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BY THE COMPTROLLER GENERAL

112063

# Report To The Congress

OF THE UNITED STATES

## Agencies When Providing Federal Financial Assistance Should Ensure Compliance With Title VI

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in Federal financial assistance programs. Many agencies that provide such assistance were not certain which of their programs were subject to title VI, and some did not realize they had responsibility for determining compliance with title VI. In two programs GAO reviewed, the agency did not know, and GAO could not determine, if they were administered without discrimination.

The Department of Justice--responsible for coordinating the enforcement of title VI--needs to provide better guidance to agencies that provide financial assistance and improve its monitoring of agencies' enforcement of title VI.



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

This report describes the actions taken by Federal agencies to implement title VI of the Civil Rights Act of 1964 (Public Law 88-352). The report discusses what the agencies have done to implement and enforce title VI, and how the Department of Justice coordinates the agencies' enforcement efforts.

We made our review at the request of the Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary.

We are sending copies of this report to the Attorney General; the Secretary of Health, Education, and Welfare; and the Director, Office of Management and Budget.

A handwritten signature in black ink, appearing to read "Luther R. Starks".

Comptroller General  
of the United States

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COMPTROLLER GENERAL'S  
REPORT TO THE CONGRESS

AGENCIES WHEN PROVIDING  
FEDERAL FINANCIAL ASSISTANCE  
SHOULD ENSURE COMPLIANCE  
WITH TITLE VI

D I G E S T

Title VI of the Civil Rights Act of 1964 provides that no person shall be discriminated against on the basis of race, color, or national origin under any Federal financial assistance program. The Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, requested GAO to review Federal agencies' compliance with title VI.

Each executive department and agency is responsible for determining which of its activities and programs provide Federal financial assistance subject to title VI. The Department of Justice, under Executive Order 11764, is responsible for coordinating agencies' enforcement of title VI and assisting agencies to implement their title VI responsibilities.

Based on responses to GAO questionnaires, agencies were not always certain which assistance activities and programs were subject to title VI. Some agencies said many activities which GAO believed to be subject to title VI were exempt. (See p. 5.)

To help resolve agencies' uncertainties, Justice should clarify the general rules specifying the activities and programs subject to title VI, and provide technical assistance to agencies having difficulty determining the applicability of title VI. (See p. 8.)

Responses to GAO's questionnaire showed that some agencies lacked reasonable assurance that title VI was fully implemented. Agencies did not collect

racial and ethnic data, negotiate voluntary compliance, resolve complaints promptly, or know the adequacy of State compliance systems. (See p. 13.)

Justice should improve its coordination with Federal agencies so it can determine whether agencies are enforcing title VI requirements in their programs. Justice should strengthen its monitoring of agencies' implementation of title VI by

- assuring that its regulations which require agencies to issue title VI regulations and guidelines are implemented;

- continually monitoring agencies to ensure their adherence to Justice's title VI enforcement requirements; and

- amending its regulations to provide for Justice to approve agencies' title VI guidelines, define continuing assistance programs, require agencies to collect racial and ethnic data for their programs, provide criteria for agencies to use in conducting on-site compliance reviews, and establish time limits for agencies to investigate complaints, negotiate voluntary compliance, and initiate administrative hearings. (See p. 20.)

Agencies claimed they had problems enforcing title VI because they lacked (1) adequate agency title VI policies, regulations, and guidelines, (2) sufficient staff to effectively enforce title VI, (3) adequate title VI knowledge or training for agency personnel with title VI responsibilities, and (4) enough title VI enforcement funds. (See p. 23.)

To improve and strengthen agencies' title VI enforcement activities, the

Office of Management and Budget should require department and agency heads to determine their personnel and training needs for adequately enforcing title VI and to consider whether the agencies need additional staff and training to enforce title VI in their Federal financial assistance programs. (See p. 25.)

GAO reviewed two Department of Health, Education, and Welfare (HEW) programs subject to title VI--foster child care and health planning--to evaluate problems with enforcing title VI. HEW did not know, and GAO could not determine, if these two programs were being administered in compliance with title VI. HEW had not

- provided adequate guidance to program managers on their title VI responsibilities,
- collected sufficient racial and ethnic data to permit program managers to evaluate title VI compliance, or
- complied adequately with monitoring and enforcing these programs under title VI. (See p. 26.)

Based on review of the foster care and health planning programs, HEW should:

- Include, in its proposed regulations for reviewing health planning projects, a provision for assessing title VI compliance.
- Assign sufficient staff to permit timely reviews of title VI compliance.
- Require the collection of racial and ethnic data to enable health planners and foster care managers to set program goals that recognize the needs

of all people to be served and determine compliance with title VI.

--Direct program managers to train their representatives and those in State and local organizations in their title VI responsibilities. (See p. 38.)

AGENCY COMMENTS AND  
OUR EVALUATION

The Department of Justice, HEW, and the Office of Management and Budget said they were taking, or planned to take, actions that would address the problems discussed in GAO's report. GAO believes that, if the agencies take these actions, many of the problems will be corrected and title VI enforcement will improve. (See pp. 8, 21, 25, and 39.)



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ABBREVIATIONS

BHP	Bureau of Health Planning
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
HSA	health systems agency
HSP	health systems plan
OCR	Office for Civil Rights
SHPDA	State Health Planning and Development Agency



## CHAPTER 1

### INTRODUCTION

To assure equal protection and assistance to every American, federally funded programs should be administered without discrimination.

Federal financial assistance generally refers to the process by which the Federal Government provides benefits to a specified segment of the population (beneficiaries) through recipients--generally State and local governments. The benefits can be cash, services, goods, or equipment. For example, a local government agency receiving Federal funds might provide training to the program's specified segment of the unemployed population.

Each Federal agency 1/ extending financial assistance is required to assure that program recipients comply with title VI of the Civil Rights Act of 1964 (Public Law 88-352). Title VI provides that no person shall be discriminated against on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Also, in carrying out financial assistance programs, recipients are to ensure that the benefits are being provided in compliance with title VI--free of discrimination.

Ten Federal departments and 22 independent agencies administer 735 Federal programs covered by title VI. (See app. I.) Federal funding was about \$100 billion in fiscal year 1977 for 662 of the 735 programs for which the Office of Management and Budget readily had information.

Executive Order 11764, issued in 1974, charged the Attorney General with the responsibility for coordinating Federal agencies' title VI programs. It also directed the Attorney General to coordinate with and assist agencies by prescribing standards, procedures, and regulations necessary for implementing and enforcing title VI. Responsibility for coordinating and enforcing all civil rights matters was delegated to Justice's Civil Rights Division.

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1/The term "agencies" in this report collectively refers to executive departments, agencies, commissions, and components thereof.

Federal agencies are responsible for determining and ensuring that their Federal financial assistance programs comply with title VI. However, neither the Department of Justice nor the agencies in our review have said what compliance with title VI means--other than saying that Federal financial assistance should be provided free of discrimination. Through regulations issued under Executive Order 11764, Justice provided agencies with the framework for determining compliance with title VI which requires agencies to (1) issue title VI regulations and guidelines, (2) conduct preaward and postaward reviews, and (3) establish a title VI complaint system. However, Justice leaves the determination of compliance with title VI to the agencies.

OUR QUESTIONNAIRES TO OBTAIN AGENCIES'  
PERCEPTIONS OF TITLE VI COVERAGE

We sent 324 questionnaires to 266 components <sup>1/</sup> in 15 executive departments and agencies and to 58 independent agencies, to gather data on the types of domestic assistance activities administered by Federal agencies. The questionnaire identified 20 types of assistance activities and asked each agency to identify (1) which they provided, (2) how these activities were administered, and (3) whether the assistance was covered by title VI. (See app. II for a copy of the questionnaire.)

One independent agency and eight executive department components did not respond. The 315 components and agencies that did respond said they administered 1,206 assistance activities--763 (63 percent) covered by title VI. (See apps. III and IV for list of agency responses.)

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<sup>1/</sup>A component is a division of a department or agency with responsibility for administering a program. We sent the questionnaires to the components because they were generally responsible for administering assistance activities and, consequently, should be more knowledgeable about their respective activities, including whether these activities are covered by title VI.

We also sent a second questionnaire to 32 departments and agencies representing the 315 respondents 1/ with activities subject to title VI. We were trying to determine how they perceived their responsibilities under title VI and how they ensure compliance with title VI. We did not verify the information provided by the respondents.

#### SCOPE OF REVIEW

Besides using questionnaires, we reviewed the Department of Justice's coordination and technical assistance efforts and the Department of Health, Education, and Welfare's (HEW's) implementation of two programs under title VI coverage-- foster child care and health planning.

Our review was done at HEW's central program offices, its Office for Civil Rights; the regional offices in Atlanta, Dallas, San Francisco, and Chicago; State and local health planning programs in Arizona, Georgia, and Louisiana; and five foster care systems in Arizona, California, and New York. Also, foster care questionnaires were sent to all 50 States to obtain information on their title VI activities.

We also obtained information from the U.S. Commission on Civil Rights, the Office of Management and Budget, the President's Task Force on Reorganization, and several public interest groups.

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1/The second questionnaire was sent to departments and agencies; it was not sent to their components and other independent agencies and commissions, as was the first questionnaire.

CHAPTER 2

FEDERAL AGENCIES' TITLE VI RESPONSIBILITIES

NEED CLARIFICATION

Many Federal agencies were unclear about which activities were covered by title VI:

- Agencies did not know whether their activities were covered.
- Agencies believed that title VI applied to some activities that the law exempts from title VI.
- Agencies' responses to our first and second questionnaires were inconsistent.

Questionnaire responses indicated that agencies were uncertain about title VI coverage partly because Justice had not disseminated useful information to determine title VI coverage.

AGENCIES WERE UNCERTAIN  
ABOUT TITLE VI COVERAGE

Fifty-five agencies or components were uncertain whether title VI applied to 105 of their federally assisted activities. Title VI coverage of agencies' nonmonetary activities <sup>1</sup>/ caused the greatest uncertainty, as shown in the following table of responses.

<u>Type of activity</u>	<u>Title VI coverage provided</u>		<u>Percent uncertain</u>
	<u>Certain</u>	<u>Uncertain</u>	
Monetary	322	16	5
Nonmonetary	687	75	11
Exempt	<u>197</u>	<u>14</u>	7
Total	<u>1,206</u>	<u>105</u>	9

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<sup>1</sup>/Nonmonetary activities are activities in which assistance is given in the form of goods or services rather than money.



Some agencies believed that exempt activities were covered by title VI

Some agencies believed that activities were covered by title VI which we felt were exempt from coverage. Agencies believed that title VI covered 16 activities of guaranteed or insured loans; however, title VI specifically excludes contracts of insurance or guaranty. The legislative history indicates that title VI also does not apply to procurement or insurance contracts, but over 51 percent (89) of the respondents having procurement or insurance contract activities believed they were covered by title VI and another 8 percent (14) were uncertain. 1/

<u>Type</u>	<u>Number of activities</u>	<u>Agencies responded</u>		
		<u>Covered</u>	<u>Not covered</u>	<u>Uncertain</u>
Contracts for providing goods or services	147	77	57	13
Insurance	<u>25</u>	<u>12</u>	<u>12</u>	<u>1</u>
Total	<u>172</u>	<u>89</u>	<u>69</u>	<u>14</u>

Although procurement and insurance contracts are generally exempt from title VI coverage, exceptions could exist. According to Justice, one exception would occur if a procurement contract involved assistance--the contract in that case would be covered by title VI. In another example, the use of Federal assistance funds to pay insurance premiums would be covered by title VI; however, a contract of insurance or guaranty, such as the Veterans Administration guaranteeing a loan against default, would not be covered.

Agencies reported some nonmonetary assistance activities were not covered by title VI

Agencies felt certain nonmonetary activities were not covered under title VI, as shown in the following table.

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1/Some confusion may be attributable to the fact that procurements of goods and services are covered by title VII of the Civil Rights Act, but not under title VI.

<u>Activity</u>	<u>Total</u>	<u>Agencies believed</u>		
		<u>Covered</u>	<u>Not covered</u>	<u>Uncertain</u>
Dissemination of technical information	51	24	16	11
Investigation of complaints	44	26	13	5
Licensing, certifying, and/or regulatory activities	39	18	19	2
Advisory services and/or counseling	59	39	12	8

Thirteen respondents accounted for 54 percent of the indirectly administered activities--each having three or more--which agencies felt were not covered by title VI. We gave Justice officials their names and suggested reviewing these agencies' determinations of title VI coverage.

According to Justice, coverage for these nonmonetary activities cannot be determined solely by type or category of activity because each activity must be examined within a particular program to determine whether it is covered by title VI. Therefore, the agencies may be correct in some instances--some of these activities may not be covered.

Justice said, to help agencies identify activities subject to title VI, agencies should consider a three-part analysis including: (1) a review of the statute to determine whether the Congress intended a program to provide service or benefits to individuals, (2) a determination that the assistance is other than by contract of insurance or guaranty, and (3) an examination of the program itself to determine whether and how recipients are assisted. This information, however, has not been disseminated to agencies.

Justice officials said that the information on agencies' perceptions of activities covered will be used to assist Justice in preparing a two-part title VI manual--part I discussing criteria for title VI coverage, and part II discussing methods for applying the criteria.

#### Agency responses inconsistent

Further evidence that Federal agencies were unclear about whether title VI applied to their programs is

shown in the varying responses received between the first and second questionnaires. Some agencies said their Federal financial assistance activities/programs were covered when responding to one questionnaire and not covered when responding to the other questionnaire.

In our first questionnaire the agencies were to indicate which assistance activities they provided, and whether they were covered by title VI. In the second questionnaire we listed each agency's assistance programs and asked the agencies to indicate which programs were covered by title VI. If agencies responded on the first questionnaire that title VI was applicable to a particular program, they should have indicated that title VI also covered that program on their response to our second questionnaire.

Nineteen agencies had significant variations in their questionnaire responses. For example:

--In response to our first questionnaire, four components of a department stated that 15 activities were covered by title VI, but in response to our second questionnaire, the department said that none of its programs were covered by title VI.

--One agency responded that all its activities were covered by title VI in the first questionnaire, but stated in the second that none of its programs were covered.

These different responses illustrate that agencies are still unclear concerning application of title VI to their Federal financial assistance programs and activities.

## CONCLUSIONS

The first step in enforcing title VI is to properly identify the programs and activities that are subject to it. However, some agencies were unclear about which of their programs and activities were covered by title VI.

To do this, Justice should initiate a review of agencies' title VI determinations and focus attention on those activities where agencies may have problems with applicability.

For instance, Justice should assist agencies when they (1) are uncertain whether activities are covered by title VI

or (2) believe that their exempt activities are covered by title VI.

#### RECOMMENDATIONS

We recommend that the Attorney General direct Justice's Civil Rights Division to

- clarify criteria and cite examples for agencies to use in determining which Federal assistance activities and programs are covered or not covered by title VI and
- provide technical assistance to, and review the determinations of, title VI coverage of those agencies uncertain about title VI coverage.

#### AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report (see app. X), Justice said that each agency has primary responsibility to enforce title VI in its own programs, and it has always been available to provide agencies with the necessary technical assistance. Justice said that the need for clarification in some cases results from the judicial interpretations of title VI and specific grant statutes. Justice questioned our conclusion (from questionnaire responses) that certain types of activities may be covered by title VI that agencies said were not covered.

We agree that agencies have primary responsibility for enforcing title VI; however, it is clear from the responses to our questionnaire that many agencies were either unable to determine or had incorrectly determined whether title VI applied to their programs and did not ask for assistance from Justice. Therefore, under its coordination role, we believe it is Justice's responsibility to clarify for the agencies the criteria to be used in determining which programs and activities are covered by title VI.

In response to Justice's comment on the accuracy of our conclusion, we did not conclude that the agencies were wrong in their determinations of title VI coverage. Because of the large number of responses in which agencies said their nonmonetary activities were either not covered or in which agencies were uncertain of their coverage, we

concluded that the agencies were unclear about the criteria for determining title VI coverage and are in need of better criteria.

Commenting on the recommendation that Justice should provide technical assistance and review determinations of title VI coverage for those agencies unclear about such coverage, Justice said it is available to provide assistance upon request. It said it has prepared agency verification lists of programs assumed to be covered by title VI, and is preparing a guidance document to assist agencies in making program updates which will appear as appendixes to their title VI regulations.

Although Justice said it was developing a list of programs and providing guidance to the agencies, its activities have been underway for some time and have not been completed. For example, during our review, we attempted to obtain information on programs covered by title VI but found Justice's list incomplete. We also attempted to review Justice's guide to agencies but found that it was under continuous review and revision--too incomplete to adequately review. So while we agree that Justice is planning to provide those technical assistance tools to the agencies, they have been under development for some time and the agencies, based upon their responses, are in need of such assistance now.

## CHAPTER 3

### JUSTICE NEEDS TO IMPROVE

#### TITLE VI COORDINATION AND ENFORCEMENT

Neither the Department of Justice nor many Federal agencies with assistance programs subject to title VI have effectively implemented title VI requirements. To resolve these problems, Justice needs to clarify its regulations and monitor agency enforcement of title VI, and the agencies need to better implement title VI.

Agency responses to our second questionnaire--32 agencies replied (see app. V)--showed that some agencies had not issued title VI regulations or guidelines which are required by Justice. Furthermore, the agency responses showed that, when administering Federal assistance programs subject to title VI, some agencies (1) take too long to resolve complaints and have inadequate systems for resolving complaints, (2) do not know whether State compliance systems are adequate, (3) do not collect adequate racial and ethnic data, (4) rely on written assurances and respond to complaints instead of making compliance reviews, and (5) take too long to obtain voluntary compliance before beginning administrative hearings.

#### AGENCIES LACK TITLE VI REGULATIONS AND GUIDELINES

Justice regulations (28 C.F.R. 42.401-.415) require that agencies subject to title VI issue their own regulations to implement title VI and publish guidelines for each type of assistance program subject to title VI. 1/ Federal agencies were required by the regulation to publish title VI guidelines by March 1977, for each type of financial assistance program in operation at that date, or within 3 months of the effective date of any law initiating new financial assistance programs. Justice requires these guidelines to describe (1) the nature of title VI coverage, (2) methods of enforcement, (3) examples of prohibited practices, and (4) methods for collecting data and handling complaints.

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1/If an agency determines that guidelines are not appropriate, its reasons must be stated in writing.

However, of the 32 agencies responding to our second questionnaire and having title VI responsibility, 6 had not published title VI regulations, and only 8 had published the required guidelines. (See app. V.)

#### The importance of title VI regulations and guidelines

The Justice regulations were designed to assist agencies to properly enforce and determine compliance with title VI in their financial assistance programs. To assure consistency, Justice requires each agency to issue title VI regulations and, where appropriate, guidelines including procedures for (1) collecting data and information, (2) determining title VI compliance, 1/ (3) handling title VI complaints, (4) enforcing title VI by States having continuing assistance programs, and (5) resolving instances of title VI non-compliance. Justice must approve an agency's title VI regulations before issuance; however, Justice does not require approval for agencies' title VI guidelines. Justice believes that agencies also need manuals and handbooks to help enforce title VI.

Justice believes that guidelines are the most important tool for agencies to use in enforcing title VI. Without guidelines, recipients would have difficulty knowing what is expected of them and agencies would have difficulty determining if recipients are complying with title VI. For example, in the two HEW programs we reviewed--health planning and foster child care--guidelines were not published and, consequently, recipients were unaware of their title VI responsibilities. (See ch. 5.) Also, agencies and recipients could not be sure that program benefits were equally available to all beneficiaries.

#### Agencies need to issue title VI regulations and guidelines

Although most major agencies--with the majority of programs subject to title VI--had issued regulations, six agencies having title VI responsibilities had not published the required regulations:

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1/Agencies can make both preaward and postaward reviews. A preaward review determines a recipient's compliance with title VI before releasing Federal funds. A postaward review determines whether recipients are using funds according to the mandate of title VI by reviewing the program operations and records.

- Administrative Conference of the United States.
- Appalachian Regional Commission.
- Equal Employment Opportunity Commission.
- Federal Election Commission.
- Panama Canal Company.
- Smithsonian Institution.

Twenty programs subject to title VI are administered by these agencies. In fiscal year 1977, funding for these programs exceeded \$144 million.

Justice's title VI regulations require agencies to publish guidelines by March 1977, or within 3 months after an assistance program is authorized unless determined inappropriate by the agencies. However, 8 of the 32 agencies responding to our second questionnaire said they had not published and were not preparing title VI guidelines for any of their programs.

Only eight agencies sampled said they had published guidelines for all their title VI programs. Eleven agencies said they had planned to complete their title VI guidelines between June 1978 and January 1979. However, when contacted about their guidelines, nine agencies stated that the guidelines were not complete and were uncertain when to expect completion, while two agencies were preparing to issue guidelines. Eight agencies with 62 programs that lacked guidelines had not determined whether guidelines were needed, even though agencies are required to make this determination if they decide not to publish guidelines.

Federal agencies' failure to prepare title VI regulations and guidelines, or to determine whether such guidelines are inappropriate, shows little concern for their title VI responsibilities. Justice has not reviewed some agencies' title VI guidelines or assured that all agencies with programs subject to title VI published title VI regulations; therefore, Justice does not know the extent to which most agencies are enforcing title VI.

Agencies' enforcement of title VI could be strengthened if Justice were required to review and approve agencies' title VI guidelines in addition to their regulations.



FEDERAL AGENCIES NEED MORE  
TITLE VI TECHNICAL ASSISTANCE

Justice helps Federal agencies prepare and implement title VI regulations and guidelines, and develop enforcement plans when requested by agencies (this is generally referred to as technical assistance). However, from our analysis of the questionnaire responses

- six agencies that seldom or never requested technical assistance from Justice had not issued title VI regulations,
- six agencies that seldom or never requested technical assistance had not issued guidelines for any programs subject to title VI,
- eleven agencies that seldom or never requested technical assistance did not require Federal assistance recipients to supply title VI compliance data, and
- four agencies that seldom or never requested technical assistance responded that their title VI guidance was inadequate or were uncertain about the adequacy of this guidance.

