OUTCOME GOAL 3.2 – FOSTER EQUAL OPPORTUNITY WORKPLACES

Overview

Equal pay, sexual harassment, limited advancement opportunities, and a persistent wage gap are issues that remain as vital today as they were twenty or thirty years ago. DOL is committed to fostering workplaces that guarantee equal opportunities and fairness to all working Americans. The Department actively monitors compliance by its grantees and contractors with laws such as the Civil Rights Act and the Americans with Disabilities Act (ADA), and assures that minorities, women, individuals with disabilities, and veterans are afforded an equal opportunity by Federal contractors to compete for employment and receive equal pay. More than 25 percent of the labor force in America, 26 million workers, work for Federal contractors or subcontractors subject to the laws enforced and administered by the Department of Labor.

Serving the Public

The requirement that government contractors refrain from discriminating in employment has been an established part of Federal contracting policy since 1941, when President Roosevelt signed Executive Order 8802. The underlying principle is that Federal tax dollars may not be used to perpetuate discrimination in the workplace. The DOL Employment Standards Administration (ESA) and the Office of Assistant Secretary for Administration and Management (OASAM) enforce regulations requiring Federal contractors and DOL grant recipients to develop affirmative action programs and to take action to eliminate discrimination from the workplace.

- ESA has the responsibility of assuring that employers doing business with the Federal Government comply with the equal employment opportunity (EEO) and affirmative action provisions of their contracts. ESA also administers and enforces several EEO programs, and shares enforcement authority for the regulations requiring EEO and affirmative action in apprenticeship programs; Title I of the Americans with Disabilities Act; and the Immigration Reform and Control Act.
- OASAM enforces civil rights laws that pertain to DOL grant recipients and beneficiaries receiving DOL financial assistance. One strategy used is to educate and provide technical assistance to the states to promote voluntary compliance with applicable non-discrimination laws. Accountability is placed on grant recipients to ensure they carry out the public policy mandate that federal financial assistance programs will be operated in a nondiscriminatory manner.

DOL Challenges for the Future

The Department's focus on voluntary compliance will continue, and appropriate component agencies will enhance outreach, education, training, and technical assistance programs. In addition, DOL will continue to work in partnership with industry liaison groups and one-on-one with employers and contractors so they understand their obligations under the law and to ensure America's workforce is treated in an equitable manner.

FAIR AND EQUITABLE FEDERAL CONTRACTOR WORKPLACES

Goal 3.2A: Increase by five percent over the FY 1998 baseline, the number of Federal contractors brought into compliance with the Equal Employment Opportunity (EEO) provisions of Federal contracts via ESA's compliance evaluation procedures.

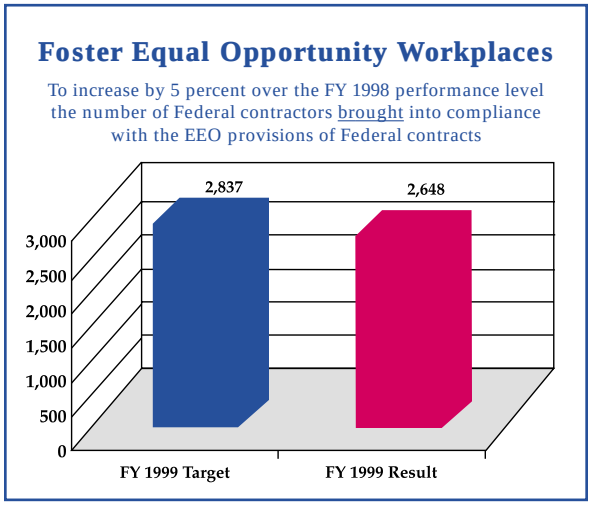
Results: The Employment Standards Administration (ESA) met 93 percent of the above stated goal with 2,648 Federal contractors brought into compliance with EEO provisions.

Program Description: The Department's Employment Standards Administration administers and enforces three equal employment opportunity laws that apply to Federal government contractors and subcontractors supplying goods and services, including construction, to the Federal government:

- Executive Order 11246, as amended;
- Section 503 of the Rehabilitation Act of 1973 as amended; and
- Section 4212 of the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended.

ESA monitors compliance with these laws through compliance evaluations, during which a compliance officer examines the contractor's affirmative action efforts and employment practices. ESA also investigates complaints filed by individuals alleging employment discrimination on the basis of race, color, sex, religion, national origin, disability, or status as a protected veteran.

Analysis of Results: The proportion of contractors found to be in compliance has increased by 66 percent since FY 1994. A number of factors have led to increased awareness among Federal contractors and contributed to this outcome, including the Department's outreach programs, public education, voluntary compliance awards, industry best practices, and technical assistance efforts. In addition, work hours expended on technical assistance to Federal contractors increased by 30 percent over FY 1998, from 29,232 hours in FY 1998 to 37,966 hours in FY 1999.



