

**STATEMENT OF
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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BEFORE THE
COMMITTEE ON HOMELAND SECURITY
U.S. HOUSE OF REPRESENTATIVES**

OCTOBER 14, 2009

Good morning Chairman Thompson and Members of the Committee. Thank you for inviting me to testify today on behalf of the Equal Employment Opportunity Commission (EEOC) to speak to the importance of diversity in the federal workforce, specifically at the Department of Homeland Security. I am currently the Acting Vice-Chair of the EEOC, and in that capacity have taken a particular interest in diversity issues in the federal workforce. I was nominated by President Obama on May 12 to be the Deputy Director of the Office of Personnel Management. I was confirmed by the Senate on July 31, but have not yet been sworn-in. It is from this unique perspective that I speak today.

The United States government employs over two and a half million men and women across the country and around the world. The ability of our government, through federal agencies, to meet the complex needs of our nation and the American people rests squarely on these dedicated and hard-working individuals. Perhaps now more than ever before – with increasing public expectations of governmental institutions – federal agencies must position themselves to attract, develop and retain a top-quality workforce that can deliver results and ensure our nation's continued growth and prosperity. Equal opportunity in the federal workplace is key to accomplishing this goal.

In order to develop a competitive, highly qualified workforce, federal agencies must fully utilize all workers' talents, without regard to race, color, religion, national origin, sex, age, disability or sexual orientation. While the promise of workplace equality is a legal right afforded to all federal applicants and employees, equal opportunity is more than a matter of social justice. It is a national economic imperative. Federal agencies must make full use of its talent by promoting workplace practices that free up opportunities for the best and brightest talent available. All workers must compete on a fair and level playing field and have the opportunity to achieve their fullest potential. The productivity of an agency is based on the productivity of its staff. One sure way to contribute to maintaining satisfied and productive employees is to treat them fairly and equally.

Creating a level playing field requires a significant effort by all agency management. From the agency head to first line supervisors, equal employment opportunity must be integrated into every aspect of the agency. This includes everything from agency personnel policies and practices to the agency's culture. With proper implementation, EEOC's guidance through Management Directive 715 (MD 715) will help agencies uncover and address all impediments to fair and open competition in the federal workplace. MD 715 sets forth guidance for agencies

regarding their affirmative employment programs under both Title VII of the Civil Rights Act and the Rehabilitation Act. In this directive, EEOC introduced six essential elements it would use to measure the effectiveness of an agency EEO program: demonstrated commitment from agency leadership; integration of EEO into the agency's strategic mission; management and program accountability; proactive prevention of unlawful discrimination; efficiency; and responsiveness and legal compliance. EEOC also provided a self-assessment diagnostic tool to help agencies determine possible deficiencies which may compromise the effectiveness of their EEO efforts.

BARRIER ANALYSIS

One of the major changes that MD 715 brings to the federal community is the focus on barrier analysis. In the past, affirmative employment in some instances was finding under-representation and trying to reach statistical parity with labor force data. Barrier analysis is a more in-depth process by which agencies uncover, examine and remove barriers to equal participation at all levels of the workforce.

MD 715 instructs federal agencies to stop merely treating the symptoms of discrimination (under-representation), and start finding the root causes of the problems (barriers). As such, barrier analysis is the core philosophy of this guidance. Barrier analysis begins with analyzing all source material available to an agency. This, of course, includes basic workforce statistics. Workforce statistics, however, are not the end at all, but rather they are the beginning of the analysis. Other material that should be used by an agency include EEO complaint trend information, exit interviews, internal audits or studies, external audits or studies, and employee surveys. Agency EEO professionals should also take a close look at all of the agency's employment processes, beyond hiring and firings, to include disciplinary actions and performance awards.

In the past, an agency may have made a concerted effort to hire more women into their workforce, but never examined why women were historically excluded from certain opportunities. Such exclusion may have resulted from societal discrimination or the agency's own practices. As a result, while the number of women hired increased, the attrition rate for women was much higher than men because the inequitable systems were left in place. The low participation rate for women was a symptom but to find the root cause the agency would need to analyze and improve all relevant employment policies, procedures and practices that limited opportunity.