Justice, as the coordinator for enforcing title VI, should determine agencies' need for technical assistance through better monitoring, without waiting for the agencies to request assistance.

AGENCIES ARE NOT COMPLYING WITH  
JUSTICE TITLE VI IMPLEMENTATION  
AND ENFORCEMENT REQUIREMENTS

Although agencies are required to develop guidelines for use in implementing and enforcing their title VI responsibilities, Justice has failed to insure that these requirements are being met. The following sections discuss problems we found with the implementation of title VI.

Agencies did not require recipients  
to report title VI complaint data

The Justice Department requires agencies to establish and publish procedures that require recipients to report

any lawsuit alleging racial or ethnic discrimination to the sponsoring agency. The agencies are also authorized to request the submission of any complaints alleging such discrimination to them. Twenty-two (69 percent) of the agencies in our second questionnaire 1/ said they did not require any of 394 programs subject to title VI to submit complaint data. Three agencies having 329 title VI-covered programs required some recipients to submit data, while only 4 (13 percent) of the 32 agencies having 12 title VI-covered programs required all recipients to report the number and disposition of complaints.

Agencies slowly resolve  
title VI complaints

Although Justice requires agencies to publish procedures for the prompt processing and disposal of title VI complaints, it does not require agencies to set any specific time limits for processing complaints. According to our responses, agencies have been taking a long time to resolve these complaints. (See p. 58.)

Agencies said that uniform time limits for processing title VI complaints should be established. Twenty-four (77 percent) of the 31 agencies with title VI complaints 2/ stated that time limits are needed on the number of days an agency is allowed to investigate and make a finding on title VI complaints.

While Justice reviewed agencies' enforcement efforts, it found that time limits are needed. In a 1976 review of one agency, for example, Justice criticized the agency for lacking written standards or guidelines for conducting complaint investigations, for having only suggested time limits for complaint investigations, and for failing to set time limits in settling complaints. Justice found that complaints were not being resolved quickly, noting that three of the agency's seven complaints were "pending" for more than 18 months after they were filed.

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1/Although 24 agencies said they had no requirements, 2 of them said they did not have programs subject to title VI.

2/One agency said it did not receive any title VI complaints during fiscal years 1973-77.

Agencies' failure to resolve title VI complaints quickly necessitates the adoption of specific time frames. While adopting specific time frames for investigating complaints may not solely lead to a faster resolution, it will set a Government-wide standard for evaluating an agency's efforts and will allow for better agency monitoring of compliant resolution.

Justice officials said that they plan to include a time limit of 180 days for resolving title VI complaints when Justice revises its title VI regulations. However, these officials did not know when such regulations would be revised.

Agencies lack title VI compliance systems for continuing State assistance programs

Justice requires Federal agencies with continuing State assistance programs to assure that States have adequate title VI compliance systems. However, in response to our questionnaire, 7 of the 32 agencies said they did not know whether the State continuing assistance programs had adequate title VI compliance systems. Only five agencies said that States had adequate title VI compliance systems for some of their continuing State assistance programs.

When we told Justice officials of these findings, they said that Justice regulations do not define "continuing assistance programs," and that this may have contributed to agencies' confusion in their responses. They believed that agencies may have incorrectly responded to the question.

Collecting racial and ethnic data would aid title VI enforcement

Justice regulations require agencies to collect sufficient data on Federal assistance applicants and recipients to aid in the effective enforcement of title VI. The regulations give examples of data that should be collected--data on the race, color, or national origin of the population eligible to be served.

Because Justice's regulations do not specifically indicate the exact information to be collected, some agencies have established guidelines that do not require collection of racial or ethnic data.

Justice believes these data are (1) essential in identifying the existence of discrimination and in enforcing compliance with title VI and (2) necessary in maintaining an effective title VI compliance program. However, the regulations do not define "sufficient" data, do not require the collection of any specific racial and ethnic data, and do not say what is to be done with the data collected. The regulations also allow agencies to refrain from collecting any data if the agency, not Justice, determines that collecting the data is inapplicable or inappropriate.

The 32 agencies which said they had title VI responsibilities collected racial and ethnic data on beneficiaries for only 107 (15 percent) of the 735 programs they administer and on eligible populations for only 17 programs. (See app. VI.) While eight agencies said they collected racial and ethnic data for their programs, only two agencies collected the data for over half of their programs.

The U.S. Commission on Civil Rights identified the problem in 1971 and 1974, when it reported that Federal agencies with title VI responsibilities were not collecting or using racial and ethnic data. Responses to our questionnaire showed that most of the agencies were still not collecting these data for use in enforcing title VI.

We believe that Justice should revise its title VI regulations to require agencies to collect racial and ethnic data for all of their programs. At a minimum, the regulations should include data on the race of (1) the eligible population, (2) the applicant population, and (3) the program beneficiaries.

We discussed data collection requirements with Justice officials, who agreed that their regulations should be more specific. We were told that Justice's title VI regulations are being revised to include the requirement that agencies collect racial and ethnic data.

#### Agencies' failure to determine compliance with title VI

Federal agencies generally use four methods to determine if applicants and recipients comply with title VI:

--Written assurances: positive declarations by an applicant or recipient that no person will be discrim-

inated against in the administration and disbursement of program benefits.

- Complaint system: a mechanism to inform the public of its rights, the procedures to follow in filing complaints, and milestones for quickly processing complaints.
- Preaward review: generally, a desk audit in which an agency determines an applicant's potential for complying with title VI based on data supplied by the applicant.
- Postaward review: generally performed when an agency visits a recipient to review actual operations and records for determining compliance with title VI. Postaward reviews can also be handled through desk audits.

Responses to our questionnaire showed agencies used a wide variety of methods to enforce title VI. The four compliance methods were not used by agencies in 45 programs, and all methods were used in only 61 programs. We believe that agencies' failure to determine recipients' compliance with title VI is partly attributable to their lack of guidelines and Justice's failure to specify criteria for agencies to use in conducting onsite reviews.

Federal agencies are not performing preaward reviews in all cases, and most agencies are not performing postaward reviews. Instead, agencies are relying on written assurances and complaint systems to determine compliance with title VI in assistance programs.

For example, preaward reviews are required by Justice for all programs; however, agencies did not perform preaward reviews for most programs subject to title VI. Responding agencies said that preaward reviews were made for only 155 (21 percent) of the 735 programs.

Justice should determine why agencies with programs subject to title VI are not complying with its title VI guidelines in performing preaward reviews.

Some agencies did not have  
complete postaward review systems

Justice requires agencies to have effective postaward review systems consisting of (1) compliance reports 1/ from all program recipients, (2) compliance manuals which set appropriate review procedures, and (3) an adequate number of postaward onsite reviews. Although agencies make both desk and postaward onsite reviews, postaward onsite reviews are the most effective. During fiscal years 1973-77, only 12 of the 32 agencies had made postaward reviews, with 1 agency having a system that met Justice's requirements.

Agencies need to devote more resources to performing postaward onsite reviews and developing criteria for selecting program recipients for review. Justice regulations require agencies to perform postaward onsite reviews of a representative number of major recipients when the agencies believe doing so is "appropriate." However, Justice has not defined what is meant by appropriate, nor has it specified the criteria agencies should use in selecting recipients for review. We believe that Justice could assist agencies better by providing specific criteria for performing postaward reviews, and the methods agencies could use for selecting program recipients for such reviews.

Three elements, according to Justice officials, are essential in selecting recipients for postaward onsite compliance reviews: (1) the number of title VI complaints filed against a recipient, (2) the cost of the program that the recipient administers, and (3) the racial and ethnic makeup of the geographical area served by the program.

Quicker action is needed after  
determining probable noncompliance

Probable noncompliance occurs when an agency concludes that a recipient is violating title VI. When an agency determines that a recipient is in probable noncompliance, Justice requires the agency to take prompt action to achieve

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1/A compliance report contains information submitted by a recipient demonstrating the extent to which the recipient affords minorities the same opportunities as nonminorities to benefit from or participate in an agency's programs or activities.

voluntary compliance (i.e., negotiations designed to correct title VI violations without using formal enforcement proceedings).

Justice is to be notified when negotiations do not result in voluntary compliance within 60 days after agencies determine probable noncompliance. At this time, agencies may initiate formal proceedings, such as conducting an administrative hearing, to achieve compliance.

In 1971 and 1974 reports, the Commission on Civil Rights criticized Federal agencies for spending excessive time on negotiating voluntary compliance. In a 1978 interagency report on title VI enforcement, Justice also criticized an agency for entering into extended periods of negotiation instead of applying or seeking sanctions against noncomplying recipients.

Twelve agencies responding to our second questionnaire said they found some recipients in probable noncompliance during fiscal years 1973-77. Five agencies took 30 to 60 days to bring recipients into voluntary compliance, and three took 135 to 180 days.

Agencies are not promptly  
initiating administrative hearings

Seven agencies said they sent notices of intent to hold administrative hearings; however, only five knew the exact number sent. During fiscal years 1973-77, these agencies had sent 613 notices, but held only 49 (8 percent) hearings. According to some agency officials, few administrative hearings were actually held because most recipients agreed to comply after receiving a notice of intent. Apparently, the threat of an administrative hearing was usually enough to make recipients comply.

When agencies held administrative hearings, they took too long to start them. Two agencies that held administrative hearings during fiscal years 1973-77 provided data on the average number of calendar days taken to begin hearings after finding probable noncompliance. One agency said it averaged 400 days to initiate administrative hearings, while another agency averaged 608 days.

A situation at one agency illustrates the importance of agencies' promptly initiating administrative hearings instead of spending excessive time attempting to achieve

voluntary compliance. In several court cases decided since 1973, Federal courts found that the agency was not adequately enforcing title VI because it concentrated its enforcement efforts on voluntary compliance, instead of initiating hearings.

#### CONCLUSIONS

In their assistance programs, agencies have not followed Justice's requirements for enforcing title VI and, as a result, lack reasonable assurance that title VI is being implemented effectively. Agencies do not (1) negotiate voluntary compliance or resolve complaints quickly or (2) know whether State compliance systems are adequate. In addition, Justice has not adequately (1) monitored agencies' title VI activities, (2) provided needed technical assistance to agencies, or (3) required the collection of racial and ethnic data.

Justice must improve coordination with Federal agencies to determine whether agencies are enforcing title VI requirements in their programs. Further, Justice should amend its regulations to better assist agencies with implementing title VI in their Federal assistance programs.

#### RECOMMENDATIONS

We recommend that the Attorney General direct the Civil Rights Division:

1. To ensure that Justice regulations requiring agencies to issue title VI regulations and guidelines are implemented.
2. To improve its monitoring of agencies' enforcement of Justice's title VI requirements.

We also recommend that the Attorney General amend Justice regulations to

- provide for review and approval of agencies' title VI guidelines;
- define "continuing assistance programs";
- require agencies to collect racial and ethnic data for their programs;



- develop criteria for agencies' use in conducting onsite compliance reviews; and
- establish time limits for agencies to investigate complaints, negotiate voluntary compliance, and initiate administrative hearings.

#### AGENCY COMMENTS AND OUR EVALUATION

Justice advised us of several obstacles to its effectively and efficiently carrying out its coordination responsibilities. Among these obstacles were a lack of coordination of staff resources, the absence of any practical means of translating its findings of enforcement inadequacies into remedial action, a reluctance by agencies to initiate prompt enforcement procedures, and the overlap of various civil rights provisions and coordination authorities applicable to agencies' assistance programs.

Justice, however, generally agreed with our findings and conclusions and is taking, or plans to take, several actions to improve its coordination effort:

- It reorganized its group within the Civil Rights Division to provide greater emphasis on title VI coordination.
- It is beginning to deemphasize long interagency surveys in favor of impact studies that lead to orders for remedial action, as appropriate.
- It has received authorization for 14 new coordinator staff positions for fiscal year 1981.

In response to our recommendations, Justice said it plans to amend the regulations requiring agencies to include

- time frames for investigating complaints, conducting compliance reviews, and negotiating voluntary compliance;
- a requirement for notifying the Assistant Attorney General of all findings of probable noncompliance and specifying the procedure for deferring assistance;
- criteria for conducting compliance reviews;

- standardizing racial/ethnic categories for data collection and requiring recipients to collect such data as necessary to permit an evaluation of their compliance with title VI; and
- requesting agencies to evaluate the need for more comprehensive collection and evaluation of data on program beneficiaries.

In its regulations, Justice said it is providing agencies with suggested regulatory language for amending their regulations and working with the Office of Management and Budget and the Equal Employment Opportunity Commission to develop joint guidance documents on equal opportunity employment.

The actions Justice has taken or plans to take should improve its coordination effort. We believe, however, that it will not be totally effective unless Justice vigorously monitors the actions taken and those which it is suggesting the agencies take.

## CHAPTER 4

### AGENCY PROBLEMS WITH ENFORCING TITLE VI

In our second questionnaire 32 agencies were asked to identify problems encountered in enforcing title VI. The agencies that responded said they lacked

- adequate agency title VI policies, regulations, guidelines, or manuals (see p. 13);
- sufficient staff to effectively enforce title VI;
- adequate title VI knowledge or training for agency personnel with title VI responsibilities; and
- enough title VI enforcement funds.

In 1971, the Commission on Civil Rights reported that agencies with programs subject to title VI suffered from various problems. Many of the problems the Commission reported included most of the problems that agencies reported in response to our questionnaire: (1) inadequate implementation of title VI, (2) insufficient staff to effectively enforce civil rights activities (see below), and (3) inadequate civil rights training for program officials (see p. 24). Many of the problems with agencies' enforcement of title VI identified by the Commission still exist.

#### INSUFFICIENT PERSONNEL FOR ENFORCING TITLE VI

Agencies stated that a problem with enforcing title VI is the lack of enough qualified personnel with civil rights knowledge--agencies said they did not use program personnel extensively to enforce title VI.

In our second questionnaire, we asked 32 agencies if they had adequate personnel to enforce title VI. Of the 30 agencies responding, 20 (67 percent) said the lack of personnel was a problem in effectively enforcing title VI, of which 13 said it was a substantial problem.

Of the 30 agencies, only 18 (60 percent) had program personnel with some title VI enforcement duties, and only 9 had program personnel with substantial title VI enforcement duties.

We believe that more program personnel involvement in enforcing title VI should result in (1) better title VI coverage of assistance programs and (2) increased awareness of the significance of title VI requirements as an integral part of their assistance programs.

Justice agrees that the agencies should involve more program people in the enforcement of title VI and added that this action would alleviate the failure to include civil rights determinations in the grant approval process.

#### INADEQUATE TITLE VI TRAINING FOR AGENCY PERSONNEL

Federal agencies said they are not providing adequate title VI training to either their civil rights or program personnel. As shown in appendix VII, most agencies stated that more time was needed for formal title VI training of both their civil rights and program personnel. Many agencies stated their personnel needed more on-the-job title VI training.

To improve title VI training for their civil rights and program personnel, most agencies said they needed (1) additional funding, (2) better training programs, (3) more personnel trained, and (4) better evaluations on effects of individuals' performance after title VI training.

#### INADEQUATE TITLE VI ENFORCEMENT FUNDS

Agencies were asked if adequate funds existed to conduct their title VI enforcement activities.

For fiscal years 1973-77, agencies expended \$1.1 billion for all civil rights matters, including \$122 million for enforcing title VI. Of this, \$30 million was expended for title VI enforcement during fiscal year 1977. However, of the 30 agencies that responded to this question, 12 (40 percent) said they had inadequate funds in fiscal year 1977 to enforce title VI. Ten agencies stated they had adequate funds, and eight were uncertain.

#### CONCLUSIONS

Federal agencies identified several problems that limited their ability to assure that Federal assistance programs operate without discrimination. The most significant problem

was sufficient financial and staff resources--both program and civil rights personnel--to adequately enforce title VI, and to adequately train those responsible for enforcing title VI.

#### RECOMMENDATIONS

To improve and strengthen Federal agencies' title VI enforcement activities, we recommend that the Director of the Office of Management and Budget (1) require executive department and agency heads to determine their personnel and training needs and (2) consider whether the agencies need additional staff and training. This determination should include considering agencies' use of program personnel for enforcing title VI.

#### AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report (see app. VIII), the Office of Management and Budget said that it recently (October 1979) established an Office of Civil Rights to ensure equal opportunity within Federal programs. It said that, although the agencies have responsibility of assessing the need for resources, its Office of Civil Rights will (1) work with the agencies to ensure better title VI enforcement and (2) work with the Department of Justice to identify ways to maximize resources and improve compliance activities--specifically to see that agencies not publishing title VI regulations will do so quickly.

Although the Office of Management and Budget is assisting the agencies in developing their resource needs to ensure better title VI enforcement, such actions may not be sufficient. It should monitor these informal efforts and take the actions we are recommending, where appropriate, to ensure that agencies are determining their staff and training needs and getting the needed resources.

Both the Department of Justice and HEW generally agreed with the problems that agencies said they were having with enforcing title VI that we identified from questionnaire responses. Justice said that incorporating civil rights duties in its grant approval process and using program personnel to aid in enforcing title VI would help correct some of these problems. HEW said it has reviewed its staff and training needs, and since our review its Office for Civil Rights has increased its staff and made improvements in its training programs.

## CHAPTER 5

### TITLE VI COMPLIANCE EFFORTS

#### NEED TO BE STRENGTHENED--CASE STUDIES

Two HEW programs were studied to determine whether problems exist in effectively enforcing title VI. HEW did not know, and we could not determine, if its foster care and health planning programs were in compliance with title VI because HEW had not

- provided adequate guidance to program managers on their title VI responsibilities,
- collected sufficient racial and ethnic data to permit program managers to evaluate title VI compliance, or
- adequately monitored and enforced title VI compliance for these programs.

#### AN OVERVIEW OF TWO HEW PROGRAMS-- FOSTER CARE AND HEALTH PLANNING PROGRAMS

HEW's Office for Civil Rights (OCR) is responsible for assuring that recipients of HEW financial assistance comply with title VI. Three of OCR's title VI functions are:

- Developing policies, standards, and procedures for determining recipients' compliance with title VI and other civil rights laws.
- Conducting complaint investigations and compliance reviews.
- Preparing and initiating formal enforcement proceedings.

In April 1977, the Secretary of HEW emphasized that enforcing civil rights was an integral part of all HEW components' missions. The Secretary requested OCR to evaluate its civil rights activities under title VI to determine whether certain activities should be conducted by HEW operating components--those managing the assistance programs. However, HEW did not, nor does it plan to, determine whether its foster child care and health planning programs were in compliance with title VI.

We reviewed HEW's administration of title VI compliance procedures as they applied to its foster care program. Foster care programs provide substitute family care to a child when the child's family cannot care for him/her and when adoption is either not desired or not possible. HEW estimated that 500,000 children were in foster care programs in March 1977. Federal financial assistance for this program is funded from the Federal Government to the States, which provide money and services to the beneficiaries--foster children.

We also examined HEW's administration of title VI in its health planning program. This included how HEW monitors local agencies' participation in health planning under the National Health Planning and Resources Development Act of 1974 (Public Law 93-641), commonly referred to as the Health Planning Act. The Bureau of Health Planning (BHP) of HEW's Public Health Service's Health Resources Administration, is responsible for implementing the act, which created a network of over 200 local planning agencies called health systems agencies (HSAs). Their activities include preparing 5-year health systems plans (HSPs), that are detailed statements of goals regarding health needs and resources, and annual implementation plans which describe the objectives that will achieve the HSP's goals.

To involve the local community in molding a health care system to meet its needs, the act prescribes that HSA governing bodies have a majority of local health care consumers. To assure coordination within each State, the act requires that each State form a State Health Planning and Development Agency (SHPDA) for preparing State health plans. SHPDAs prepare State plans containing information from State HSPs and approve changes to health care systems based on HSA recommendations.

Federal financial assistance for this program is funded from the Federal Government to the local HSAs, which provide services to the beneficiaries--people living in the covered geographic area.

#### BETTER GUIDANCE IS NEEDED

HEW has not published title VI guidelines or conducted title VI training for its foster care and health planning programs. Nor has it provided guidance to HEW program managers, foster child care personnel, and health planners in carrying out their civil rights responsibilities. Had HEW issued both guidelines and specific requirements for collecting and using racial and ethnic data (see p. 29), and had

the data been collected, we may have been able to determine whether the HEW programs studied were in compliance with title VI.

Program-specific title VI guidelines have not been published

Although Justice requires agencies to issue title VI program guidelines, HEW had not issued them for its foster care or its health planning programs. These guidelines should have been issued in early 1977. OCR is responsible for developing title VI guidelines, and it was preparing them at the time of our review.

Inadequate title VI training

HEW health planning and foster child care program officials, in conducting their day-to-day operations, have not provided their staffs with training to familiarize them with title VI requirements, resulting in problems with enforcing title VI.

Prior to our review, HEW had not determined the title VI responsibilities of its staff or how State and local health planning agencies were to carry out these responsibilities. During our review, however, HEW did begin defining HSA and SHPDA title VI responsibilities. The regional centers for health planning were not being used to train agencies' staffs, board members, and volunteers in their civil rights responsibilities, and the personnel at the three HSAs we visited had not received any civil rights training.

There had been little consideration of title VI in the four HEW regional offices we visited. One regional official stated that the only consideration of title VI in health planning, where the regional offices were concerned, was the racial and ethnic composition of the HSA boards of directors. Other regional officials stated that title VI compliance was OCR's responsibility. OCR staff members in two regions had been included on regional review committees, considering the applications of prospective HSAs, in one instance by mutual agreement between BHP and OCR, and in another after OCR requested representation on the committee. OCR staff are no longer on the review committees because of staffing constraints in one region and because a new committee was formed and OCR was not asked to participate in the other.