Goal Assessment and Future Plans: In FY 1999, DOL planned to conduct 5,820 compliance evaluations and reviews. The Department exceeded this goal by completing 5,875 compliance evaluations. As projected, the Department conducted 40 corporate management or "glass ceiling" reviews, 100 percent of the FY 1999 goal, and closed 313 complaints of discrimination. During this past year, the program secured $41,627,834 in monetary benefits for victims of discrimination – up from $35,491,014 in FY 1998. *This amount represents the most ever collected in the history of the program.* Of the total collected, $13,935,431 constituted back pay and benefitted 8,493 employees.

The Department intends to update its FY 2000 performance goal to state: *Increase by 5 percent over the previous year the number of Federal contractors*

brought into compliance via compliance evaluation procedures.

In order to ensure achievement of this goal, in FY 2000, ESA plans to:

- Enhance Compliance Officer (CO) training in the tiered review process (41 CFR 60-1);
- Improve evaluation targeting through the Equal Opportunity (EO) Survey. The use of the EO Survey will allow DOL to gather and analyze personnel activity and compensation data in advance of an evaluation. Once the EO Survey is implemented, those contractors who appear to be non-compliant will be scheduled for compliance evaluations;
- Provide new contractor selection procedures and guidelines to the field;
- Make adjustments in the accounting system to accurately measure all forms of contractors brought into compliance. As a result, the Case Management System will contain complete information on all contractors brought into compliance during FY 2000;
- Implement an aggressive hiring plan to place more resources in front-line positions; and
- Develop and train new field CO staff, which will allow for more comprehensive compliance findings. DOL will ensure consistency in the future through enhanced CO training and Quality Assurance Reviews.

By continuing to pursue its enforcement and education strategies while implementing the above actions, the Department expects to achieve its performance goals for FY 2000. ■

DON'T JUDGE A BOOK BY IT'S COVER

A wholesaler learned the hard way that it's never a good idea to judge anyone by appearance alone. Dallas compliance officers found that the wholesaler, which has a contract with the Army and Air Force Exchange Service to supply alcoholic beverages, didn't even consider hiring women who applied for jobs at its warehouse.

"The company predetermined that women could not lift liquor boxes – but no company should ever predetermine what a woman can or can't do. That's discrimination," said Al Padilla, regional director of the Dallas ESA office.

The company paid $56,000 in back pay to 81 women.

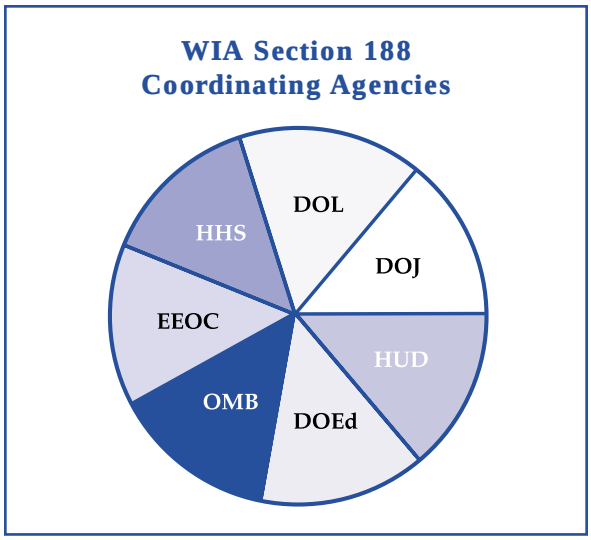
ISSUE FINAL NONDISCRIMINATION REGULATIONS FOR THE WORKFORCE INVESTMENT ACT

Goal 3.2B: Issue final regulations implementing the nondiscrimination provisions of Section 188 of the Workforce Investment Act (WIA) by August 7, 1999.

Results: The Department's Office of the Assistant Secretary for Administration and Management (OASAM) was charged with the responsibility of drafting regulations guiding the implementation of the nondiscrimination provisions of Section 188 of the WIA. OASAM drafted these regulations in close coordination with a host of other Federal agencies – requiring significant consultation and collaboration – and issued interim final regulations in November of 1999.

Program Description: The WIA brought significant change to the nation's employment and training system and required the development of new regulatory guidance to support its effective implementation. Among its provisions, Section 188 directed the Department to develop and issue regulations related to the nondiscrimination and equal opportunity requirements outlined in the law by August 7, 1999.

Analysis of Results: To ensure the timely completion of the regulatory process, OASAM undertook the task of drafting the Interim Final Rule associated with Section 188, with the active participation of several Cabinet-level agencies. Specifically, OASAM worked in close consultation with the Department of Justice, the Department of Health and Human Services, the Equal Employment Opportunity Commission, and the Office of Management and Budget. These collaborative efforts led to the publication of the Interim Final Rule on November 12, 1999.



Agencies that worked with DOL included Department of Justice (DOJ), Department of Housing and Urban Development (HUD), Department of Education (DOEd), Office of Management and Budget (OMB), Equal Employment Opportunity Commission (EEOC), and Department of Health and Human Services (HHS).

Goal Assessment and Future Plans: Final regulations were published and became effective on November 12th. In FY 2000, DOL will initiate reviews to facilitate State compliance with the nondiscrimination provisions of Section 188 within 180 days of submission of State Methods of Administration. ■