participation should be considered in determining the goal itself, the major factor that should be used in determining the goal for minorities should be the percentage of minorities in the labor force in the surrounding labor market area. To require goals substantially higher than this might result in the imposition of unrealistic targets which would constitute an unreasonable burden on the apprenticeship program sponsor. The apprenticeship system can and should make a meaningful contribution in this area, but its capacity to correct industry-wide racial imbalances is not nearly as great as GAO suggests.

The information in the GAO report indicating that minority apprentices seem to fare worse than whites is a cause of concern for the Department of Labor. The statutory authority for the apprenticeship policies administered by BAT focusses on the welfare of workers while employed as apprentices, and the regulations at 29CFR 30 do give BAT authority to act against discriminatory practices that work against the welfare of minority apprentices. In this regard, the Department concurs with GAO that a broad-based study in this area would be useful and directly pertinent to BAT's responsibilities. A study of the type proposed by GAO will, therefore, be given active consideration by the Department when we are formulating our research plans for Fiscal Year 1980.

[See GAO note, p. 70.]

concerning BAT compliance reviews, we do not take exception to the general thrust of their findings. Indeed, BAT is already taking steps to upgrade their compliance review activities in connection with the amended regulations. Also, the revisions to the BAT manual mentioned earlier will result in improvements to the compliance review process.

Finally, BAT will cooperate with EEOC in the manner suggested by GAO--i.e., by helping EEOC obtain data generated by the apprenticeship system. However, if EEOC is to obtain all of the data that might be useful to its operations, it will need to develop formal arrangements with the various State apprenticeship agencies.

TARGETTED OUTREACH PROGRAM

The GAO recommendations pertaining to the Targetted Outreach Program (then known and referred to in the report as the Apprenticeship Outreach Program) are stated as follows:

We recommend that the Secretary of Labor

- (1) require AOP contractors to follow up on apprenticeship placements in the construction industry periodically and report their status to Labor,
- (2) consider expanding the apprenticeship outreach program to include remedial services during apprenticeship to help minorities complete the training,

In addition to these recommendations, the GAO report included many critical findings pertaining to the Targetted Outreach Program. We would respond to these findings by referring the reader to APPENDIX I to the Comptroller General's report to the Congress entitled, "Questionable Need for Some Department of Labor Programs" (HRD-78-4), issued April 10, 1978. This recent report deals extensively with the Targetted Outreach Program, and APPENDIX I contains the comments of the Department of Labor, most of which are devoted to the steps already taken or being taken to strengthen the effectiveness of the program.

As to the specific GAO recommendations cited above, the Department concurs that follow-up on apprenticeship placements should take place. In this regard, guidelines are being issued to program sponsors that will require them to follow up periodically during the first year of employment on the individuals they place. The guidelines will require that the follow-ups be documented and the employment status of the individual noted in the program sponsor's records. We are also examining the possibility of having this information reported to the Department on a regular basis.

With regard to the GAO recommendation that Targetted Outreach Program activities be expanded to include remedial services to individuals after they are placed as apprentices, we agree that this would probably enhance the job retention of the individuals involved. However, these services could only be provided at considerable cost, and it is the Department's judgement--made in the context of current and projected budgetary constraints--that these costs would not be justifiable in terms of a commensurate improvement in the overall effectiveness of the programs.

THE JOB CORPS

The GAO recommendation pertaining to the Job Corps is stated as follows:

We recommend that the Secretary of Labor...direct Job Corps officials to ensure that construction craft training programs are coordinated with unions and BAT.

The GAO report is highly critical of Job Corps training activities in the construction trades on the basis of their findings that few of the graduates found jobs as union apprentices. The GAO findings and conclusions regarding the Job Corps are, in our view, totally without merit. We say this because the report reflects serious misconceptions regarding the particular training activities that were examined during the course of the GAO study, but mainly because the GAO study did not include any of the union operated training programs that were being offered at 32 of the 60 Job Corps centers that were in existence when the study was being performed.

At the centers visited by the GAO investigators, the construction-related training classes being offered were not designed as apprenticeship type programs but were strictly classroom type training. Generally, these types of programs are about six months in length and can be compared to high school shop training. However, the union operated programs--none of which were examined by GAO--are designed around the first two years of approved apprenticeship curricula and consist largely of hands-on training and are programmed to average about one year or 1040 hours of training. Although complete information is not available regarding the subsequent employment of participants in union operated training, Fiscal Year 1978 data furnished as a courtesy by the International Brotherhood of Carpenters and Joiners of America indicates that 894 of their corpsmember trainees were placed in training related jobs and 472 were either in apprenticeship or OJT positions.

As to the GAO recommendation itself, the Department does not intend to act on it--for the simple reason that adequate involvement on the part of construction trades unions already exists and that apprenticeship type training is already being offered at a large number of Job Corps centers. We should also point out that many courses of construction-related training offered at Job Corps centers result in employment of participants in the homebuilding industry, where about 95 percent of the workforce is non-union. If all construction-related training at Job Corps centers was conducted with a view toward placing the trainees in union jobs, we would be cutting them off from a substantial portion of the job market in the construction industry.

**Minority Representation
Apprenticeship Programs, 1977
Ten Largest Occupational Groupings**

Occupations	
U.S. total	% Minority Enrollment 18.4% 262,586
Carpenters	18.5 36,752
Electricians	15.8 31,523
Plumbers	14.6 16,725
Machinists	14.1 15,119
Pipefitters	17.7 13,077
Tool and die makers	7.7 11,816
Sheet metal workers	18.9 10,565
Auto and related mechanics	21.7 8,717
Structural steel workers	21.1 7,164
Bricklayers, stonemasons, and tilesetters	22.8 7,149



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