The Health Planning Act established regional training centers to provide technical and consulting assistance to HSAs and SHPDAs. In the two regional centers we visited, no title VI training programs existed, and title VI literature had not been prepared and disseminated. Officials at these centers said that title VI training in health planning had never been requested.

The staff and board members of the HSAs had not been given training or assistance in considering the effects of their actions on minorities in their health service areas. Because of this, HSAs may not know whether there is a disparity in the health care of whites and nonwhites, or whether they are in compliance with title VI. The likelihood of non-compliance with title VI could be reduced if HSA staff and board members were trained to be sensitive to title VI responsibilities when determining the health needs of all people in the service area.

There existed little or no training in the foster child care program on title VI requirements. HEW regional foster care officials said that sponsoring any such training would be OCR's responsibility, not theirs. From these discussions, we determined they were not sure what their responsibilities were.

#### BETTER RACIAL AND ETHNIC DATA ARE NEEDED

Justice's title VI regulations require agencies, except where found inappropriate, to collect enough data from applicants and recipients of financial assistance to permit effective enforcement of title VI. Although Justice does not state what specific data should be collected, the regulations provide examples of data agencies should require when developing their title VI guidelines. (See p. 15 for a discussion of the need for collecting racial and ethnic data.)

HEW's regulations do not require HEW program managers, including foster care and health planning managers, to collect and analyze data on the racial and ethnic composition of program beneficiaries or eligible populations. Foster care and health planning program managers have not collected racial and ethnic data for program planning, reviewing, or compliance assessment; therefore, HEW and program officials do not have an important management tool to measure title VI compliance.

Little information on racial and ethnic backgrounds in foster care

HEW does not require foster care program managers-- Federal, State, and local officials--to collect and report information on the race or ethnic background of program recipients. HEW's foster care managers stated that they consider title VI to be a civil rights matter subject to OCR's responsibility. This attitude is contrary to the HEW position that enforcing civil rights was an integral part of all HEW components' missions. In addition, OCR neither collects these data nor requires recipients of Federal financial assistance to collect racial or ethnic information on program beneficiaries.

To determine if racial and ethnic data were available on foster care beneficiaries, we asked State foster care officials in all States whether they collected such data. Of the 47 States responding, 41 said they collected racial and ethnic data on children currently receiving foster care (the participant population), and 6 said they did not. Of the 41 States, 19 had available data on individuals requesting foster care services (the applicant population). Only 7 of the 19 States had data on children potentially needing foster care services (the target or eligible population).

Thirty-two of the 41 States said they used the data, but only 2 States said the data were used in deciding where to investigate for compliance with title VI. Nine States said the data were not used for any specific purpose.

Although some States collect information on race and ethnic background of people eligible for, applying for, and receiving foster care, the information was generally not used by State foster care officials and was not being reported to HEW for use in determining title VI compliance.

In the five foster care systems reviewed, information that State and local program managers used for defining the target and applicant populations in their service areas did not include the racial and ethnic background of those communities. Some States and local agencies stated that they did not identify the racial and ethnic background of target populations because they felt it was not important. Others said they did not use applicant population data because most foster care recipients were placed by the courts.

Adequate title VI compliance  
evaluations impossible without data

Program managers did not have an adequate basis for assessing title VI compliance in the five foster care systems reviewed--insufficient racial and ethnic data on the program's target population, applicants, and participants made comprehensive evaluations impossible.

Recognizing that target population and applicant racial and ethnic information was not available, we attempted to analyze the five systems by comparing foster care services provided to white children with those provided to minority children. However, indepth analysis was impossible because the systems did not have sufficient information on the racial and ethnic backgrounds of participants.

We found possible problems needing more indepth reviews--for example, differences in the average number of months children stayed in foster homes indicating discrimination in planning and providing services. For example, minority children remained in these systems longer than white children, and there were differences in how much specialized care or treatment they received. These findings could indicate possible discrimination and suggest the need for further evaluation.

Local government foster care officials agreed that our analysis pointed out differences and suggested that either foster care administrators continuously monitor the disparities or that HEW develop a system to monitor and evaluate the overall services provided to foster children.

Foster care program officials at HEW headquarters agreed that more study was needed in areas where large differences were identified. OCR officials said our analysis would be useful to them because our methodology and sampling techniques provided data that OCR can use. Further, they said our results identified areas where OCR can do more investigative studies in the future.

HSAs need racial  
and ethnic information

HSAs did not have adequate information on the racial and ethnic background of their beneficiaries--people living in the health service area--therefore, they could not determine whether their health plans complied with title VI. Health planners were restricted further, as pointed out in our report, "Status of the Implementation of the National

Health Planning and Resources Development Act of 1974" (HRD-77-157, Nov. 2, 1978), because general health data on service area participants are sometimes not available, current, or in a useful form.

To see what data existed at the three HSAs visited, we evaluated the relevant health status data contained in the HSPs. One HSA compared the incidence of health conditions between whites and nonwhites in about 75 percent of the data contained in the HSP. At the other two HSAs, however, only 50 percent and 17 percent, respectively, contained these comparisons.

HSAs need to gather racial and ethnic health data and compare the incidence of health problems between whites and nonwhites, to see whether the health disparities that exist between whites and nonwhites in some areas exist in their localities. The following illustrates why such information is needed.

In ruling that a Federal law permitting aid for segregated hospitals was unconstitutional, the Fourth Circuit Court of Appeals in 1963 stated:

"Racial discrimination in [the provision of] medical facilities is at least partly responsible for the fact that in North Carolina the rate of infant mortality [for blacks] is twice the rate for whites and maternal deaths are five times greater."

Determining whether these types of health disparities exist in other localities is difficult, since HSAs have not consistently collected local racial and ethnic information. However, with the court case in mind, HSAs need to identify known health disparities between whites and nonwhites, especially if they are as significant as those that follow:

Selected Differences in National Mortality  
Between Whites and Nonwhites (note a)

<u>Health problem</u>	<u>Approximate percent of higher incidence of death for nonwhites</u>
Infant mortality	70
Hypertension	300
Cerebrovascular disease	60
Hypertensive heart disease	400
Diabetes	200
Chronic kidney disease	400
Influenza	60
Pneumonia	60
Tuberculosis	500
Cirrhosis of the liver	200
Childbirth complications	500

a/From the 1977 Congressional Budget Office background paper,  
"Health Differentials between White and Nonwhite Americans."

Although the table shows that nonwhites have significantly higher mortality rates for selected health problems than whites, this does not necessarily mean they have been subjected to discrimination. However, information such as this illustrates the need for further evaluation to determine whether this information would influence future health planning.

Minimal specific nondiscrimination  
requirements for health planning

HEW regulations for preparing HSPs do not include any provision for determining compliance with title VI. Also, BHP guidelines issued to health planners in developing HSPs and annual implementation plans do not require health planners to consider possible differences in the health needs of whites and minorities and do not address title VI.

HEW's central office title VI guidance to regional offices for reviewing HSPs is only a little better. Although HEW criteria require that HSPs be responsive to the "unique needs" of the racial and ethnic backgrounds of beneficiaries, one regional official stated that there are no guidelines explaining how to identify or consider these needs. HEW criteria for annual implementation plans do not provide guidance to the regional offices on the possible unique

needs of racial and ethnic groups or address title VI responsibilities. This lack of consideration for the needs of racial and ethnic groups in the regulations and guidelines has contributed to the creation of goals that do not address minority health needs overall.

We reviewed the health goals of three HSPs and found that, of the 113 health goals established, few related to or considered minority health problems. One HSP with 51 health goals had only 2 goals statements which indirectly made reference to minority health needs as "high risk segments of the population." In another HSP, which also contained 51 goals, only 1 subgoal specifically referred to race by stating that the health plan's consideration of life expectancy should not be estimated below the national average for "either sex or any racial group." Only two other subgoals of this HSP considered the health needs of minorities by requiring the HSA to establish health standards for the service area as a whole and for "any subarea or population group" within the service area. The third HSP contained 11 health goals, some of which addressed minority health needs in narratives associated with the goals.

We believe the HSPs' lack of specific health goals recognizing the needs of minorities resulted from HEW not giving adequate title VI guidance to health planners.

#### PROJECT REVIEW REGULATIONS ARE INADEQUATE

To guide HSAs and SHPDAs in their review of proposed changes in health delivery systems (e.g., a hospital adding a new department), HEW has issued regulations requiring HSAs and SHPDAs to develop review procedures and project review criteria, which are to include 14 general considerations. These regulations, however, do not provide for these reviews to consider the needs of minorities or for assessing title VI compliance.

Proposed BHP project review regulations, however, have incorporated criteria requiring HSAs to consider "the contribution of the project in meeting the needs of minorities, women and handicapped individuals in the health service area."

The proposed project review criteria will require HSAs to consider one or both of the following factors when evaluating programs:

--The contributions of the project (or service) to meeting the health-related needs of minorities, women, and the handicapped.

--The population's need for the services to be offered, expanded, reduced, relocated, or terminated.

These regulations, however, will not provide for assessing title VI compliance.

UNCLEAR RESPONSIBILITIES  
AND LITTLE MONITORING  
AND ENFORCING OF TITLE VI

HEW had not adequately monitored and enforced title VI requirements in its health and human development programs and was not consistent on how title VI responsibility is to be implemented between OCR and the program offices. Consequently, health planning and foster care program officials generally have not assumed responsibility for enforcing title VI, and OCR has not allocated adequate resources to properly monitor these programs' compliance with title VI.

Inconsistent responsibility  
for title VI

HEW originally gave each operating component responsibility for assuring compliance with title VI. During a reorganization in fiscal year 1968, HEW removed responsibility for implementing and enforcing title VI from the components and centralized it within OCR. However, in 1977, citing significant changes and increases in the number of legislated civil rights requirements, the Secretary of HEW said he was going to return some civil rights responsibilities to the components--each component was to incorporate title VI compliance procedures into all phases of its program decisionmaking and operations. In September 1977 OCR established a new office to plan, coordinate, and monitor components' incorporation of civil rights compliance procedures into their activities.

The OCR office developed a plan that envisioned components working to remedy the effects of past discrimination, to reduce existing discrimination, and to discourage future discrimination. According to this plan, the components would accomplish this by providing program staff with civil rights training, informational materials, and technical assistance, and by doing preaward reviews and postaward monitoring.

Although these title VI responsibilities were to be reassigned to program officials in 1977, this was not done until July 1979. Little has changed in the foster care program. Regional officials said that OCR's plan mainly reemphasized ongoing work, with more involvement by components. An HEW program official explained that since one program--the Social Services Programs for Individuals and Families--is only 3 years old, implementing the program, including funding for local foster care programs, has had priority over other program responsibilities, including title VI compliance monitoring. He also said that sufficient resources have not been made available to do the necessary monitoring.

Similarly, in the health planning program, there has been little improvement. Resources committed to assuring compliance remain insufficient, and reviewing efforts have not been increased. Although regulations have been proposed to require HSAs to consider how the needs of minorities, women, and the handicapped are affected when reviewing health projects, regulations governing the preparation of project plans have not been revised to assure title VI compliance.

Minimal title VI compliance activity by OCR

OCR has conducted few compliance reviews of HEW's health and human development programs, of which foster care and health planning are a part. OCR has assigned few staff members to reviewing these programs.

As shown in the following table, OCR expended only 7.6 percent of its staff resources in reviewing health and human development programs, even though HEW spent 80 percent of its funds in fiscal year 1977 on these programs.



Programs covered by title VI (note a)	Number	Percent	Funds	Per-	OCR staff-years	
			expended FY 1977		cent	Number
(millions)						
Health and human development	170	63	\$25,183	80	11.4	7.6
All others (primarily education)	<u>97</u>	<u>37</u>	<u>6,263</u>	<u>20</u>	<u>137.6</u>	<u>92.4</u>
Total	<u>267</u>	<u>100</u>	<u>\$31,446</u>	<u>100</u>	<u>149.0</u>	<u>100.0</u>

a/Includes only those programs for which cost information was available.

OCR conducted few compliance reviews of health and human development programs because of 1973 and 1975 court orders. The Adams decision <sup>1/</sup> required HEW, in certain Southern and border States, to (1) eliminate the education discrimination complaint backlog which it had accumulated and (2) resolve subsequently filed education discrimination complaints within a limited period of time. OCR, in implementing the Adams decision in all its regions, has caused more of its resources to be used for education discrimination complaints and, therefore, reduced OCR compliance efforts in health and human development programs.

Another problem HEW experienced with determining title VI compliance is illustrated by a 1971 lawsuit in which HEW was included as a defendant. The suit charged hospitals in a Southern city with denying access and services because of race. In 1973, as a result of the lawsuit, HEW decided to conduct a comprehensive review of the hospital system throughout the city, and sent letters of findings to seven hospitals since July 1977, stating they were in noncompliance with title VI. None of these hospitals have taken sufficient action to satisfy OCR that their noncompliance has been eliminated. OCR has begun administrative proceedings against three of these hospitals and is still attempting to obtain voluntary compliance from the other four.

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<sup>1/</sup>Adams v. Weinberger, 391 F. Supp. 269 (D.D.C. 1975);  
Adams v. Richardson, 356 F. Supp. 92 (D.D.C. 1973), affirmed in pertinent part, 480 F. 2d. 1159 (D.C. cir. 1973).

## CONCLUSIONS

For the two programs we reviewed, HEW does not know and we could not determine how effectively it had implemented title VI. Program guidelines had not incorporated title VI requirements into the foster care and health planning programs, and little racial and ethnic data were collected. Although Justice does not require the collection of such data, their collection and use is necessary in implementing title VI.

HEW has done little to determine compliance with title VI in the two programs reviewed. This was partly attributed to insufficient staff being assigned for compliance reviews, and partly due to HEW's inconsistency in how it assigned responsibility to the two programs and OCR for determining compliance with and enforcing title VI.

The lack of training in the health planning program contributed to the staff not always considering the overall health needs of people in service areas. When reviewing project proposals, health planners were not considering compliance with title VI in all cases, but proposed changes to program guidelines should correct some of the inadequacies identified.

## RECOMMENDATIONS

Based on our review of the foster care and health planning programs, we recommend that the Secretary of HEW:

- Include in the proposed BHP project review regulations a provision for assessing title VI compliance.
- Direct OCR and HEW program managers to assign sufficient staff to permit timely reviews of title VI compliance.
- Require the collection of sufficient racial and ethnic data to enable health planning and foster care managers to (1) establish program goals that recognize the needs of all people to be served and (2) determine compliance with title VI.
- Direct health planning and foster care program managers to train their staffs and those in the State and local governments about their title VI responsibilities. The regional centers for health planning could be used to train health planning personnel.

## AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report (see app. IX), HEW agreed with our recommendations and said it has taken or is taking the following actions:

- Complete title VI guidelines for State health planning and development agencies by February 15, 1980, and implement these guidelines as part of the project review process.
- Memorandums of Understanding were signed by the heads of each principal operating component and the OCR director, recognizing the need for sufficient staff and defining the roles and responsibilities of the principal operating components in enforcing title VI.
- Included in the management objectives for each principal operating component the adoption of systems for collecting data on minorities, women, and handicapped persons in its programs to enable officials to determine if grant applicants or recipients are violating title VI requirements.
- OCR started orientation and training programs in title VI and other civil rights statutes for program staff and recipients in all HEW programs. Such training will be available in fiscal year 1980.

If HEW takes these actions, the implementation of title VI in foster child care and health planning should be substantially improved.

PROGRAMS SUBJECT TO TITLE VI; BENEFICIARIES

AND FUNDING DATA FOR AGENCIES WHO

SAID THEY HAD TITLE VI RESPONSIBILITIES (note a)

<u>Agencies</u>	<u>Programs covered by title VI</u>	<u>Programs with beneficiaries data available</u>	<u>Approximate number of beneficiaries served by these programs</u> (thousands)	<u>Programs with funding data available</u>	<u>FY 1977 approximate program dollars (per OMB)</u> (millions)
Department of:					
Agriculture	69	30	84,276	48	\$16,545
Commerce	61	13	105,248	60	1,084
Defense	30	9	1,964	20	171
Energy	21	9	5,076	18	261
Health, Education, and Welfare	282	202	443,533	267	11,446
Housing and Urban Development	18	14	7,453	18	7,953
the Interior	17	1	37	13	1,223
Justice	24	0	(b)	23	667
Labor	17	12	49,443	13	10,214
Transportation	24	2	334,018	22	9,725
ACTION	9	6	1,442	9	87
Administrative Conference of the United States	(c)	0	(b)	(b)	(b)
Appalachian Regional Commission	3	3	2,339	3	59
Civil Aeronautics Board	1	1	(d)	1	82
Community Services Administration	7	7	27,714	7	748
Environmental Protection Agency	39	13	4	15	6,893
Equal Employment Opportunity Commission	3	2	101	2	51
Federal Election Commission	(c)	0	(b)	(b)	(b)
Federal Home Loan Bank Board	(e)	0	(b)	(b)	(b)
General Services Administration	3	0	(b)	3	11
National Aeronautics and Space Administration	1	1	(d)	1	1
National Endowment for the Arts	14	0	(b)	13	102
National Endowment for the Humanities	23	0	(b)	23	79
National Science Foundation	8	0	(b)	8	568
Nuclear Regulatory Commission	1	1	(d)	1	(f)
Office of Personnel Management (formerly the Civil Service Commission)	1	1	120	1	15
Panama Canal Company	1	1	4	(b)	(b)
Small Business Administration	23	23	2,095	23	3,533
Smithsonian Institution	3	2	1	3	5
Tennessee Valley Authority	3	0	(b)	3	52
Veterans Administration	28	17	35,392	23	8,108
Water Resources Council	1	0	(b)	1	3
Total--agencies with title VI responsibilities	<u>735</u>	<u>370</u>		<u>662</u>	<u>\$99,786</u>

a/Information contained in this appendix represents the agencies' opinion, and GAO did not verify its accuracy.

b/Data not available.

c/Agency responded that it did not have an assistance program covered by title VI.

d/Less than 1,000.

e/Agency reported it had title VI responsibility but was uncertain about title VI coverage of its programs.

f/Less than \$1,000,000.

QUESTIONNAIRE I

U.S. GENERAL ACCOUNTING OFFICE

SURVEY OF FEDERAL ACTIVITIES  
COVERED BY TITLE VI OF THE  
1964 CIVIL RIGHTS ACT

1. Indicate the name, title, agency, address and telephone number of the individual who can be contacted if further information is required.

---

(NAME)

---

(TITLE)

---

(AGENCY) (COMPONENT)

---

(ADDRESS)

---

(CITY) (STATE) (ZIP CODE)

---

(AREA CODE) (TELEPHONE NUMBER)

2. Listed on page 3 are a number of types of activities for which your agency or your component <sup>5</sup> your agency may be responsible.

A. For each activity check whether your agency or component provides assistance, services or benefits (financial or other) which are:

- (1) DIRECT - Those activities under your agency's or component's responsibility through which the Federal Government provides assistance, services or benefits directly to private individuals who are both the recipients (i.e., those receiving Federal financial or other assistance) and beneficiaries.

For example,

- \* Federal social security payments are made to beneficiaries.
- \* Federally subsidized technical information is provided directly to an individual by a Federal agency.

- (2) INDIRECT - Those activities under your agency's or component's responsibility through which the Federal Government extends assistance, services or benefits to recipients (non-Federal entities such as States, private organizations, institutions, persons, etc.) which in turn:

- provide Federally assisted services or benefits,
- administer such assistance, or
- act as a conduit for Federal assistance to the beneficiaries.

For example,

- \* Federal Government provides funds to a State Government; these funds, in addition to State funds, eventually result in welfare payments to individuals
- \* Federal Government provides funds to a local organization; this organization then provides training to the unemployed.

NOTE: A particular indirect assistance activity may have more than one set of beneficiaries.

If both DIRECT and INDIRECT apply, check both boxes.

OR

(3) Whether your agency or component is NOT RESPONSIBLE for that type of activity.

B. For those activities for which your agency or component is responsible (as indicated under A), indicate whether you consider any of the activities of this type to be covered by Title VI of the 1964 Civil Rights Act.

As you fill out the table on page 3, please be sure that you understand the definitions of the various activities as given on the insert sheet.

## DEFINITIONS OF ACTIVITIES

1. Formula Grants - Allocations of money to states or their subdivision in accordance with distribution formulas prescribed by law or administrative regulation for activities of a continuing nature not confined to a specific project.
2. Project Grants - The funding, for fixed or known periods, of specific projects or the delivery of specific services or products without liability for damages for failure to perform. Project grants include fellowships, scholarships, research grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, construction grants, and unsolicited agreements.
3. Direct Payments for Specified Use - Financial assistance from the Federal Government provided directly to individuals, private firms, and other private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal Government.
4. Direct Payments with Unrestricted Use - Financial assistance from the Federal Government provided directly to beneficiaries who satisfy Federal eligibility requirements with no restrictions being imposed on the recipient as to how the money is spent. Included are payments under retirement, pension, and compensation programs.
5. Direct Loans - Financial assistance provided through the lending of Federal monies for a specific period of time, with a reasonable expectation of repayment. Such loans may or may not require the payment of interest.
6. Guaranteed/Insured Loans - Activities in which the Federal Government makes an arrangement to indemnify a lender against part or all of any defaults by those responsible for repayment of loans.
7. Insurance - Financial assistance provided to assure reimbursement for losses sustained under specified conditions. Coverage may be provided directly by the Federal Government or through private carriers and may or may not involve the payment of premiums.
8. Sale or Exchange of Property and/or Goods - Activities which provide for the sale or exchange of Federal real property, personal property, commodities, or other goods including land, buildings, equipment, food and drugs. This does not include the loan of, use of, or access to Federal facilities or property.
9. Donation of Property and/or Goods - Activities which provide for the donation of Federal real property, personal property, commodities, or other goods including land, buildings, equipment, food and drugs. This does not include the loan of, use of, or access to Federal facilities or property.
10. Use of Property, Facilities, and/or Equipment - Activities which provide for the loan of, use of, or access to Federal facilities or property wherein the federally owned facilities or property do not remain in the possession of the recipient of the assistance.
11. Provision of Specialized Services - Activities which provide Federal personnel to directly perform certain tasks for the benefit of communities or individuals. These services may be performed in conjunction with non-Federal personnel, but they involve more than consultation, advice, or counseling.

12. Advisory Service and/or Counseling - Activities which provide Federal specialists to consult, advise, or counsel communities or individuals including conferences, workshops, or personal contacts. This may involve the use of published information, but only in a secondary capacity.
13. Dissemination of Technical Information - Activities which provide for the publication and distribution of information or data of a specialized technical nature frequently through clearinghouses or libraries. This does not include conventional public information services designed for general public consumption.
14. Training - Instructural activities conducted directly by a Federal agency for individuals not employed by the Federal Government.
15. Investigation of Complaints - Federal administrative agency activities that are initiated in response to requests, either formal or informal, to examine or investigate claims of violations of Federal statutes, policy, or procedure. The origination of such claims must come from outside the Federal Government.
16. Research Contracts - Federal assistance designed to support research in situations where the transmission of funds would be better handled through contracts rather than through grants. The research contract is for personal or professional services, or for any service to be rendered by a university, college, hospital, public agency, or non-profit research institution. The principal purpose of such contracts is to create, develop, or improve products, processes, or methods for public use, or to operate programs benefitting the public.
17. Granting of Tax Exemptions to Not-For-Profit and/or Nonprofit Organizations - This would be considered "indirect" if the beneficiaries include those getting tax deductions for providing contributions to such tax exempt organizations.
18. Licensing, Certifying and/or Regulatory Activities - These activities would be classified as "indirect" if the intended beneficiaries include the public or segments of the public distinct from those organizations or institutions regulated, licensed, or certified.
19. Contracts Providing Services or Benefits to Beneficiaries - This would be considered "indirect" when a Federal agency contracts with an organization to provide assistance, service, or benefits to beneficiaries.
20. Contracts Providing Goods or Services to the Federal Government - Agency contracting activities which result in provision of goods or services to your agency or another Federal agency. Answer either "yes" or "not responsible".



ACTIVITY (See accompanying insert for definitions.)	A Provide assistance, services, or benefits? (Check those which apply)			B Are any of your activities of this type covered by Title VI? (Check one)		
	(1) Yes, "DIRECT"	(2) Yes, "INDIRECT"	(3) Not Responsible	(1) Yes	(2) No	(3) Uncertain
	(1) Formula grant					
(2) Project grant						
(3) Direct payments for specified use						
(4) Direct payments for unrestricted use						
(5) Direct loans						
(6) Guaranteed/Insured loans						
(7) Insurance						
(8) Sale or exchange of property and/or goods						
(9) Donation of property and/or goods						
(10) Use of property, facilities and/or equipment						
(11) Provision of specialized services						
(12) Advisory services and/or counseling						
(13) Dissemination of technical information						
(14) Training						
(15) Investigation of complaints						
(16) Research contracts						
(17) Granting of tax exemptions to not-for-profit organizations, etc.						
(18) Licensing, certifying and/or regulatory activities						
(19) Contracts providing services or benefits to beneficiaries						
(20) Contracts providing goods or services to the Federal Government	Yes					
(21) Other activities (Please indicate) _____	Yes, "DIRECT"	Yes, "INDIRECT"				
(22) _____						
(23) _____						

SUMMARY, BY TYPE OF ASSISTANCE ACTIVITY, OF  
 AGENCIES' RESPONSES TO QUESTIONNAIRE I (note a)

Types of assistance activities	Number of activities administered	Indirect Federal assistance				Percent covered	Direct Federal assistance				Percent covered
		Total	Covered	Not covered	Uncertain		Total	Covered	Not covered	Uncertain	
<u>Monetary activities</u>											
1. Formula grant	45	41	37	1	3	90	4	4	-	-	100
2. Project grant	92	67	63	3	1	94	25	20	4	1	80
3. Direct payments for specified use	44	19	18	-	1	95	25	18	7	-	72
4. Direct payments for unrestricted use	20	3	1	1	1	33	17	9	7	1	53
5. Direct loans	26	13	13	-	-	100	13	12	1	-	92
6. Research contracts	95	49	37	5	7	76	46	34	11	1	74
Subtotal--monetary activities	322	192	169	10	13	88	130	97	30	3	75
<u>Nonmonetary activities</u>											
7. Sale or exchange of property and/or goods	30	13	10	2	1	77	17	4	10	3	24
8. Donation of property and/or goods	35	21	19	1	1	90	14	10	3	1	71
9. Use of property, facilities and/or equipment	60	33	31	2	-	94	27	14	10	3	52
10. Provision of specialized services	58	30	22	6	2	73	28	13	14	1	46
11. Advisory services and/or counseling	110	59	39	12	8	66	51	17	25	9	33
12. Dissemination of technical information	97	51	24	16	11	47	46	15	21	10	33
13. Training	71	45	33	7	5	73	26	13	10	3	50
14. Investigation of complaints	90	44	26	13	5	59	46	17	25	4	37
15. Granting of tax exemptions to not-for-profit organizations (note b)	5	3	2	1	-	67	2	1	1	-	50
16. Licensing, certifying and/or regulatory activities (note b)	63	39	18	19	2	46	24	11	11	2	46
17. Contracts providing services or benefits to beneficiaries	52	43	36	5	2	84	9	8	-	1	89
18. Other activities provided by respondents not listed on questionnaire	16	12	9	3	-	75	4	-	3	1	-
Subtotal--nonmonetary activities	687	393	269	87	37	68	294	123	133	38	42
Subtotal--assistance activities subject to title VI	1,009	585	438	97	50	75	424	220	163	41	52
<u>Exempt activities</u>											
19. Contracts providing goods or services to the Federal Government (note c)	147	-	-	-	-	-	147	77	57	13	52
20. Guaranteed/insured loans	25	13	9	4	-	69	12	7	5	-	58
21. Insurance	25	12	9	3	-	75	13	3	9	1	23
Subtotal--exempt activities	197	25	18	7	-	72	172	87	71	14	51
Total	1,206	610	456	104	50	75	596	307	234	55	52

a/Information contained in this appendix represents the agencies' opinion, and GAO did not verify its accuracy.

b/Activities specifically included in questionnaire at the request of the Subcommittee on Civil and Constitutional Rights.

c/We did not ask agencies to classify this activity between direct or indirect assistance; we included it under direct assistance for data analysis purposes.

## PROFILE OF FEDERAL AGENCIES' RESPONSES TO QUESTIONNAIRE I (note a)

Agencies with title VI regulations	Number of activities administered	Indirect Federal assistance				Percent covered	Direct Federal assistance				Percent covered
		Total	Covered	Not covered	Uncertain		Total	Covered	Not covered	Uncertain	
Department of:	127	71	51	15	5	72	56	20	34	2	36
Agriculture	85	42	32	6	4	76	43	13	29	1	30
Commerce	65	20	19	-	1	95	45	15	23	7	33
Defense	23	4	3	-	1	75	19	16	2	1	84
Energy											
Health, Education, and Welfare	212	125	101	11	13	81	87	59	20	8	68
Housing and Urban Development	50	28	27	1	-	96	22	15	3	4	68
the Interior	88	46	36	7	3	78	42	26	13	3	62
Justice	53	29	14	11	4	48	24	14	6	4	58
Labor	32	22	14	7	1	64	10	7	3	-	70
State	10	4	3	-	1	75	6	1	3	2	17
Transportation	74	43	37	6	-	86	31	16	13	23	52
Environmental Protection Agency	59	38	32	-	6	84	21	19	-	2	90
General Services Adminis- tration	22	10	3	5	2	30	12	8	3	1	67
Veterans Administration	34	9	8	1	-	89	25	19	4	2	76
ACTION	11	9	9	-	-	100	2	2	-	-	100
Civil Aeronautics Board	2	-	-	-	-	-	2	2	-	-	100
Community Services Adminis- tration	7	7	4	1	2	57	-	-	-	-	-
Federal Communications Commission	7	2	-	2	-	-	5	-	5	-	-
Federal Home Loan Bank Board	7	1	-	1	-	6	6	1	5	-	17
National Aeronautics and Space Administration	5	1	1	-	-	100	4	-	4	-	-
National Endowment for the Arts	7	4	4	-	-	100	3	2	1	-	67
National Endowment for the Humanities	5	4	4	-	-	100	1	-	1	-	-
National Science Foundation	7	4	4	-	-	100	3	1	-	2	33
Nuclear Regulatory Commission	10	8	4	1	3	50	2	-	-	2	-
Office of Personnel Manage- ment (formerly the Civil Service Commission)	7	3	3	-	-	100	4	4	-	-	100
Small Business Administration	12	7	5	2	-	71	5	3	2	-	60
Tennessee Valley Authority	13	11	9	2	-	82	2	-	1	1	-
Water Resources Council	2	1	1	-	-	100	1	-	1	-	-
Subtotal--agencies with title VI regulations	<u>1,036</u>	<u>553</u>	<u>428</u>	<u>79</u>	<u>46</u>	<u>77</u>	<u>483</u>	<u>263</u>	<u>176</u>	<u>44</u>	<u>54</u>

Agencies without title VI regulations	Number of activities administered	Indirect Federal assistance				Percent covered	Direct Federal assistance				Percent covered
		Total	Covered	Not covered	Uncertain		Total	Covered	Not covered	Uncertain	
Department of the Treasury	40	17	9	7	1	53	23	6	11	6	26
Administrative Conference of the United States	2	-	-	-	-	-	2	2	-	-	100
Appalachian Regional Commission	7	7	7	-	-	100	-	-	-	-	-
Canal Zone Government	2	1	1	-	-	100	1	1	-	-	100
Commodity Futures Training Commission	3	-	-	-	-	-	3	2	1	-	67
Equal Employment Opportunities Commission	8	2	2	-	-	100	6	6	-	-	100
Farm Credit Administration	1	-	-	-	-	-	1	1	-	-	100
Federal Election Commission	6	3	-	3	-	-	3	1	2	-	33
National Credit Union Administration (note b)	10	7	5	2	-	71	3	3	-	-	100
Overseas Private Investment Corporation	5	-	-	-	-	-	5	5	-	-	100
Panama Canal Company	4	-	-	-	-	-	4	3	-	1	75
President's Committee on Employment of the Handicapped	3	2	2	-	-	100	1	1	-	-	100
Selective Service System	1	-	-	-	-	-	1	1	-	-	100
Smithsonian Institution	4	-	-	-	-	-	4	4	-	-	100
International Communication Agency (note b)	9	2	2	-	-	100	7	6	-	1	86
U.S. International Trade Commission	2	-	-	-	-	-	2	2	-	-	100
Commission on Civil Rights	4	4	-	4	-	-	-	-	-	-	-
Consumer Products Safety Commission	7	1	-	1	-	-	6	-	6	-	-
Export-Import Bank	5	2	-	1	1	-	3	-	3	-	-
Federal Maritime Commission	2	1	-	1	-	-	1	-	1	-	-
Federal Council on the Arts	1	-	-	-	-	-	1	-	1	-	-
National Labor Relations Board	2	2	-	-	2	-	-	-	-	-	-
National Transportation Safety Board	1	-	-	-	-	-	1	-	1	-	-
Penn. Ave. Development Corporation	2	-	-	-	-	-	2	-	2	-	-
Pension Benefit Guaranty Corporation	8	2	-	2	-	-	6	-	6	-	-
Railroad Retirement Board	4	1	-	1	-	-	3	-	3	-	-
Securities and Exchange Commission	4	3	-	3	-	-	1	-	1	-	-
U.S. Postal Service	6	-	-	-	-	-	6	-	6	-	-
Board for International Broadcasting	7	-	-	-	-	-	7	-	7	-	-
Commission on Fine Arts	1	-	-	-	-	-	1	-	-	1	-
Indian Claims Department	1	-	-	-	-	-	1	-	-	1	-
Inter-American Foundation	2	-	-	-	-	-	2	-	1	1	-
Occupational Safety and Health Review Commission	1	-	-	-	-	-	1	-	1	-	-
Postal Rate Commission	3	-	-	-	-	-	3	-	3	-	-
U.S. Arms Control and Disarmament Agency	2	-	-	-	-	-	2	-	2	-	-
Subtotal--agencies without title VI regulations (note c)	170	57	28	25	4	49	113	44	58	11	39
Total all agencies	1,206	610	456	104	50	75	596	307	234	55	52

a/Information contained in this appendix represents the agencies' opinion, and GAO did not verify its accuracy.

b/Our questionnaire objective was to obtain agencies' perceptions of activities covered by title VI. These answers represent the original answers from the agencies. Subsequent to responding to the questionnaire, we received an additional response from both of these agencies changing their answers.

c/The following agencies were sent questionnaires; they responded, but said they did not provide any assistance activities.

National Gallery of Art  
Federal Mediation and Conciliation Service  
Federal Reserve System  
Federal Trade Commission  
Foreign Claims Settlement Commission of the U.S.  
Interstate Commerce Commission  
National Mediation Board  
Renegotiation Board  
American Battle Monuments Commission

U.S. GENERAL ACCOUNTING OFFICE  
SURVEY OF FEDERAL AGENCY ENFORCEMENT  
OF TITLE VI OF THE 1964  
CIVIL RIGHTS ACT



PART B: AGENCY TITLE VI ENFORCEMENT ACTIVITIES

I. INTRODUCTION:

The purpose of this part of the questionnaire is to obtain reliable information on Federal agencies' civil rights activities for ensuring nondiscrimination in their Federal assistance programs and/or activities covered by Title VI. The Federal assistance may be either financial or non-financial (i.e., in the form of cash, goods, equipment or services).

For the purposes of this questionnaire "Title VI" refers to 42 U.S.C. 2000d and also to the civil rights provisions of other Federal statutes to the extent that these statutes prohibit discrimination based on race, color, or national origin in programs or activities receiving Federal assistance of the type subject to Title VI. For example, where we request information on Title VI complaint investigations, compliance reviews, etc., the responses should include all those investigations and reviews relating to discrimination based on race, color or national origin of other Federal statutes relating to Federal assistance or revenue sharing to the extent that they overlap Title VI.

Also, for the purposes of this questionnaire, Title VI - covered employment refers to those employment practices of recipients which (1) exist in a program where a primary objective of the Federal assistance or revenue sharing program is to provide employment or (2) cause discrimination on the basis of race, color or national origin with respect to beneficiaries or potential beneficiaries of such programs.

In accordance with the congressional subcommittee wishes this questionnaire should be completed by the official(s) most knowledgeable about your agency Title VI activities. Most questions are designed to be answered by this official. However, questions asking for factual data, such as amounts, percentages, etc., may require consultation with other officials. Where exact information is difficult to obtain, please give us your best estimate (and indicate that it is an estimate) rather than delaying or failing to respond.

If you wish to explain or expand upon your response to any question or if you have any suggestions or additional comments on topics not covered, please use the space provided at the end of the questionnaire.

We request that one person coordinate the collection of this information. Please return Part B within 15 calendar days in the accompanying self-addressed envelope addressed to:

Mr. Gregory J. Ahart  
U.S. General Accounting Office  
441 G Street, N.W., Room 6254  
Washington, D.C. 20542

If you have questions, please contact Arthur Davis or Mary Noble (San Francisco - FTS: 556-6200 or, if not available at that number, Washington, D.C. - FTS: 523-9131)

1. Please indicate the name, title, agency, address and telephone number of the individual who we may contact if further information is required.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Agency)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State) (Zip Code)

\_\_\_\_\_  
(Area Code) (Telephone Number) (Extension)

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

For the purposes of this questionnaire, the term agency "programs" refers to the programs listed in the Office of Management and Budget's "Update to the 1977 Catalog of Federal Domestic Assistance" plus the General Revenue Sharing program which is not listed in the catalog.

The term "your agency" refers to the Department or other organizational entity to which this questionnaire is addressed.

II. CIVIL RIGHTS ENFORCEMENT UNIT

2. Does your agency have a civil rights enforcement unit(s) which has at least some responsibility for enforcing Title VI? (Check one)
- (24) 1 -  Yes (GO TO QUESTION 3)
- (8) 2 -  No (GO TO QUESTION 6)
3. What is the GS grade, executive level, or equivalent of the person who heads up your agency's highest placed civil rights enforcement unit that has Title VI responsibilities? (Check one and enter information)
- (22) 1 -  GS \_\_\_\_\_
- 3S #  
18 5  
17 2  
16 5  
15 6  
14 2  
13 2
- (2) 2 -  Executive level #4
- 3 -  Other (please specify) \_\_\_\_\_
4. Which best describes the reporting relationship between the head of the civil rights unit referred to in question 3 and the head of your agency (i.e., the Secretary of your Department, Agency Administrator, etc. to whom this questionnaire is addressed). The head of the civil rights unit reports
- (10) 1 -  directly to the agency head
- (11) 2 -  one level below the agency head
- (3) 3 -  two levels below
- (C) 4 -  three levels below
- (C) 5 -  four or more levels below
- (Q) 6 -  other (please specify) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

5. Does this structural reporting relationship adversely influence the effectiveness of Title VI enforcement? (Check one)
- (23) 1 -  No, not at all.
- (1) 2 -  Yes, because the civil rights unit reports at too low a level in the agency.
- (2) 3 -  Yes, because the civil rights unit reports at too high a level in the agency.

III. ENFORCING TITLE VI

6. For each fiscal year listed below indicate how many staff years your agency spent or anticipates spending on (1) all civil rights matters and (2) its Title VI responsibilities. (Where actual figures are not available, please check the box to indicate that your figure is an estimate.)

Fiscal Year	(1)		(2)	
	Staff years on all civil rights matters	Est. (Check)	Staff years on Title VI	Est. (Check)
1973	9,717		936	
1974	11,488		1,060	
1975	12,209		1,080	
1976*	15,674		1,228	
1977	14,456		1,229	
1978**	16,318		1,720	
1979**	17,080		2,972	
<b>TOTAL</b>	<b>96,942</b>		<b>10,225</b>	

\* including the transition quarter  
 \*\* proposed

When answering questions on Title VI, agency response should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

7. For each fiscal year listed below indicate how much money your agency has expended or anticipates spending on (1) all civil rights matters and (2) Title VI enforcement. (Where actual figures are not available, please check the box to indicate that your figure is an estimate.)

Fiscal Year	(1)		(2)	
	Funds expended on all civil rights matters	Est. (Check)	Funds expended on Title VI	Est. (Check)
1973	\$142,316,000		\$16,268,000	
1974	\$176,862,000		\$17,350,000	
1975	\$236,564,000		\$25,566,000	
1976*	\$297,334,000		\$33,566,000	
1977	\$278,323,000		\$30,042,000	
1978**	\$351,486,000		\$52,211,000	
1979**	\$399,348,000		\$64,692,000	
<b>TOTAL</b>	<b>\$1,882,233,000</b>		<b>\$239,704,000</b>	

\* including the transition quarter  
 \*\* proposed

8. How adequate were the funds your agency received for fiscal year 1977 for effectively enforcing Title VI? (Check one)

- (1) 1 -  Much more than adequate
- (1) 2 -  More than adequate
- (8) 3 -  Adequate
- (8) 4 -  Less than adequate
- (4) 5 -  Much less than adequate
- (8) 6 -  Uncertain

9. Indicate below whether any of the funds requested by your agency which relate to Title VI enforcement were denied by the Office of Management and Budget (OMB) in fiscal years 1978 and 1979. (Where actual figures are not available, base your answers on the best possible estimates.) (Check one for each fiscal year.)

Fiscal Year	(1)	(2)	(3)
	Yes	No	Not Applicable
1978	2	12	18
1979	5	9	18

10. For fiscal year 1975, were the funds appropriated by Congress for Title VI enforcement less than the total amount your agency requested? (Where actual figures are not available, base your answer on the best possible estimates.) (Check one)

- (2) 1 -  Yes
- (9) 2 -  No
- (21) 3 -  Not applicable

11. If you checked "yes" at least once in question 9 or 10, indicate, for both fiscal years 1978 and 1979, the amount of funds your agency requested for Title VI enforcement and the amount that OMB approved; and for fiscal year 1978 indicate the amount that the Congress appropriated. (Where actual figures are not available, base your answers on the best possible estimates.)

(000 omitted)

Fiscal Year	(1) Agency request	(2) OMB Approved	(3) Congress Appropriated
1978	\$ 5,098	\$4,456	\$ 4,456
1979	a/9,236	a/8,161	

a/Dept of Commerce was unable to provide financial data.  
 12. Is your agency a participant in a Title VI delegation agreement? (See 28 C.F.R. 42.413.) (Check one)

- (4) 1 -  Yes, as both a delegator and a delegatee (GO TO QUESTION 13)
- (16) 2 -  Yes, as a delegator only (GO TO QUESTION 13)
- (0) 3 -  Yes, as a delegatee only (GO TO QUESTION 13)
- (12) 4 -  No (GO TO QUESTION 14)

13. If you answered "yes" to question 12, to what extent do you believe the delegation agreements are resulting in effective Title VI enforcement? (Check one)

- (0) 1 -  Very great extent
- (2) 2 -  Substantial extent
- (2) 3 -  Moderate extent
- (7) 4 -  Some extent
- (5) 5 -  Little or no extent
- (4) 6 -  Don't know

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

1-. To what extent is each of the following items a problem to your agency in enforcing Title VI?  
(Check one box for each item)

	Little or no extent				
	1	2	3	4	5
(1) Lack of cooperation from agency program offices.	18	6	5	1	--
(2) Lack of cooperation from the agency office of general counsel.	26	1	2	1	--
(3) Lack of centralized headquarters control over all agency civil rights staff responsible for enforcing Title VI, including field staff.	18	6	1	2	2
(4) Other agency organizational problems which affect the enforcement of Title VI (please specify). _____ _____	2	-	1	4	1
(5) Lack of guidance or technical assistance from the Department of Justice.	18	7	4	-	1
(6) Lack of cooperation from other Federal agencies regarding such matters as interagency agreements, coordination of data collection, compliance review or complaint investigation activities, etc.	19	3	5	2	-
(7) Lack of adequate agency Title VI policies, regulations, guidelines or manuals.	15	6	1	4	4
(8) Lack of agency's commitment to enforce Title VI	21	3	5	1	-
(9) Lack of sufficient number of agency personnel to effectively enforce Title VI.	10	3	4	7	6
(10) Lack of adequate Title VI knowledge or training of agency personnel with Title VI responsibilities.	11	8	3	4	4
(11) Lack of sufficiently qualified civil rights personnel to enforce Title VI.	12	6	3	5	4
(12) Restrictions placed on travel which hamper Title VI enforcement efforts, including on-site compliance reviews.	19	3	5	2	1
(13) Lack of a separate Title VI budget.	19	5	1	1	4
(14) Lack of a separate Title VI staff.	18	4	4	1	3
(15) Lack of uniform procedures for expeditiously resolving Title VI complaints.	22	3	2	-	2
(16) Conflicting enforcement responsibilities with other Federal statutes or regulations (such as special revenue sharing, etc.)	25	3	1	-	1
(17) Other (please specify) _____ _____ _____	-	-	1	2	1



When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

15. To what extent does your agency need to do each of the following to develop or improve the Title VI training of its civil rights personnel? (Check one box for each item)

	1	2	3	4	5
	Little or no extent	Some extent	Moderate extent	Substantial extent	Very large extent
(1) Need a better designed training program	12	5	2	4	6
(2) Need to train more people	9	4	5	6	5
(3) Need better evaluation and followup of the training	12	5	2	6	4
(4) Need better course material	12	6	1	6	4
(5) Need to improve the level of instruction	14	4	2	5	4
(6) Need to involve more experts	14	4	4	4	3
(7) Need more time for formal training	12	3	5	6	3
(8) Need to have more practical applications (on-the-job training components)	12	5	2	7	3
(9) Need more commitment from top agency officials	20	5	2	2	-
(10) Need to commit more financial resources	12	6	2	4	5
(11) Need for a uniform Federal Title VI training program	13	1	4	2	9
(12) Other (please specify)	-	-	-	-	1
_____					
_____					
_____					
_____					

16. Have Title VI compliance guidelines been published for each type of program in your agency which is covered by Title VI, as required by the Department of Justice (28 C.F.R. 42.404)? (Check one)

- (8) 1 -  Yes, for all types of programs (GO TO QUESTION 20)
- (7) 2 -  No, only for some types of programs (GO TO QUESTION 17)
- (17) 3 -  No, for none of them (GO TO QUESTION 17)

17. If your agency has not published Title VI compliance guidelines for all types of programs covered by Title VI, please indicate why. (Check all that apply)

- (1) 1 -  The agency has determined that it is inappropriate for Title VI guidelines to be published for at least some types of programs covered by Title VI; however, the reasons for the determination(s) have not been stated in writing or are not available to the public upon request for all such cases where guidelines are inappropriate.
- (1) 2 -  The agency has determined that it is inappropriate for Title VI guidelines to be published for at least some types of programs covered by Title VI and the reasons for the determination(s) have been stated in writing and are available to the public upon request for all such cases where guidelines are inappropriate.
- (6) 3 -  The agency has not determined the appropriateness of publishing Title VI guidelines for any of the types of programs covered by Title VI.
- (6) 4 -  The agency has not determined the appropriateness of publishing Title VI guidelines for some types of programs but it has determined the appropriateness for others.
- (11) 5 -  Other (please specify) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

18. Is your agency currently preparing Title VI guidelines for its programs covered by Title VI? (Check one)
- (11) 1 -  Yes, for all types of such programs where guidelines are appropriate and have not been published.  
(GO TO QUESTION 19)
- (2) 2 -  Yes, but only for some types of such programs (GO TO QUESTION 19)
- (11) 3 -  No, for none of its programs (GO TO QUESTION 20)

19. If "yes, for all types" or "yes, but only for some types" in question 18, indicate below your agency's target date for completion of all such Title VI guidelines which it is currently preparing.

(Month) (Year)

20. For those programs where it is appropriate for your agency to distribute its Title VI regulations and/or guidelines, to what extent has your agency distributed them to each of the following? (Check one box for each item)

Question 19.

	78	79
Jan	-	3
Jun	1	-
July	3	1
Aug	2	-
Sept	1	-
Oct	1	-
Nov	1	-

1 Very great extent  
2 Substantial extent  
3 Moderate extent  
4 Some extent  
5 Little or no extent  
6 Not appropriate for any programs

	1	2	3	4	5	6
(1) Federal employees with Title VI responsibilities	13	6	-	3	2	6
(2) Applicants for Federal assistance	4	7	3	2	6	7
(3) Recipients of Federal assistance	5	4	5	2	6	7
(4) Beneficiaries	1	2	2	2	12	10

21. Does your agency require, by regulation or policy directive, that primary recipients (those which receive Federal assistance directly from the Federal Government, rather than through another recipient) on programs covered by Title VI periodically submit Title VI compliance data sufficient to permit effective agency enforcement? (Check one)
- (8) 1 -  Yes, for all programs (GO TO QUESTION 22)
- (2) 2 -  Yes, for most programs (GO TO QUESTION 22)
- (3) 3 -  Yes, but only for some programs (GO TO QUESTION 22)

(19) 4 -  No, for none of them (GO TO QUESTION 23)

22. For those programs on which your agency requires Title VI compliance data reporting, in general, how often do primary program recipients meet those requirements? (Check one)

- (5) 1 -  Always or almost always
- (4) 2 -  Frequently
- (2) 3 -  About half the time
- (2) 4 -  Seldom
- (2) 5 -  Never or hardly ever
- (2) 6 -  Don't know

23. Consider State agencies which  
(1) administer continuing programs receiving Federal assistance from your agency and  
(2) have not been found in non-compliance.

Independent of any paper assurances which your agency receives from recipients, does your agency know whether such State agencies are carrying out adequate Title VI compliance programs, in accordance with the Department of Justice regulations (28 C.F.R. 42.410)? (Check one)

- (4) 1 -  Yes, for all of these agency programs
- (1) 2 -  Yes, for most of these agency programs
- (5) 3 -  Yes, but only for some of these agency programs
- (1) 4 -  No, for none of these agency programs
- (14) 5 -  Don't have any continuing programs with State agencies
- (7) 6 -  Don't know

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

24. Does your agency require primary recipients on programs covered by Title VI to report to the agency at least semi-annually both (1) the number of Title VI complaints they and their secondary recipients receive and (2) the disposition of those complaints? (Check one)
- (5) 1 -  Yes, this is required for all agency programs covered by Title VI.
- (2) 2 -  Yes, this is required for most agency programs covered by Title VI, but not all of them.
- (3) 3 -  Yes, this is required for some agency programs covered by Title VI, but not most of them.
- (24) 4 -  No, this is not required for any agency programs.
25. From your agency's experience, to what extent are there discriminatory employment practices (see definition of Title VI - covered employment practices on page 1) of Title VI recipients that your agency cannot reach because of the limitations on Title VI - covered employment practices (28 C.F.R. 42.402(f))? (Check one)
- (8) 1 -  Little or no extent
- (3) 2 -  Some extent
- (2) 3 -  Moderate extent
- (2) 4 -  Substantial extent
- (1) 5 -  Very large extent
- (16) 6 -  No basis to judge

26. In enforcing Title VI, which of the following standards does your agency apply as a basis for determining whether discrimination may have occurred in a Federally assisted program or activity? (Check one)

- (1) -  To show that a recipient has violated Title VI it is necessary to demonstrate that the recipient intended to discriminate based on race, color, or national origin in the provision of program services, benefits or assistance.
- (1)2 -  It is not necessary to prove intent. Data showing a disparate effect in terms of the program services, benefits or other assistance provided by a recipient in relation to the population eligible to be served by race, color or national origin is sufficient to establish a prima facie case of discrimination and shift the burden of proof to the recipient to show that the disparity is not due to discrimination.
- (3)3 -  Both items 1 and 2 above apply. (Please explain briefly under what circumstances each would apply)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (4)4 -  Other (Please specify) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (8)5 -  Uncertain

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

IV. TITLE VI COMPLAINTS TO THE AGENCY

27. During fiscal years 1973-1977 did your agency receive any Title VI complaints against its program recipients? (Check one)

- (17) 1 -  Yes (GO TO QUESTION 28)
- (15) 2 -  No (GO TO QUESTION 31)

28. Indicate the total number of Title VI complaints filed at the Federal level against your agency's program recipients during each fiscal year from 1973-1977. Of these indicate how many are currently in each stage of the enforcement process listed in lines 2-13. (Total of lines 2-13 should equal line 1)

Stages of the enforcement process	Fiscal Year				
	1973	1974	1975	1976*	1977
(1) Total number of complaints received during this fiscal year	446	404	2,064	1,810	1,865
Of those indicated in item (1) indicate how many are in each of the following stages.					
(2) Awaiting investigation	1	3	4	77	231
(3) Referred to another Federal agency for processing	2	5	720	386	284
(4) Investigation in process	3	8	73	179	319
(5) Complaint withdrawn	8	6	46	57	52
(6) Negotiations for voluntary compliance in process	2	-	12	21	21
(7) Administrative proceedings in process	-	-	13	16	19
(8) Referred to agency legal office for enforcement	-	-	2	1	1
(9) Referred to Department of Justice for action	3	1	3	1	-
(10) Case closed/insufficient evidence or complaint found to be invalid	80	101	404	407	369
(11) Case closed/valid, corrective action taken	19	27	102	168	126
(12) Case closed/no jurisdiction	2	15	15	45	82
(13) Other (please specify) _____ _____ _____	34	3	71	113	130

\* including the transition quarter

HUD	FY	Number	JUSTICE	FY	Number	LABOR	FY	Number
	73	292		75	69		75	265
	74	235		76	110		76	118
	75	265		77	144			
	76	111						
	77	87						

The above agencies provided data for line one only and the combined totals of lines 2 thru 13 will not equal the total number of complaints received for that fiscal year. The difference between lines 1 and 2 thru 13 equals the incomplete data supplied by HUD, Justice, and Labor for the affected fiscal year.

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

29. Consider the Title VI complaints received by your agency for each fiscal year from 1973-1977. (1) Indicate how many included an allegation(s) relating to some aspects of discrimination in recipients' employment practices. (2) Of these, indicate how many complaints were actually investigated for Title VI - covered employment discrimination (28 C.F.R. 41.402(f)). (3) Indicate how many were not investigated for employment discrimination because of the limitations on Title VI - covered employment practices. (4) Indicate how many complaints of those indicated in column (1) were concerned only with employment discrimination.

Fiscal Year	(1) Number of complaints with allegations of employment discrimination	(2) Number investigated for Title VI employment discrimination	(3) Number not investigated because of Title VI limitations	(4) Number concerned only with employment discrimination
1973	18	15	4	18
1974	21	16	2	17
1975	1,004	388	4	22
1976*	729	189	12	100
1977	564	174	9	126
TOTAL	2,336	782	31	283

\* including the transition quarter

30. On the average, for fiscal years 1973-77 and also for fiscal year 1977 alone, about how many calendar days did it take to resolve Title VI complaints from the date your agency received them until they were resolved (complaint withdrawn, case closed, referred to the Department of Justice, etc.)?  
 1973-77 \_\_\_\_\_ calendar days  
 1977 alone \_\_\_\_\_ calendar days

31. In your opinion, is there a need for specific and reasonable limitations by Federal regulation or other means on the number of days for a Federal agency to investigate and make a finding on Title VI complaints? (Check one)  
 (2) 1 -  Definitely not  
 (2) 2 -  Probably not  
 (5) 3 -  Uncertain  
 (12) 4 -  Probably yes  
 (12) 5 -  Definitely yes

(SEE FOLLOWING PAGE)

V. AGENCY TITLE VI COMPLIANCE REVIEWS

32. For each fiscal year given below indicate the total number of primary recipients of your agency's programs covered by Title VI. "Primary recipients" are those which receive at least some Federal assistance directly from the Federal Government, rather than through another recipient. Count each primary recipient (such as a particular State agency, local agency, etc.) only once, regardless of how many of your agency's programs provide assistance to it. Also check the appropriate box to indicate whether each figure is actual, estimated or not known.

Fiscal Year	(1) Number of Title VI primary recipients	(2) (Check one)		
		Actual	Estimate	Not Known
1973	2,655,732			
1974	3,256,888			
1975	4,759,108			
1976*	7,311,735			
1977	7,668,732			

\* including the transition quarter

Question 30

<u>Days</u>	<u>FY</u> <u>73-77</u>	<u>FY</u> <u>77</u>
1-30	3	3
31-60	1	1
61-90	1	1
91-120	3	3
121-150	2	3
151-180	-	1
181-210	2	1
250	1	(280)-1
900	1	(360)-1
Unknown	3	2

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

33. During fiscal years 1973-1977 did your agency initiate any Title VI pre-award compliance desk audits? (A desk audit is a review consisting of an analysis of data submitted by the applicant without performing any work "on-site" at the applicant's facilities.) (Check one)

(11)<sup>1</sup> -  Yes (GO TO QUESTION 34)

(21)<sup>2</sup> -  No (GO TO QUESTION 36)

34. For each fiscal year given below indicate,

- (1) the number of Title VI pre-award compliance desk audits which your agency initiated,
- (2) the number of such audits which resulted in written noncompliance or written probable noncompliance findings,
- (3) the number of such audits in which the applicants were found to be in compliance,
- (4) the number of audits still in progress, and
- (5) the number with other results (explain).

(Total of columns (2)-(5) should equal column (1).)

Fiscal Year:	(1) Number pre-award compliance desk audits initiated	(2) Number resulting in written probable non- compliance findings, etc.	(3) Number where applicants found in compliance	(4) Number still in progress	(5) Other results (explain below)
1973	6,328	134	6,187	7	0
1974	4,589	113	4,432	6	0
1975	8,051	109	7,087	0	0
1976*	11,365	297	10,931	50	0
1977	23,031	1,315	21,667	5	0
TOTAL	53,364	1,968	50,304	68	0

\* including the transition quarter

Explanation: Following agencies provided data for column one only. Without these data combined totals of columns 2 thru 5 will not equal the total number of reviews initiated for that fiscal year.

	FY	Number	FY	Number	
Justice	74	38	Justice	76	87
Justice	75	49	Justice	77	44
Transportation	75	806			

35. Of the total number of Title VI pre-award compliance desk audits which your agency initiated for each of the following fiscal years (see Question 34, Col. 1), (1) how many included review of recipients' employment practices covered by Title VI as well as non-employment aspects of Title VI and (2) how many only included review of recipients' employment practices?

Fiscal Year	(1) Number of audits of employment practices and other Title VI matters	(2) Number of audits of employment practices only
1973	603	36
1974	541	38
1975	1,849	27
1976*	2,365	27
1977	13,566	24
TOTAL	19,424	152

\* including the transition quarter

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

36. During fiscal years 1973-1977 did your agency initiate any Title VI pre-award on-site compliance reviews?  
 (Check one)
- a/ (10) 1 -  Yes (GO TO QUESTION 37) a/Justice said that it performed preaward onsite compliance reviews but didn't know how many were performed during fiscal years 1973-1977.
- (22) 2 -  No (GO TO QUESTION 39)

37. For each fiscal year given below indicate,
- (1) the number of Title VI pre-award on-site compliance reviews which your agency initiated,
  - (2) the number of such reviews which resulted in written noncompliance or written probable noncompliance findings.
  - (3) the number of such reviews in which the applicants were found to be in compliance,
  - (4) the number of reviews still in progress, and
  - (5) the number with other results (explain).

(Total of columns (2)-(5) should equal column (1).)

Fiscal Year	(1) Number pre-award on-site compliance reviews initiated	(2) Number resulting in written probable non-compliance findings, etc.	(3) Number where applicants found in compliance	(4) Number still in progress	(5) Other results (explain below)
1973	2,117	0	2,117	0	0
1974	2,332	0	2,332	0	0
1975	2,236	0	2,236	0	0
1976*	2,556	2	2,488	0	0
1977	1,913	2	1,882	0	0
TOTAL	11,154	4	11,055	0	0

\* including the transition quarter

Explanation: Following agency provided data for column one only. Without these data the combined totals of columns 2 thru 5 will not equal the total number of reviews initiated for that fiscal year.

	FY	Number
Labor	76	66
Labor	77	29

38. Of the total number of Title VI pre-award on-site compliance reviews which your agency initiated for each of the following fiscal years (see Question 37, Col. 1), (1) how many included reviews of recipients' employment practices covered by Title VI as well as non-employment aspects of Title VI and (2) how many only included reviews of recipients' employment practices?

Fiscal Year	(1) Number of reviews of employment practices and other Title VI matters	(2) Number of reviews of employment practices <u>only</u>
1973	0	0
1974	1	0
1975	0	0
1976*	63	0
1977	33	0
TOTAL	102	0

\* including the transition quarter



When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

39. Has your agency established written procedures for processing all applications and/or requests for Federal assistance to assure compliance with Title VI? (Check one)
- (21) 1 -  Yes (GO TO QUESTION 40)  
 (10) 2 -  No (GO TO QUESTION 41)  
 (1) 3 -  Don't know (GO TO QUESTION 41)
40. If you have such written procedures, in your opinion are these procedures effective for assuring recipients' or potential recipients' compliance with Title VI? (Check one)
- (4) 1 -  Definitely yes (GO TO QUESTION 42)  
 (7) 2 -  Probably yes (GO TO QUESTION 42)  
 (6) 3 -  Uncertain (GO TO QUESTION 41)  
 (3) 4 -  Probably no (GO TO QUESTION 41)  
 (1) 5 -  Definitely no (GO TO QUESTION 41)
41. To what extent is there a need for your agency to establish effective procedures for processing applications and/or requests for Federal assistance to assure compliance with Title VI? (Check one)
- (5) 1 -  Little or no extent  
 (6) 2 -  Some extent  
 (1) 3 -  Moderate extent  
 (4) 4 -  Substantial extent  
 (5) 5 -  Very Large extent
42. Does your agency make a written determination,
- (1) based on a pre-award review or desk audit, and  
 (2) subject to the review of a person responsible for enforcing Title VI,
- as to whether applicants are in compliance with Title VI prior to approval of Federal assistance? (Check one)
- (5) 1 -  Yes, for all applicants for the programs covered by Title VI (GO TO QUESTION 44)  
 (2) 2 -  Yes, for most applicants for the programs covered by Title VI (GO TO QUESTION 43)  
 (5) 3 -  Yes, but only for some applicants for the programs covered by Title VI (GO TO QUESTION 43)  
 (20) 4 -  No, for none of the applicants (GO TO QUESTION 44)
43. If you answered "yes, for most" or "yes, but only for some", please briefly explain the criteria used to decide which pre-award compliance reviews are made.
44. During fiscal years 1973-77 did your agency initiate any Title VI post-award compliance desk audits? (A desk audit is a review consisting of an analysis of data submitted by the recipient without performing any work "on-site" at the recipient's facilities.) (Check one)
- (13) 1 -  Yes (GO TO QUESTION 45)  
 (19) 2 -  No (GO TO QUESTION 47)

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

45. For each fiscal year given below indicate,

- (1) the number of Title VI post-award compliance desk audits which your agency initiated,
- (2) the number of such audits which resulted in written noncompliance or written probable non-compliance findings,
- (3) the number of such audits in which the recipients were found to be in compliance,
- (4) the number of audits still in progress, and
- (5) the number with other results (explain).

(Total of columns (2)-(5) should equal column (1).)

Fiscal Year	(1) Number post-award compliance desk audits initiated	(2) Number resulting in written probable non-compliance findings, etc.	(3) Number where recipients found in compliance	(4) Number still in progress	(5) Other results (explain below)
1973	4,817	1,380	3,433	0	4
1974	6,154	1,889	4,260	0	5
1975	8,902	3,908	4,989	0	5
1976*	9,793	3,950	5,840	0	3
1977	36,425	4,929	7,235	6	0
TOTAL	66,091	16,056	25,757	6	17

\* including the transition quarter

Explanation: Following agency provided data for column one only. Without these data the combined totals of column 2 thru 5 will not equal the total number of reviews initiated for fiscal year 1977.

VA      FY    Number  
          77    24,255

46. Of the total number of Title VI post-award compliance desk audits which your agency initiated for each of the following fiscal years (see Question 45, Col. 1), (1) how many included review of recipients' employment practices covered by Title VI as well as non-employment aspects of Title VI and (2) how many only included review of recipients' employment practices?

Fiscal Year	(1) Number of audits of employment practices and other Title VI matters	(2) Number of audits of employment practices <u>only</u>
1973	4,698	116
1974	6,041	113
1975	8,396	193
1976*	9,630	149
1977	35,527	128
TOTAL	64,292	699

\* including the transition quarter

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

47. During fiscal years 1973-1977 did your agency initiate any Title VI post-award on-site compliance reviews? (Check one)

- (12) 1 -  Yes (GO TO QUESTION 48)  
 (20) 2 -  No (GO TO QUESTION 30)

48. For each fiscal year given below indicate,

- (1) the number of Title VI post-award on-site compliance reviews which your agency initiated,
- (2) the number of such reviews which resulted in written noncompliance or probable noncompliance findings,
- (3) the number of such reviews in which the recipients were found to be in compliance,
- (4) the number of reviews still in progress, and
- (5) the number with other results (explain).

(Total of columns (2)-(5) should equal column (1).)

Fiscal Year	(1) Number post-award on-site compliance reviews initiated	(2) Number resulting in written probable non-compliance findings, etc.	(3) Number where recipients found in compliance	(4) Number still in progress	(5) Other results (explain below)
1973	48,611	220	48,311	0	4
1974	80,998	899	79,942	0	5
1975	23,009	765	22,022	1	6
1976*	39,469	1,132	37,977	4	3
1977	30,031	1,191	28,566	98	0
TOTAL	222,118	4,207	216,818	103	18

\* including the transition quarter

Explanation: Following agencies provided data for column one only. Without these data the combined totals of columns 2 thru 5 will not equal the total number of reviews initiated for that fiscal year.

	<u>FY</u>	<u>Number</u>		<u>FY</u>	<u>Number</u>
HUD	73	76	Labor	76	96
	74	152		77	176
	75	215			
	76	257			

49. Of the total number of Title VI post-award on-site compliance reviews which your agency initiated for each of the following fiscal years (see Question 48, Col. 1), (1) how many included review of recipients' employment practices covered by Title VI as well as non-employment aspects of Title VI and (2) how many only included review of recipients' employment practices?

Fiscal Year	(1) Number of reviews of employment practices and other Title VI matters	(2) Number of reviews of employment practices <u>only</u>
1973	7,432	29
1974	6,168	27
1975	15,017	21
1976*	16,458	43
1977	16,057	22
TOTAL	61,132	142

\* including the transition quarter

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

50. Has your agency established and implemented an effective program of Title VI post-award compliance reviews, including periodic submission of compliance reports from recipients to your agency and, where appropriate, field reviews of a representative number of major recipients? (Check one)

- (10)1 -  Yes
- (20)2 -  No
- (2)3 -  Don't know

51. If you have not performed any pre-award or post-award reviews or audits GO TO QUESTION 53, otherwise ANSWER THIS QUESTION.

On the average, for fiscal years 1973-77 and also for fiscal year 1977 alone, about how many calendar days did it take your agency to conduct the Title VI compliance reviews of each type shown below from the date your agency initiated the reviews until the recipient was found in compliance or notified of probable noncompliance? (If any one has not been performed enter N/A)

	Average number of calendar days	
	1973-77	1977 alone
(1) Pre-award desk audits		
(2) Pre-award on-site reviews		
(3) Post-award desk audits		
(4) Post-award on-site reviews		
(5) Other (please specify)		
_____		
_____		

	FY 73-77	FY 77
<u>Pre-Award</u>		
<u>Desk</u>		
1-5 days	2	3
30 days	1	1
<u>On-site</u>		
1-5 days	2	3
<u>Post-Award</u>		
<u>Desk</u>		
1-30	7	6
31-60	1	1
61-90	1	-
<u>On-site</u>		
1-30	7	7
1/9	1	(72) 1

52. In general for your agency's programs covered by Title VI, how would you rate the quality of the compliance reviews of the following types conducted by your agency for ensuring Title VI enforcement? (Check one for each type)

	1 Excellent	2 Accurate	3 Marginal	4 Deficient	5 Very difficult	6 Not performed
(1) Pre-award desk audits	4	4				24
(2) Pre-award on-site reviews	2	4	2			23
(3) Post-award desk audits	2	9	2			19
(4) Post-award on-site reviews	2	6	4			20
(5) Other (please specify)						
_____						
_____						

53. In general for your agency's programs covered by Title VI how great is the need for your agency to conduct a larger number of compliance reviews of the following types to ensure effective Title VI enforcement? (Check one for each type)

	1 Very great need	2 Substantial need	3 Moderate need	4 Some need	5 Little or no need
(1) Pre-award desk audits	6	2	3	7	13
(2) Pre-award on-site reviews	6	1	4	7	13
(3) Post-award desk audits	5	3	2	0	11
(4) Post-award on-site reviews	6	3	4	6	12
(5) Other (please specify)					
_____					
_____					

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

54. Are the guidelines, manuals, and other guidance used by your agency's personnel in performing Title VI compliance reviews and/or desk audits adequate in establishing appropriate compliance review procedures and standards of evaluation? (Check one)

- (2) 1 -  Definitely yes
- (10) 2 -  Probably yes
- (3) 3 -  Uncertain
- (3) 4 -  Probably no
- (3) 5 -  Definitely no

(11) 6 -  Agency has never done any such reviews or audits

55. To what extent does your agency compare racial/ethnic data on the number of beneficiaries served to racial/ethnic data on the eligible program population (or target group) to help select programs for Title VI on-site compliance reviews? (Check one)

- (1) 1 -  Very large extent
- (5) 2 -  Substantial extent
- (4) 3 -  Moderate extent
- (3) 4 -  Some extent
- (2) 5 -  Little or no extent

(17) 6 -  Agency has never done any such compliance reviews

56. In your opinion, to what extent is there a need for specific and reasonable limitations by Federal regulation or other means on the number of calendar days for a Federal agency to conduct an on-site Title VI compliance review once it has initiated such a review? (Check one)

- (11) 1 -  Little or no extent
- (5) 2 -  Some extent
- (5) 3 -  Moderate extent
- (8) 4 -  Substantial extent
- (3) 5 -  Very great extent

**VI. RESULTS OF AGENCY TITLE VI ENFORCEMENT EFFORTS**

57. During fiscal years 1973-1977 did your agency ever have a finding of Title VI noncompliance, probable noncompliance or reasonable cause to believe there is such noncompliance against any of your agency's recipients? (Check one)

- (12) 1 -  Yes (GO TO QUESTION 58)
- (20) 2 -  No (GO TO QUESTION 72)

58. During fiscal years 1973-1977 did your agency bring a recipient into voluntary compliance after a written finding of Title VI noncompliance, probable noncompliance or reasonable cause to believe there is such noncompliance? (Check one)

- (12) 1 -  Yes (GO TO QUESTION 59)
- (0) 2 -  No (GO TO QUESTION 61)

59. For each of the following fiscal years, how many times has your agency brought a recipient into voluntary compliance after a written finding of Title VI noncompliance, probable noncompliance or reasonable cause to believe there is such noncompliance?

Fiscal Year	Number of times recipients brought into voluntary compliance
1973	1,467
1974	2,042
1975	4,071
1976*	4,483
1977	5,253
<b>TOTAL</b>	<b>17,316</b>

\* including the transition quarter

60. On the average for fiscal years 1973-77 how many calendar days did it take since the initial finding to bring these recipients into voluntary compliance?

- 1-30 - 2
- 31-60 - 2
- 91-180 - 3

61. During fiscal years 1973-77 did your agency send any of its recipients notices of administrative hearings concerning Title VI noncompliance? (Check one)

- (7) 1 -  Yes (GO TO QUESTION 62)
- (5) 2 -  No (GO TO QUESTION 67)

When answering questions on Title VI, agency responses should include all information related to discrimination based on race, color or national origin under Title VI and other Federal statutes relating to federal assistance (or revenue sharing) to the extent that they overlap Title VI.

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62. For each fiscal year listed below, indicate (1) the total number of times your agency notified any of its recipients of administrative hearings concerning Title VI non-compliance and (2) the number of such cases in which further Federal assistance to recipients was deferred.

63. During fiscal years 1973-77, did your agency hold any administrative hearings concerning Title VI noncompliance of program recipients? (Check one)

- (4) 1 -  Yes (GO TO QUESTION 64)
- (3) 2 -  No (GO TO QUESTION 67)

Fiscal Year	(1) Number of times recipients notified of administrative hearings	(2) Number of cases in which Federal assistance was deferred
1973	61	34
1974	51	6
1975	219	12
1976*	122	43
1977	160	11
<b>TOTAL</b>	<b>613 a/</b>	<b>106</b>

\* including the transition quarter  
a/Responses received from 5 agencies.

64. For each fiscal year listed below, indicate

- (1) the total number of administrative hearings your agency held concerning Title VI noncompliance of program recipients,
- (2) the number of such hearings in which a determination of Title VI violation(s) was made,
- (3) the number of such violation cases resulting in termination of funds,
- (4) the number of hearings in which no Title VI violation(s) was found,
- (5) the number of hearings for which the outcome is still pending, and
- (6) Other (please explain)

(Total of columns (2), (4), (5) and (6) should equal column (1).)

Fiscal Year	(1) Total number of hearings held	(2) Number of hearings with Title VI violations	(3) Number Title VI cases with fund terminations	(4) Number of hearings with <u>no</u> Title VI violations	(5) Number of hearings with outcome still pending	(6) Number of other (explain below)
1973	20	11	-	9	-	-
1974	4	2	-	-	-	2
1975	4	3	-	1	-	-
1976*	14	5	-	7	-	2
1977	7	2	-	3	2	-
<b>TOTAL</b>	<b>49</b>	<b>23</b>	<b>-</b>	<b>20</b>	<b>2</b>	<b>4</b>

\* including the transition quarter

Explanation:

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

65. Consider those cases where the administrative hearings resulted in termination of funds. On the average, for fiscal years 1973-77 how many calendar days did it take from the date of the initial finding of probable noncompliance with Title VI (or reasonable cause to believe there is such noncompliance) to actually terminate funding?

856 (1 agency)  
calendar days

66. Consider those instances where no agreement was reached on voluntary compliance with Title VI after a finding of probable non-compliance (or a reasonable cause finding) by your agency. On the average, for fiscal years 1973-77, how many calendar days did it take from the date of the initial finding to begin administrative hearings?

400 & 608 (2 agencies)  
calendar days

67. Consider those cases in which your agency's recipients have not agreed to come into voluntary compliance with Title VI. Is there a need to change your agency's Title VI authority to provide specific and reasonable limitations on the number of calendar days after which further Federal assistance must be temporarily suspended to such a recipient (from the date your agency initially found a recipient in probable noncompliance with Title VI)? (Check one)

- (1) 1 -  Definitely not
- (4) 2 -  Probably not
- (2) 3 -  Uncertain
- (1) 4 -  Probably yes
- (4) 5 -  Definitely yes

68. Consider those cases in which a finding of Title VI noncompliance or probable noncompliance by your agency has not been reversed, is not under judicial review or appellate proceedings or an agreement on voluntary compliance has not been reached. Is there a need for specific and reasonable limitations on the number of days (during which administrative hearings must be held and) after which Federal assistance must be terminated (for example, no later than a certain number of days after Federal assistance has been temporarily suspended)? (Check one)

- (0) 1 -  Definitely not
- (0) 2 -  Probably not
- (0) 3 -  Uncertain
- (3) 4 -  Probably yes
- (9) 5 -  Definitely yes

69. In your opinion, if such limitations on time-frames (as mentioned in questions 67 and 68) were established, would recipients found to be in noncompliance or probable noncompliance with Title VI agree to reach voluntary compliance within a shorter average time period than at present? (Check one)

- (0) 1 -  Definitely not
- (1) 2 -  Probably not
- (1) 3 -  Uncertain
- (3) 4 -  Probably yes
- (7) 5 -  Definitely yes

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

70. For each fiscal year 1973-1977, indicate

- (1) the number of cases of Title VI findings of probable noncompliance which your agency has referred to the Department of Justice, Civil Rights Division for action, and of those
- (2) the number of cases Justice sent back to your agency without taking action,
- (3) the number of court rulings that found no violations of Title VI,
- (4) the number of court rulings that found violations of Title VI,
- (5) the number of cases still pending and
- (6) the number of other cases (please explain)

(Total of columns (2) - (6) should equal column (1).)

Fiscal Year	(1) Number of cases referred to Justice	(2) Number of cases Justice sent back to agency	(3) Number court rulings with <u>no</u> Title VI violations	(4) Number court rulings with Title VI violations	(5) Number still pending	(6) Other (explain below)
1973	1	-	-	1	-	-
1974	9	8	-	1	-	-
1975	3	2	-	-	1	-
1976*	3	-	-	-	3	-
1977	13	-	-	-	9	4
<b>TOTAL</b>	<b>29</b>	<b>10</b>	<b>-</b>	<b>2</b>	<b>13</b>	<b>4</b>

\* including the transition quarter

Explanation:

71. For each fiscal year from 1973-1977, indicate

- (1) the number of cases on which your agency has sought to recapture Federal assistance funds from recipients because of noncompliance with Title VI, and of those,
- (2) the number of unsuccessful attempts,
- (3) the number of successful attempts,
- (4) the number on which action is still pending, and
- (5) the total amount of Federal funds recaptured.

(Total of columns (2) - (4) should equal column (1).)

Fiscal Year	(1) Attempts to recapture funds	(2) Number unsuccessful attempts	(3) Number successful attempts	(4) Number cases still pending	(5) Total Federal funds recaptured
1973	-	-	-	-	\$ -
1974	-	-	-	-	\$ -
1975	-	-	-	-	\$ -
1976*	-	-	-	-	\$ -
1977	-	-	-	-	\$ -
<b>TOTAL</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>\$ -</b>

\* including the transition quarter



When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

72. Has your agency ever been sued for not enforcing Title VI? (Check one)
- (5)1 -  Yes (GO TO QUESTION 73)
- (2)2 -  No (GO TO QUESTION 74)

73. If "yes" to question 72, indicate the appropriate number for each of the following.

(Total of lines (2)-(6) should equal line (1).)

	Number
(1) Number of times the agency has been sued for not enforcing Title VI since enactment of Title VI	22
(2) Number of cases where the court found the agency failed to enforce Title VI	2
(3) Number of times agency entered into a consent decree on such cases	7
(4) Number of cases where the court found the agency adequately enforced Title VI	4
(5) Number of cases still pending	9
(6) Other (please explain)	-
	-
	-
	-

76. To what extent is more involvement of program personnel, as distinguished from agency civil rights personnel, needed to improve Title VI enforcement efforts? (Check one)

- (1)1 -  Little or no extent
- (6)2 -  Some extent
- (3)3 -  Moderate extent
- (6)4 -  Substantial extent
- (2)5 -  Very large extent

77. What proportion of your agency's Federal assistance programs which are covered by Title VI have enough well-trained program personnel to effectively enforce Title VI? (Check one)

- (6)1 -  All or almost all of the programs
- (0)2 -  Somewhat more than half of the programs
- (1)3 -  About half of the programs
- (3)4 -  Somewhat less than half of the programs
- (20)5 -  None or hardly any of the programs

78. How adequate do you regard the quality of your agency's training effort(s) concerning Title VI enforcement for agency program personnel as distinguished from civil rights personnel? (Check one)

- (1)1 -  Much more than adequate (GO TO QUESTION 80)
- (2)2 -  More than adequate (GO TO QUESTION 80)
- (5)3 -  Adequate (GO TO QUESTION 80)
- (4)4 -  Less than adequate (GO TO QUESTION 80)
- (4)5 -  Much less than adequate (GO TO QUESTION 80)
- (14)6 -  There is no Title VI training for agency program personnel (GO TO QUESTION 79)

VII. PROGRAM PERSONNEL AND TITLE VI ENFORCEMENT

74. In general, for those programs covered by Title VI, to what extent do program personnel, as distinguished from civil rights personnel in your agency, have Title VI enforcement duties? (Check one)

- (4)1 -  Very large extent
- (5)2 -  Substantial extent
- (3)3 -  Moderate extent
- (6)4 -  Some extent
- (12)5 -  Little or no extent

75. In general, where program personnel do have Title VI enforcement duties to what extent do they do an adequate job? (Check one)

- (5)1 -  Very large extent
- (5)2 -  Substantial extent
- (4)3 -  Moderate extent
- (4)4 -  Some extent
- (4)5 -  Little or no extent
- (8)6 -  Program personnel have no such duties

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

79. If there is no Title VI training for agency program personnel, to what extent is such training needed to effectively enforce Title VI in your agency? (Check one)

- (5) 1 -  Little or no extent
- (1) 2 -  Some extent
- (4) 3 -  Moderate extent
- (4) 4 -  Substantial extent
- (1) 5 -  Very large extent

80. To what extent does your agency need to do each of the following to develop or improve the Title VI training of its program and other non-civil rights personnel? (Check one for each item)

	1 Little or no extent	2 Some extent	3 Moderate extent	4 Substantial extent	5 Very large extent
(1) Need a better designed training program	13	3	5	3	6
(2) Need to train more people	9	4	3	9	5
(3) Need better evaluation of the effects of Title VI training on individual's performance	12	5	5	5	3
(4) Need better course material	13	5	2	3	7
(5) Need to improve level of instruction	14	6	1	3	6
(6) Need to involve more experts	12	5	3	3	7
(7) Need more time for formal training	9	5	4	6	6
(8) Need to have more practical applications (on-the-job training components)	12	5	2	7	4
(9) Need more commitment from top agency officials	16	3	7	2	2
(10) Need to commit more financial resources	10	7	6	3	4
(11) Need to increase the incentive for program personnel to enforce Title VI (e.g., by including Title VI enforcement as an element in their performance appraisal)	11	7	5	2	5
(12) Other (please specify)	-	-	1	-	2

VIII. COORDINATION OF CIVIL RIGHTS ENFORCEMENT IN FEDERALLY ASSISTED PROGRAMS

81. The Department of Justice has responsibility for coordinating Federal agencies' enforcement of Title VI including prescribing standards, providing assistance in implementation, issuing regulations and orders, etc. In your opinion, how effective has the Department of Justice been in this coordination role prior to the issuance of its new Title VI coordination regulations which became effective in January 1977? (Check one)

- 1 -  Very effective
- (6) 2 -  Somewhat effective
- (4) 3 -  Neither effective nor ineffective
- (5) 4 -  Somewhat ineffective
- (5) 5 -  Very ineffective
- (11) 6 -  This agency has no basis to judge

82. How would you rate the Department of Justice's overall performance in this role since January 1977 when its new Title VI coordination regulations became effective? (Check the one which is more appropriate)

- (11) 1 -  Greatly improved
- (6) 2 -  Slightly improved
- (4) 3 -  About the same
- (1) 4 -  Slightly worse
- (0) 5 -  Much worse
- (9) 6 -  This agency has no basis to judge

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

83. Since January 1977, when the Department of Justice's new Title VI coordination regulations became effective, how effective has Justice been in each of the following specific areas associated with its Title VI coordination role? (Check one for each item)

	Very effective	Somewhat effective	Neither effective nor ineffective	Somewhat ineffective	Very ineffective	Don't know
	1	2	3	4	5	6
<b>A. Prescribing Title VI standards for Federal agencies:</b>						
(1) Title VI regulations	8	12	-	2	-	9
(2) Title VI guidelines	2	9	3	4	3	10
(3) Public dissemination of Title VI information	4	6	3	3	2	13
(4) Data and information collection	-	8	2	4	3	14
(5) Compliance reviews	1	3	4	2	3	18
(6) Title VI complaint hotline	-	5	3	2	2	19
(7) Recipients' Title VI - covered employment practices	1	3	3	3	2	19
(8) Continuing State programs	1	1	3	4	-	22
(9) Methods of resolving noncompliance	-	4	4	3	1	19
(10) Interagency cooperation and delegations	6	4	2	3	2	14
(11) Staff having Title VI duties	5	3	3	2	2	16
(12) Title VI enforcement plans	3	9	1	3	1	14
(13) Other (please specify) _____	1	-	-	-	-	-
<b>B.</b>						
(14) Providing Title VI information and technical assistance, including legal opinions.	5	11	1	2	1	10

84. How frequently has your agency requested the Department of Justice to provide Title VI technical assistance? (Check one)

- (1)  Very frequently
- (7)  Often
- (10)  Sometimes
- (7)  Seldom
- (6)  Never or hardly ever

85. Does the Department of Justice need to provide better guidance to Federal agencies regarding which Federal program recipients have employment practices covered by Title VI? (Check one)

- (2)  Definitely no
- (1)  Probably no
- (5)  Uncertain
- (6)  Probably yes
- (10)  Definitely yes
- (7)  Don't know

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color, or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

86. Title VI of the Civil Rights Act of 1964, section 504 (29 U.S.C. 794) of the Rehabilitation Act of 1973, section 303 (42 U.S.C. 6102) of the Age Discrimination Act of 1975, and various Federal statutes which prohibit discrimination on the basis of sex all apply to Federal assistance programs. Indicate whether you feel the responsibility for enforcing each of the following should be placed in the same Federal agency to enhance coordination and reduce possible duplication. (Check one for each item.)

	1	2	3	4	5	6	7	8	9	10	11	12
1-Title VI of Civil Rights Act of 1964	7	1	6	7	11							
2-Section 504 of the Rehabilitation Act of 1973	5	1	9	7	10							
3-Section 303 of the Age Discrimination Act of 1975	4	2	7	8	11							
4-Various Federal statutes prohibiting sex discrimination in Federally assisted or revenue sharing programs	6	1	7	6	12							

87. Is there an effective mechanism for providing your agency with information for discovering all noncompliance findings and determinations against its recipients, based on race, color, or national origin under any civil rights statutes, made by each of the following? (Check "yes" or "no" for each.)

	(1) Yes	(2) No
(1) Other Federal agencies	8	24
(2) Federal courts	9	27
(3) State courts	6	26

88. Other Federal agencies, Federal courts, and State courts can make determinations or findings of noncompliance against recipients based on race, color, or national origin under various civil rights statutes. Indicate whether your agency defers or denies applications (or other requests) for future Federal assistance by recipients when it learns that any of the following entities have made such a determination or finding. (Check one for each entity)

	(1) Yes, on all applications	(2) Yes, but only on some applications	(3) No, on none of them
(1) Another Federal agency	7	9	14
(2) Federal court	10	7	13
(3) State court	7	6	17

89. Has your agency begun Title VI enforcement proceedings (such as notifying recipients that administrative hearings will be held, or that further assistance will be suspended or terminated if agreement on Title VI compliance is not reached) against recipients of its Federal assistance based on other Federal agencies' findings or determinations of noncompliance against these same recipients based on race, color, or national origin under any civil rights statutes? (Check one)

- (2) 1 -  Yes, in all cases of such findings or determinations (GO TO QUESTION 90)
- (4) 2 -  Yes, in some but not all cases of such findings or determinations (GO TO QUESTION 90)
- (24) 3 -  No, not at all (GO TO QUESTION 91)
- (Q) 4 -  Uncertain (GO TO QUESTION 91)

When answering questions on Title VI, agency responses should include all information relating to discrimination based on race, color or national origin under Title VI and other Federal statutes relating to Federal assistance (or revenue sharing) to the extent that they overlap Title VI.

90. If so, how many times during fiscal years 1973-77 were such enforcement proceedings begun based on the findings or determinations of other Federal agencies?

Fiscal Year	Number of Proceedings Begun
1973	1
1974	3
1975	-
1976*	4
1977	17
TOTAL	25

\* including the transition quarter

91. Has your agency begun enforcement proceedings (such as notifying recipients that administrative hearings will be held, or that further assistance will be suspended or terminated if agreement on Title VI compliance is not reached) against recipients of its Federal assistance based on State and/or Federal courts' findings or determinations of noncompliance against those same recipients based on race, color or national origin under any civil rights statute? (Check one)

- (1)<sup>1</sup> -  Yes, based on findings or determinations of both Federal and State courts (GO TO QUESTION 92)
- (1)<sup>2</sup> -  Yes, but only based on findings or determinations of Federal courts, not State courts (GO TO QUESTION 92)
- (0)<sup>3</sup> -  Yes, but only based on findings or determinations of State courts, not Federal courts (GO TO QUESTION 92)
- (29)<sup>4</sup> -  No (GO TO QUESTION 93)

92. If yes, how many times during fiscal years 1973-77 were such Title VI enforcement proceedings begun based on Federal court findings or determinations and how many times based on State court findings or determinations?

Fiscal Year	Number of proceedings begun based on findings of:	
	(1) Federal courts	(2) State courts
1973	-	-
1974	-	-
1975	-	-
1976*	-	-
1977	9	2
TOTAL	9	2

\* including the transition quarter

93. Please use this space for any additional comments you wish to make regarding any matters relating to Title VI or the completion of this questionnaire. Attach additional sheets if necessary.

AGENCIES WHICH SAID THEY HAD ASSISTANCE

PROGRAMS SUBJECT TO TITLE VI THAT COLLECT RACIAL AND ETHNIC DATA

Agency	Programs subject to title VI	Number of programs for which racial and ethnic data are collected			
		Benefi- ciaries	Eligible popula- tions	Beneficiaries and eligible populations	Data not collected
Department of:					
Agriculture	69	30	-	4	35
Commerce	61	2	-	11	48
Defense	30	1	1	3	25
Energy	21	1	-	-	20
Health, Education, and Welfare	282	39	5	44	194
Housing and Urban and Development	18	15	-	-	3
the Interior	17	-	-	2	15
Justice	24	-	-	-	24
Labor	17	3	-	10	4
Transportation	24	-	-	2	22
ACTION	9	-	-	-	9
Civil Aeronautics Board	1	-	-	-	1
Community Services Adminis- tration	7	-	7	-	-
Equal Employment Opportunity Commission	3	2	-	-	1
National Aeronautics and Space Administration	1	-	-	-	1
National Endowment for the Arts	14	14	-	-	-
National Endowment for the Humanities	23	-	-	-	23
National Science Foundation	8	-	1	-	7
Nuclear Regulatory Commission	1	-	-	-	1
Small Business Administration	23	-	-	23	-
Tennessee Valley Authority	3	-	-	-	3
Office of Personnel Management (formerly the Civil Service Commission)	1	-	-	-	1
Panama Canal Company	1	-	-	-	1
Appalachian Regional Com- mission	3	-	-	-	3
Water Resources Council	1	-	-	-	1
Smithsonian Institution	3	-	-	-	3
Environmental Protection Agency	39	-	-	-	39
General Services Adminis- tration	3	-	-	-	3
Veterans Administration	28	-	3	-	25
Total	<u>735</u>	<u>107</u>	<u>17</u>	<u>99</u>	<u>512</u>
Percent of programs	(100)	(15)	(2)	(13)	(70)

WHAT FEDERAL AGENCIES SAID WAS  
NECESSARY TO IMPROVE TITLE VI TRAINING OF THEIR  
CIVIL RIGHTS AND PROGRAM PERSONNEL

<u>What necessary</u>	<u>Training of</u> <u>civil rights</u> <u>personnel</u>		<u>Training of</u> <u>program personnel</u>	
	<u>Agencies</u> <u>(note a)</u>		<u>Agencies</u> <u>(note b)</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
More time for formal training	17	59	21	70
More practical applications (on-the-job training components)	17	59	18	60
More financial resources	17	59	20	67
A better designed training program	17	59	17	57
Better evaluation and followup of the training	17	59	18	60
Better course material	17	59	17	57
Train more people	20	69	21	70
Uniform title VI training program	16	55	(c)	(c)
Increase the incentive for program personnel to enforce title VI	(c)	(c)	19	63
Involve more experts	15	52	18	60
Improve level of instruction	15	52	16	53
More commitment from top agency officials	9	31	14	47

a/Twenty-nine of the 32 agencies answered this question.

b/Thirty of the 32 agencies answered this question.

c/Not asked.



## EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 11 1979

Mr. Allen R. Voss  
Director  
General Government Division  
General Accounting Office  
Washington, D.C. 20548

Dear Mr. Voss:

Thank you for the opportunity to comment on your draft proposed report to the Congress, "Agencies Need to Do More to Ensure that Federal Financial Assistance is Provided Free of Discrimination", which is concerned with enforcement of Title VI of the Civil Rights Act of 1964 by Federal agencies. Well coordinated and effective enforcement of all of the civil rights laws by the Executive Branch is not only our legal responsibility but has been given a priority by this Administration. The creation within OMB, on October 1, 1979, of the Office of Civil Rights reporting directly to me reflects my personal recognition that improvement in this area is needed and my determination that better compliance will be achieved.

Your report is timely and contains a great deal of valuable information, both in terms of raw data on the level of Title VI compliance activity and regarding some constructive suggestions for improving agencies civil rights monitoring operations. Since I understand that you have shared the draft with the Departments of Justice (DOJ) and Health, Education, and Welfare (HEW), I will restrict my comments to those of primary concern to OMB.

First, it should be emphasized that many agencies of the Executive Branch before, during, and after your study are hard at work to improve civil rights law enforcement. Besides the new OMB Office of Civil Rights, in recent years additional efforts have been expended by the Office of Coordination and Review at DOJ, the Office for Civil Rights at HEW, the Fair Housing and Equal Opportunity Office at

- GAO notes:
1. Page numbers have been changed to correspond with those in this report.
  2. This report has been changed to reflect this comment.



the Department of Housing and Urban Development, the Equal Employment Opportunity Commission, and others. As a result, many of these agencies have eliminated complaint backlogs and increased compliance reviews. Our concerns extend to discrimination on grounds of sex, handicap, and age, as well as to the Title VI classes of race, color, and national origin; and they deal with employment, as well as with federally funded programs.

[See GAO note 1, p. 76.] Next, we have considered your only recommendations to OMB directly, p. 26 of the draft report, that the Director "... (1) require Executive department and agency heads to determine their personnel and training needs to adequately enforce Title VI and (2) consider whether additional staff and training are needed by the agencies to enforce Title VI requirements in their Federal financial programs.'" [including/ the consideration of agencies' use of program personnel for enforcing Title VI."

In response to the first part of your recommendation, it has always been the responsibility of the agencies to assess the need for and request such resources as are required to carry out all of their programs. The OMB Office of Civil Rights will be bringing additional considerations to the attention of agency heads in order to ensure better Title VI enforcement governmentwide. As to the second part of your recommendation, OMB is also working with the Office of Coordination and Review at DOJ to identify ways to maximize resources and improve compliance activities of the agencies. In this context, we are already working with DOJ to see that any agency which has not published its Title VI regulations will be required to do so expeditiously.

[See GAO note 1, p. 76.] We do have some problems, however, with some of the conclusions reached in the report, and with the accuracy of some of the sweeping generalizations drawn from relatively small samples. For example, on page 2 appears the following:

"Federal agencies are responsible for determining and ensuring that their Federal financial assistance programs comply with Title VI. However, neither the Department of Justice nor the agencies in our review have said what constituted compliance with Title VI -- other than saying that Federal financial assistance should be provided free of discrimination."

We would agree that many agencies need to issue clarifying statements in the form of guidelines on specific compliance subjects, but we reject the implication that nothing has been done in this regard. By way of illustration, the report focused on two areas under the Department of HEW, health planning and foster child care, where there does appear to be a need for and a lack of clear guidelines. However, HEW also administers many other programs, in particular assistance to public elementary and secondary schools and to institutions of higher education, in which guidelines have been published and refined, beginning in 1965. Moreover, the HEW Title VI regulation, 45 CFR Part 80, also since 1965 and as revised in 1967, itself contains case illustrations and a description of methods of administration beyond a mere requirement that programs "be provided free of discrimination." In our view, the report throughout unduly emphasizes the need for additional clarifying statements in relation to what could be accomplished within well recognized principles of compliance under present agency regulations.

Finally, we would suggest amending the title of the report to show that it deals only with Title VI and not with other laws, such as section 504 of the Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972, which also prohibit discrimination in Federal financial assistance. [See GAO note 2, p. 76.]

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



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20201

REFER TO:

18 DEC 1979

OFFICE OF THE INSPECTOR GENERAL

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

Dear Mr. Ahart:

The Secretary asked that I respond to your request for our comments on your draft report entitled, "Agencies Need To Do More To Ensure That Federal Financial Assistance is Provided Free of Discrimination." The enclosed comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,

*Richard B. Lowe III*  
Richard B. Lowe III  
Acting Inspector General

Enclosure

- GAO notes:
1. Page numbers have been changed to correspond with those in this report.
  2. This report has been changed to reflect this comment.

COMMENTS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ON A DRAFT OF THE GAO REPORT ENTITLED "AGENCIES NEED TO DO MORE TO ENSURE THAT FEDERAL FINANCIAL ASSISTANCE IS PROVIDED FREE OF DISCRIMINATION"

OVERVIEW

We generally agree that the findings presented in the draft report are an accurate reflection of the situation at the time the GAO performed its analysis. Since that time the Department has instituted a number of steps to eliminate discrimination in all its programs including child welfare and health planning. Among these have been:

- ° the expansion of the Office for Civil Rights (OCR) enforcement program in the areas of health and human development;
- ° the signing of a Memorandum of Understanding by the head of each Principal Operating Component (POC) and the Director, OCR, defining the roles and responsibilities of the POCs in enforcing civil rights statutes.

Specific steps taken as a result of these initiatives are described in greater detail below.

In general, we believe that the problems described in the report have been conscientiously dealt with by the Department in the recent past and will continue to be handled in a vigorous and effective manner.

General Comments

The report correctly identifies a number of deficiencies that existed in HEW's enforcement of title VI in child welfare and health planning programs. The Department has been aware of problems and has taken steps to improve and strengthen the compliance program, not only for child welfare and health planning but for health and human development programs in general. Before discussing some of these steps, we would like to respond to what, we believe, is an inaccurate statement in the report.

[See GAO GAO Comment - Page 36, line 25 through line 13 page 37.  
note 1,  
p. 79.]

"However, in 1977, citing significant changes and increases in the number of legislated civil rights requirements, HEW returned some civil rights responsibilities to the components -- each component was to incorporate title VI compliance procedures into all phases of its program decision making and operations... Although these title VI responsibilities were reassigned to program officials, these officials have not fully carried them out."

Response

HEW did not return civil rights responsibilities to the components in 1977. HEW instituted a Department-wide assessment in the winter of 1977 to determine the best way to implement its initiative to involve the POCs in civil rights compliance. [See GAO note 2, p. 79.]

During 1978, a number of activities were pilot tested with the POCs. These activities included: managing technical assistance contracts; reviewing POC regulations for civil rights implications; encouraging recipients to comply voluntarily with Section 504 of the Rehabilitation Act of 1973; explaining civil rights requirements to recipients; and providing grant information to support HEW's enforcement efforts. By the summer of 1978, a Three Year Plan to involve the POCs was prepared by OCR in consultation with the POCs. After substantial negotiation it was decided that the POCs would support the new civil rights initiative by the assignment of existing staff and OCR would provide the technical assistance and training monies.

In July 1979, the Head of each POC and the Director, OCR, signed a Memorandum of Understanding defining the general roles and responsibilities of the POCs in enforcing the civil rights statutes. Appended to each memorandum was a set of management objectives describing the specific activities to be undertaken during FY 80. One of the management objectives addressed the development of civil rights guidelines for health planning agencies. Once the

health planning guidelines are published, the Health Resources Administration (HRA), with OCR's assistance, will provide appropriate training to recipients. HRA will monitor the recipients' implementation of the guidelines.

Another civil rights management objective concerns the foster child care program. A compliance checklist is being prepared. Funds have been set aside to train Office of Human Development Services (OHDS) staff to administer the checklist. Violations will be referred to OHDS civil rights staff for resolution. Difficult deficiencies will be referred to OCR.

GAO RECOMMENDATION - Chapter 2

That the Attorney General direct Justice's Civil Rights Division to clarify for the agencies the general rules specifying activities and programs subject to title VI and provide technical assistance to those agencies which had difficulties determining the applicability of title VI.

Department Comment

HEW does not have difficulties in these areas and does not feel it requires further guidance or technical assistance from the Department of Justice.

GAO RECOMMENDATION - Chapter 3

That Justice improve its coordination with Federal agencies so it can determine whether agencies are enforcing title VI requirements in their programs. Justice should strengthen its monitoring of agencies' implementation of title VI by (1) assuring that its regulations which require agencies to issue title VI regulations and guidelines are implemented, (2) continually monitoring agencies to ensure their adherence to Justice's title VI enforcement requirements, (3) amending its regulations to: provide for Justice to approve agencies title VI guidelines, define continuing assistance programs, require agencies to collect racial and ethnic data for their programs, provide criteria for agencies to use in conducting onsite compliance reviews, and establish time limits for agencies to investigate complaints, negotiate voluntary compliance, and initiate administrative hearings.

Department Comment

We do not agree that the Department should have to get the approval of the Department of Justice for issuance of its guidelines. Also, we would like to point out that time frames of the type recommended by GAO have already been established by HEW under the consent decree in Adams v Harris (formerly Adams v Califano).

GAO RECOMMENDATION - Chapter 4

That OMB requires Department and agency heads to determine their personnel and training needs for adequately enforcing title VI, and consider whether the agencies need additional staff and training to enforce title VI in their Federal financial assistance programs.

Department Comment

We concur. It should be noted, however, that HEW already reviews its staffing and training needs as part of the annual budget process and that OMB evaluates the outcomes of these reviews. The Office for Civil Rights has been very successful in these areas since the GAO study, as shown by the following:

Staffing

OCR secured increases in its staff from 1,054 in FY 1977 to 1,551 in FY 1978 and 1,893 in FY 1979. Included in these increases were approximately 120 staff to direct and oversee the POC and technical assistance activities.

Although FY 1979 was the first year that the health and human development program of OCR was operational nationwide, significant steps have been taken since the GAO review and further actions are planned for FY 1980.

During FY 1979, a total of 6.27 person years were devoted to compliance reviews of health planning agencies and a total 7.57 person years to child welfare reviews. For 1980, OCR has proposed to increase the figures to 22 person years for health planning and 22 for child welfare. In each category twenty-seven (27) full scale compliance reviews will be conducted.

Additional actions include the following:

#### Health Planning

During the past two years, OCR has expanded its enforcement program to explore the forms of discrimination in the delivery of health care and to define the nature of the relationship between health care and civil rights. In most instances, the issues raised have been new ones for OCR, requiring innovative approaches and solutions. OCR has worked closely with the Health Resources Administration to explore these issues.

OCR's compliance reviews are an attempt to link several health care issues to an integrated concept of health planning and delivery. OCR is thus able to explore the ways in which decisions by health planning agencies interact with health care facility practices to improve or deny health services to minorities. This also allows OCR the opportunity to see how health planning agencies are identifying and reacting to the needs of minorities. OCR considers the interaction between health planning and health care delivery essential to addressing discrimination in the health care system.

Future reviews will build upon these activities to define discriminatory practices and to take the steps necessary to integrate the planning agency role into devising remedies to eliminate these practices. Health planning is integral to both access and quality of care because of the role health planning decisions play in meeting the needs of medically underserved populations. Through its long range plans and project review mechanisms, planning agencies can play a major role in identifying and evaluating access barriers and disparities of care and can take steps to eliminate the problems.

Some of the major OCR investigations conducted in the past year or still underway have involved health planning agencies in Louisiana, New York, Mississippi, Arkansas, Idaho, Oregon, Indiana, Missouri and Arizona.

#### Child Welfare

OCR's enforcement efforts with respect to child welfare programs has also been expanded. Specific steps being taken in this area, as outlined in the Memorandum of Agreement, are:



- . the establishment of a joint OCR/OHDS work group to develop foster child care checklist for use in determining deficiencies in the enforcement of civil rights in child welfare/foster care programs;
- . the development of a training program in the use of this checklist and the actual training of POC staff (scheduled for April of 1980);
- . the conduct and monitoring of the child welfare/foster care checklist activities (to begin after training is completed);
- . the evaluation of the impact and an assessment of the checklist review results;
- . the preparation of periodic reports and recommendations for improvements.

The two policy documents scheduled for completion in FY 1980 are Guidelines for A Civil Rights Investigation of Child Welfare Services and Race As A Factor In Adoption.

Major OCR investigations in the past year have involved child welfare programs in North Carolina, Nebraska, Hawaii and Illinois.

#### Training

The Department has also recognized the importance of proper training in enforcing title VI and other civil rights statutes.

OCR's training program was established to provide ongoing substantive and procedural training to all OCR staff. During FY 1979, most of the training activities were concentrated on providing basic investigative skills training for newly hired investigators. Approximately 610 staff participated in training on investigative techniques.

The training staff has developed several courses to be delivered to OCR and POC staff during FY 1980. This includes training for OCR staff on issues to be covered in our FY 1980 compliance reviews. Some of these are:

- ° health planning
- ° child welfare services
- ° admissions and accessibility to hospitals, nursing homes and other extended care facilities
- ° delivery of medicare/medicaid services
- ° medical services to special population groups
- ° equal care and bilingual services by mental health centers and hospitals
- ° vocational rehabilitation services

As indicated above, the Department is providing resources in those areas the GAO report recommends; in FY 1979, OCR utilized 16 staff members in the Division of Training. It must be noted though, that for the Department to maintain its effort in enforcing title VI and its other responsibilities, the Office of Management and Budget must recognize the importance of these activities in determining the Department's staffing and funding levels.

GAO RECOMMENDATION - Chapter 5

That the Secretary include in the proposed Bureau of Health Planning and Resources Development project review regulations a provision for assessing title VI compliance.

Department Comment

We concur. It is expected that title VI guidelines for State Health Planning and Development Agencies (SHPDAs) will be completed by February 15, 1980. When these guidelines are approved, the Department will implement them as a part of its project review process.

In addition, many of the goals and responsibilities contained in titles XV and XVI which govern the State Health Planning and Development Agencies (SHPDAs) and the Health Systems Agencies (HSAs) activities are similar to those of title VI. A major concern of the health planning agencies is to ensure equal access to quality health care at a reasonable cost. In both the development of health plans and in the various regulatory reviews that are carried out, this concern for access to appropriate health services for minorities and disadvantaged populations is maintained.

As an example, certificate of need regulations promulgated on April 2, 1979, include criteria that are to be utilized by the health planning agencies in their review of proposals, including:

"....meeting the health-related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women, and handicapped persons), particularly those needs identified in the applicable health systems plan and annual implementation plan as deserving of priority."

This concern with access issues is similar to but broader than the concerns of OCR which are geared to title VI.

This sharing of objectives has resulted in a further need for clarification of SHPDAs and HSAs responsibilities as related to title VI. These agencies are not required to enforce the provisions of title VI but they are responsible for assessing the impact of their functions and/or decisions with respect to those segments of the population covered by title VI. Furthermore, the agencies are responsible for the development and implementation of internal processes which foster non-discrimination practices.

Clearly an expanded role for the Health Resources Administration, the regional offices and the agencies (SHPDAs and HSAs) with respect to title VI will require additional resources (dollars and positions).

#### GAO RECOMMENDATION - Chapter 5

That the Secretary direct OCR and HEW program managers to assign sufficient staff to permit timely reviews of title VI compliance.

#### Department Comment

We concur. The Department has recognized the need for sufficient staff and training as indicated by the Memorandum of Understandings discussed above. Specific management objectives include:

1. Develop, in conjunction with OCR, a Civil Rights Operating Plan which details POC monetary and staff resources, and projected completion dates for selected civil rights activities;

2. Develop civil rights procedures to be used to implement Departmental civil rights policies in POC program reviews and audits;
3. Initiate, in cooperation with OCR, orientation and training programs on civil rights requirements for selected program and recipient staff;
4. Utilize, to the extent feasible, financial resources to support civil rights equity, to prevent acts of discrimination and to assist in the remedy of past acts adversely affecting minority, women and handicapped persons;
5. Assure compliance with Departmental civil rights regulations and refer alleged violations to OCR for enforcement action.

For example, in program guidelines and regulations, the Health Resources Administration has addressed the question of health care for minorities and women as they specifically relate to the implementation of the health planning program. To ensure this input, HRA has created a civil rights officer position.

GAO RECOMMENDATION - Chapter 5

That the Secretary require the collection of sufficient racial and ethnic data to enable health care planning and foster care managers to (1) establish program goals that recognize the needs of all people to be served, and (2) determine compliance with title VI.

Department Comment

We concur. To develop and maintain an effective civil rights enforcement program, it is necessary to collect a certain amount of social/ethnic data. As such, the management objectives established for each POC include the "adoption of systems for the collection of data on the participation of minorities, women and handicapped persons in its program to enable officials to determine if grant applicants or recipients are violating civil rights requirements." Many of the agencies are collecting data of the nature recommended.

OCR has undertaken two research projects to study where and how discrimination occurs in the delivery of health care. One is entitled The Hospital Site Relocation Impact Study and the other is entitled Access to and Quality of Health Care for Minorities and Handicapped Persons. Intensive reviews of the literature on access to and quality of health care for minorities and the handicapped are built into both studies.

A Youth Referral Survey of Child Welfare Agencies is under development by OCR and will provide data to assist regional staffs in selecting agencies for compliance reviews where potentially discriminatory patterns in service delivery have been identified. The survey should be conducted during January - March 1980.

#### GAO RECOMMENDATIONS - Chapter 5

That the Secretary direct health care planning and foster care program managers to train their staffs, and those in the State and local governments, in their title VI responsibilities. The regional training center could be used to train health care planning staff.

#### Department Comment

We concur. The Department recognizes the importance of this and is in the process of initiating orientation and training programs in title VI and other civil rights statutes for program staff and recipients, not only in health care planning and foster care but in all Department programs. Such training will be made available by OCR during FY 1980.



## UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the  
Division Indicated  
and Refer to Initials and Number

DEC 10 1979

Mr. Allen R. Voss  
Director  
General Government Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Voss:

This letter is in response to your request for comments on the draft report entitled "Agencies Need To Do More To Ensure That Federal Financial Assistance Is Provided Free Of Discrimination."

We have reviewed the General Accounting Office (GAO) draft report and have structured our comments by following the chapter outline of the report. Each chapter is discussed first in terms of its substantive findings and recommendations and second in terms of technical comments that are necessary where the report misstates the current status of the law or Departmental positions.

Executive Order 11764 charged the Attorney General with the responsibility to coordinate the enforcement by Federal agencies of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (hereinafter "Title VI"). The Attorney General was authorized to prescribe standards and procedures regarding the implementation of Title VI and to assist agencies in accomplishing effective implementation. Finally, the Executive Order authorized the adoption of such orders as the Attorney General deemed necessary to carry out the purposes of the Order. Coordination regulations (28 C.F.R. Sections 42.001 - .415) were promulgated to insure the proper enforcement of Title VI by Federal agencies. Exercise of the Attorney General's authority under Executive Order 11764 was delegated to the Assistant Attorney General, Civil Rights Division. 28 C.F.R. Section 42.412(a). The Office of Coordination and Review is assigned the responsibility for implementing the coordination regulations and assisting Federal agencies in enforcing Title VI.

- GAO notes:
1. Page numbers have been changed to correspond with those in this report.
  2. This report has been changed to reflect this comment.

Chapter 1: INTRODUCTION

In discussing the methodology of its survey, GAO made two substantive assumptions concerning Title VI upon which it structured its questionnaires. First, it assumed that:

"[e]ach Federal agency extending financial assistance is required to assure that program recipients comply with title VI of the Civil Rights Act of 1964 (Public Law 88-352)."

Consequently, the GAO survey incorporated the assistance activity categories of the Office of Management and Budget's (OMB) Catalog of Federal Domestic Assistance and sought to determine the application of Title VI to programs in terms of types of activities. Second, GAO's initial questionnaire sought to classify activities as direct or indirect "because indirect assistance was subject to title VI and direct assistance was not." We believe both assumptions need clarification.

The first assumption made by GAO overstates the applicability of Title VI to the assistance programs of the Federal Government and thereby expands the universe of covered programs. By its terms, Title VI applies to Federal assistance provided to programs or activities by way of grant, loan or contract other than a contract of insurance or guaranty. 42 U.S.C. Section 2000d-1. Further, Title VI coverage requires something more than "generalized help available to all." Wade v. Mississippi Cooperative Extension Service, 372 F. Supp. 126, 145 (N.D. Miss. 1974), rev'd on other grounds, 528 F.2d 508 (5th Cir. 1976). Accordingly, Federal assistance programs subject to Title VI are a sub-set of the wide range of assistance activities reflected in the OMB Catalog. While similar statutory civil rights provisions or internal agency regulations may impose Title VI-like nondiscrimination requirements on the assistance activities not otherwise subject to Title VI, agencies' responses to GAO's first questionnaire may not have made such a distinction. Because GAO could not conduct specific audits of all respondents, the survey could not control for this variable. Thus, the inconsistency of agencies' responses and/or the inadequacies of some enforcement programs, with respect to particular assistance activities, may result from a failure by agencies to clearly distinguish among the various legal bases authorizing their overall civil rights enforcement programs.

The second assumption of GAO understates the applicability of Title VI. For example, "direct assistance" in the form of Veteran's Administration (VA) educational benefits to veteran-students results in Title VI coverage of the participating college or university. Bob Jones University v. Johnson, 396 F. Supp. 597 (D.S.C. 1974), aff'd, 529 F.2d 514 (4th Cir. 1975).

In advising GAO of the limitations of its survey methodology, the Department stated that:

"Universal rules of coverage applicable to all federal assistance programs cannot be framed in terms of the type of assistance activity or the method of disbursement. . . . [R]eference must be made to the general purposes of Title VI and the specific objectives of the underlying federal grant statute."

Accordingly, the report's identification of assistance activities subject to Title VI must be viewed as a generalized picture of the various Federal assistance programs subject to Title VI. Particularized determinations of Title VI coverage of specific assistance programs, however, require an analysis of the underlying Federal statute authorizing the program. [See GAO note 2, p. 90.]

[See GAO note 1, p. 90.] On page 2, the report notes that neither the Department nor the agencies indicated what constituted compliance with Title VI other than that the assistance should be provided free of discrimination. Stated in another manner, this general principle can be translated into the following rule: the benefits of Federally-assisted programs should be provided to all eligible beneficiaries (including members of the classes protected under Title VI) on a basis which is quantitatively proportionate and qualitatively equivalent. In light of the myriad of Federal assistance programs with different purposes and administrative structures, no other general rule as to what constitutes compliance with Title VI is possible. Congress recognized this problem when considering Title VI and chose to articulate only a broad national policy against discrimination in Federally-assisted programs. Cf. 110 Cong. Rec. 2498 (1964) (Lindsay); id at 7059 (Pastore); id at 13938 (Katzenbach letter). Each funding agency was then directed to particularize that policy with respect to its own programs through appropriate rules, regulations or orders ". . . consistent with achievement of the objectives of the statute authorizing the financial



assistance. . ." 42 U.S.C. Section 2000d-1. Consistent with this approach, the Department has not attempted to develop a Federal-wide, all-inclusive rule for compliance with Title VI.

[See GAO Order 11247 should be deleted on page 1. Executive Order note 1, 11764 superseded 11247. Accordingly, any discussion of the p. 90.] Attorney General's coordination authority should parallel that set out at the beginning of these comments. Finally, the Attorney General's coordination regulations were intended to provide the "framework" rather than the "tools" for agencies to enforce Title VI. [See GAO note 2, p. 90.]

## Chapter 2: FEDERAL AGENCIES' TITLE VI RESPONSIBILITIES NEED CLARIFICATION

Title VI is to be effectuated by rules, regulations or orders of general applicability which are consistent with the achievement of the objectives of each statute authorizing Federal financial assistance. 42 U.S.C. Section 2000d-1. Accordingly, the identification of those assistance programs subject to Title VI is a necessary first step for the effective enforcement of the title's nondiscrimination provision. Recognition of this is reflected in 28 C.F.R. Section 42.403(d), which requires each agency to supplement its Title VI regulations with a periodically updated appendix listing the grant statutes to which the regulations apply.

In finding that a number of agencies are unclear as to the application of Title VI to some of their assistance programs (particularly nonmonetary assistance programs), the GAO report suggests that the need for clarification is greatest in areas where Title VI specifically excludes coverage (e.g., contracts of insurance and guaranty and procurement contracts) or where coverage has not generally been assumed to exist (e.g., dissemination of technical information, investigation of complaints, licensing/regulatory activities and advisory/counseling services). Where Title VI-like statutory provisions, internal agency civil rights regulations or Executive Orders (e.g., Executive Orders 11246 and 11625) may impose civil rights requirements in addition to Title VI or are applicable to a wider range of assistance activities other than those subject to Title VI itself, there exists a clear need to clarify the legal basis for the imposition of such requirements. The Department notes in this regard that Title VI assigns to each agency the primary responsibility to

effectuate its provisions with respect to the agency's own assistance programs. The same obligation exists with respect to an agency's civil rights requirements in addition to Title VI. The Department, however, has always been available for necessary technical assistance.

With respect to those types of nonmonetary assistance which have not traditionally been viewed as involving "assistance" within the meaning of Title VI, the need for clarification generally results from judicial constructions of Title VI and specific Federal grants statutes under review. Cf. Bob Jones University v. Johnson, 396 F. Supp. 597 (D.S.C. 1974), aff'd, 529 F.2d 514 (4th Cir. 1975); Wade v. Mississippi Cooperative Extension Service, 372 F. Supp. 126 (N.D. Miss. 1974), rev'd on other grounds, 528 F.2d 508 (5th Cir. 1976); Player v. State of Alabama, Dept. of Pen. & Sec., 400 F. Supp. 249 (M.D. Ala. 1975), aff'd, 536 F.2d 1385 (5th Cir. 1976); McGlotten v. Connally, 338 F. Supp. 448, 461 (D.D.C. 1972). In focusing on the impact of a particular Federal assistance program on the ability of the recipient to maintain its program or activity, these cases point out the need for individualized analyses of statutes authorizing "direct" or nonmonetary assistance. Accordingly, we question the report's conclusion on page 6 that certain types of assistance activities are covered by Title VI. The GAO report itself notes on page 7 that the Department advised that agencies may indeed be correct in their determination of noncoverage. In regards to the proper analytical approach, the Department advised GAO that:

[See GAO  
note 1,  
p. 90.]

". . . a determination of Title VI coverage with respect to a program or activity receiving Federal assistance should initially be based on a three part analysis. First, the underlying Federal grant statute and relevant legislative history must be reviewed to determine whether Congress contemplated the involvement of a program or activity in the provision of services or benefits to individuals under the Federal assistance program. This will generally determine who the recipients and beneficiaries are under the grant statute. Second, the assistance provided must be other than assistance by contract of insurance or guaranty. Third, the organization and administration of the programs or activities must be analyzed to establish whether and in what manner such recipients are assisted by virtue of the Federal assistance program. This last part will result in an identification of how recipients benefit from non-financial assistance and direct Federal payments to beneficiaries."

This approach is implicit in the language of Title VI and its legislative history. Further, the Department has consistently provided the substance of this "statute-specific" approach to agencies which seek help in evaluating their programs. This approach, like the enforcement of Title VI, generally requires each agency to take the first step in analyzing its own assistance statutes.

[See GAO note 2, p. 90.]

The Department has taken action designed to prompt agency reviews of their programs for coverage under Title VI. In September 1977, the Department prepared, for agency certification, lists (by agency) of programs assumed to be covered by Title VI. At that time, agencies were asked to identify new programs which were subject to Title VI. As part of the current coordination activities of the Department, agencies are being advised to update the supplemental appendix required by 28 C.F.R. Section 42.403(d). In order to assist agencies in this regard, an appropriate guidance document is now being prepared for use by Federal agencies.

### Chapter 3: JUSTICE NEEDS TO IMPROVE TITLE VI COORDINATION AND ENFORCEMENT

When Congress enacted Title VI, it authorized and directed Federal agencies to effectuate the national policy against discrimination in Federally-assisted programs or activities through appropriate rules, regulations or orders. 42 U.S.C. 2000d-1. The general policy has been to implement Title VI through the promulgation of regulations. 28 C.F.R. Section 42.403. The Attorney General's Title VI coordination regulations, 28 C.F.R. Sections 42.401 - .415, envisioned that these regulations, as amplified by appropriate program specific guidelines (28 C.F.R. Section 42.404), would be enforced through an agency civil rights program comprised of three basic components: (1) pre-award reviews (28 C.F.R. Section 42.407(b)), (2) post-award reviews (28 C.F.R. Section 42.407(c)), and (3) complaint investigations (28 C.F.R. Section 42.408). Where a Federal agency provides annual assistance to continuing state programs for distribution to other recipients, a fourth necessary component would be a procedure monitoring the state's effectuation of Title VI with respect to its sub-recipients. 28 C.F.R. 42.410. With adequate staffing (28 C.F.R. Section 42.414), reasonable internal controls (28 C.F.R. Section 42.411(a)), and appropriate collection and evaluation of necessary data (28 C.F.R. Section 42.406), effective enforcement of Title VI would be realized. Finally, each agency's enforcement priorities,

and the allocation of agency resources to accomplish those priorities were to be set out in an enforcement plan which would be periodically reviewed and, where necessary, revised. 28 C.F.R. Section 42.415.

The Department's own evaluation of agencies' compliance, as a group, with the requirements of 28 C.F.R. Sections 42.401 - .415 is consistent with the findings of the report. On the whole, agencies subject to Title VI have failed to develop and/or adequately implement a civil rights enforcement program in full compliance with the Attorney General's coordination regulations. In addition to increased efforts on the part of the Department, the effective and efficient enforcement of Title VI will require a renewed effort on the part of each Federal agency to ensure compliance with Title VI.

During GAO's review of the Department's coordination efforts, they were alerted to agencies' noncompliance and advised of several obstacles to the Department's efforts to effectively and efficiently carry out its coordination responsibilities. Among those obstacles was a lack of coordination of staff resources, the absence of any practical means of promptly translating Departmental findings of enforcement inadequacies into remedial agency action, a general reluctance on the part of agencies to initiate prompt enforcement procedures, and the overlap of various civil rights provisions and coordination authorities applicable to agencies' assistance programs. In this regard, the report neither evaluates the Department's coordination efforts in light of these obstacles nor makes any recommendations concerning their elimination.

Despite these obstacles, the Department has taken independent action to improve its coordination effort. Subsequent to GAO's review, the Civil Rights Division was reorganized. The Federal Programs Section, which had a dual coordination/litigation function under Title VI, was abolished. The Coordination Unit of the Federal Programs Section was placed with the Division's Task Force on Sex Discrimination, which performed similar evaluation functions with respect to sex discrimination, in a new Office of Coordination and Review (OCR). This has permitted a greater emphasis on the development of Title VI coordination and policy and a better use of staff resources. As part of this reorganization, the Department has begun to de-emphasize time consuming interagency surveys and negotiated Memoranda of Understanding in favor of specifically focused impact studies

followed by Assistant Attorney General Directives or other appropriate orders for remedial action. Further, the Division sought and obtained authorization for 14 new coordination positions for OCR in FY 1981.

In addition to this shift in focus, OCR has already taken action to effectuate the requirements of 28 C.F.R. Sections 42.401 - .415, which is in part responsive to many of the report's recommendations. Generally, these actions involve amending agency Title VI regulations to formalize the requirements of the Department's coordination regulations. These amendments include:

1. Imposing timeframes (e.g., 180 days) for the investigation of complaints and compliance reviews.
2. Imposing general timeframes (e.g., 60 days) for the conduct of voluntary compliance negotiations.
3. Providing that all voluntary compliance agreements be in writing.
4. Providing for the notification of the Assistant Attorney General of all findings of probable noncompliance.
5. Specifying the procedure for deferral of assistance.
6. Identifying the civil rights office as responsible for all civil rights compliance decisions through the initiation of formal enforcement proceedings.
7. Standardizing race/ethnic categories for data collection.
8. Requiring the collection of necessary race/ethnic data by recipients to permit an evaluation of their compliance with Title VI.

Suggested regulatory language has been provided to agencies for use in amending their regulations. Further, agencies have been advised that they should consider consolidating their various civil rights enforcement responsibilities (e.g., Title IX of the Education Amendments of 1972, as amended, Section 504 of the Rehabilitation Act of 1973) into one set of regulations and administrative structure. This is expected to simplify the overall enforcement of civil rights

by Federal agencies and permit a more effective use of an agency's limited personnel. Agencies have also been requested to evaluate: (1) the need for bilingual public contact employees, program information or program services, and (2) the need for more comprehensive collection and evaluation of beneficiary data. The results of these self-analyses are to be provided to the Department.

The Department is in the process of developing and/or preparing for agency distribution an appropriate order on the collection of characteristic data on applicants for benefits, a revised delegation agreement designed to restructure the system currently in existence, specific guidance to agencies on how to draft adequate enforcement plans and an internal automated tracking system for agency reports of complaints and findings of probable noncompliance. The Department is also participating with the Equal Employment Opportunity Commission (EEOC) on developing joint guidance documents on employment and Title VI enforcement, and has initiated ongoing consultation with OMB on the overall civil rights coordination efforts by the Department. Finally, the Department is in the process of formulating comprehensive amendments to the Attorney General's coordination regulations designed to add specificity to their requirements.

[See GAO  
note 1,  
p. 90.]

By way of technical comment, the report on page 12, footnote 2, incorrectly cites Mandel v. H.E.W. in support of its conclusion that guidelines are necessary. Further, the Court of Appeals' opinion referred to by the report has been withdrawn. The proper cite for the case is Mandel v. H.E.W., 411 F. Supp. 542 (D. Md. 1976), aff'd in pt., rev'd in pt. sub nom., Mayor and City Council of Baltimore v. Mathews, 562 F.2d 914 (4th Cir. 1977), decision withdrawn and district court judgment affirmed by an equally divided court (February 18, 1978). [See GAO note 2, p. 90.]

#### Chapter 4: AGENCY PROBLEMS WITH ENFORCING TITLE VI

In response to GAO's second questionnaire, agencies identified four problems that adversely affected their ability to effectively enforce Title VI: (1) inadequate agency guidance; (2) insufficient staff; (3) inadequate Title VI training; and (4) insufficient enforcement funds. The Department concurs with these findings and would add a fifth: agency civil rights determinations are not adequately incorporated into the grant approval process of many agencies.

The Department's views on the inadequacy of agency guidance and possible remedies are set forth in our comments on Chapter 3 above. Further, the Department fully supports the report's recommendation for the need for sufficient numbers of qualified personnel with civil rights knowledge, and incorporating program personnel in the enforcement of Title VI. Cf. 28 C.F.R. Section 42.414. However, citation of the Department's 1976 study of the Department of Transportation (DOT) in support of the use of program personnel is inappropriate. The recommendation of the 1976 study was that the central civil rights office of DOT should refer cases back to the program administrations (to be distinguished from program administrators). This recommendation was made in light of DOT's civil rights structure which provided for civil rights offices (and personnel) in each program administration. [See GAO note 2, p. 90.]

In addition to increasing the number of staff committed to enforcing Title VI, the integration of civil rights concerns into the responsibilities of program personnel would obviate the failure to incorporate civil rights determinations into grant approval processes and remove the structural dichotomy between programmatic approval and civil rights approval that exists in many agencies. While generally supporting the use of program personnel, the Department has attempted to combine the civil rights/programmatic approval process by requiring that a written determination of Title VI compliance be made a condition precedent to granting any application for Federal assistance. 28 C.F.R. Section 42.407(b). In furtherance of this policy, the Department is recommending uniform amendments to all agency Title VI regulations which clearly institutionalize this Title VI compliance condition. The Department notes, however, that the increased use of program personnel must be tied to the provision of adequate civil rights training to all personnel involved in the enforcement of Title VI and the evaluation of program personnel on their effectiveness in enforcing Title VI.

The Department has maintained that the enforcement of Title VI requires "qualified personnel with civil rights knowledge." Towards that end, a significant proportion of the Department's coordination resources have been committed to the provision of Title VI training to agency personnel. In response to GAO's review of the Department's coordination activities between September 1975 and November 1978, 83 specific activities were identified, 32 of which involved some form of Title VI training to personnel of Federal

agencies. In addition to continuing such training activities on an "as required" basis, members of the Department's coordination staff were the principal instructors in the Department's 1977 Conference on Title VI and in two Office of Personnel Management training courses held in May and August of 1979. Further, the Department is currently planning a 4-day conference on civil rights enforcement (FY 1980) and is developing a 5-day training package on civil rights enforcement to be offered to all Federal agencies. The first agency to receive this training will be the U.S. Department of Agriculture (USDA). The present schedule calls for training of USDA regional staff during February, March and April of 1980.

Finally, the Department views the perceived need for adequate Title VI enforcement funds to be related to the need for increased staff and training resources. Another aspect not raised by the report, however, is the need for adequate funds to ensure necessary on-site reviews, timely complaint investigations, and the development of automated data retrieval and evaluation systems.

Chapter 5: TITLE VI COMPLIANCE EFFORTS NEED TO BE STRENGTHENED--CASE STUDIES

Since the Department has not independently evaluated HEW's implementation of Title VI, with respect to its Foster Care and Health Care Planning Programs, no specific comments are directed at the report's findings in this regard. The report does indicate the need for increased enforcement efforts on the part of the agency. One possible method of incorporating Title VI enforcement into the Foster Care and Health Care Planning Programs would be utilization by program personnel of HEW's Civil Rights Training Center in Denver, Colorado.

The Department is participating in an OCR-DHEW work-group attempting to design and test a pre-award civil rights review process to be implemented by each of its principal operating components. The Department is also seeking to assist the Department of Education's transition team to ensure that the transfer of civil rights responsibilities from OCR will further the effective enforcement of Title VI by both the new Department of Education and the Department of Health and Human Services.



We appreciate the opportunity to comment on the report.  
Should you desire any additional information, please feel  
free to contact us.

Sincerely,



Kevin D. Rooney  
Assistant Attorney General  
for Administration

(209500)



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