In order to develop a competitive, highly qualified workforce, federal agencies must fully utilize all workers' talents, without regard to race, color, religion, national origin, sex, disability or sexual orientation. This goal cannot be accomplished when barriers to equality employment opportunity persist in an agency's policies, procedures or practices.

HOMELAND SECURITY

The U.S. Department of Homeland Security (DHS) became the Nation's 15 and newest Cabinet Agency six years ago, consolidating numerous programs and agencies from across the Federal Government into one unified organization with an overriding and urgent mission: to secure the American Homeland and protect the American people.

This consolidated organization employs over 170,000 individuals. Men comprise 68% of the Department's workforce while women comprise 32% of the workforce. Men occupy 76% of the Department's senior level positions. Government-wide, men account for 57% of the federal workforce and 71% of the senior level positions.

The Department has the highest participation rate of Hispanics in comparison to all Cabinet and large federal agencies at nearly 20% of the workforce. However, Hispanics account for only 6% of the Department's senior level positions. Hispanic females account for less than 1% of the senior level positions. Government-wide, Hispanic employees account for 8% of the federal workforce and 4% of the senior level positions.

White employees account for 60% of the Department's workforce and 87% of the Department's senior level positions. Of this latter number, White females only account for 21% of the senior level positions. Government-wide, White employees account for 65% of the federal workforce and 85% of the senior level positions.

Black employees account for 14% of the Department's workforce and 5% of the Department's senior level positions. Black females only account for a little over 1% of the Department's senior level positions. Government-wide, Black employees account for 19% of the federal workforce and 8% of the senior level positions.

Asian employees account for 4% of the Department's workforce and 1.5% of the Department's senior level positions. Government-wide, Asian employees account for 6% of the federal workforce and 3% of the senior level positions.

Employees with disabilities account for 3.5% of the Department's workforce. Employees with targeted disabilities account for 0.39% of the Department's workforce. EEOC has paid particular attention to the progress of individuals with targeted disabilities because these individuals tend to have more severe disabilities that are immediately apparent to potential employers and which the employers are likely to believe will require accommodation. Individuals with targeted disabilities (IWTD) serve as the indicator for the success or failure of the federal government's efforts with respect to all individuals with disabilities. To assist federal agencies, EEOC has set a benchmark for agencies to increase the participation rate of IWTD. This benchmark is 2% of the workforce. Currently, the federal government has dropped to an average participation rate of 0.88%.

The Department has submitted annual reports (MD 715 Reports) to EEOC for each of the last five years. The Department has been able to identify numerous issues affecting opportunity

within its workforce. However, we have seen very little analysis attempting to uncover, examine and remove barriers to equal participation at all levels of the workforce.

In 2005, the Department reported to EEOC that it planned to conduct a detailed barrier analysis due to lower than expected participation rates for females throughout the Department. Our review indicates that the Department has failed to provide adequate resources necessary to analyze and solve the issue. For example, since 2005, the Department has recognized the need to capture applicant data to analyze and measure its recruitment efforts, but resources have not been allocated to collect this crucial data.

Another point of concern – while diversity at the senior levels of the Department has been raised by this Committee, DHS has not shared with EEOC how it has engaged in substantive efforts to analyze what is going on at the senior level and how it will implement appropriate steps to address diversity at the senior level.

We stand ready to assist the Department in meeting these serious challenges. Let me assure the Committee that OPM Director John Berry and I are committed to increasing diversity within the federal government as a whole and in the Senior Executive Service in particular. OPM has the responsibility to annually report to Congress on progress in achieving a diverse workforce under the Federal Equal Opportunity Recruitment Program (FEORP). The FEORP report contains information on the representation of minorities and women in the Federal Government and provides information on agency practices in support of FEORP. OPM has also taken other steps to increase federal agencies awareness of the importance of a diverse workforce; for example, it has partnered with EEOC to promote our LEAD Initiative and the use of special appointing authorities to increase the hiring of people with disabilities within the government. It has worked with our military to promote federal career civil service jobs to soldiers transitioning to civilian life. It has engaged in outreach efforts to minority organizations such as Historically Black Colleges and Universities and Hispanic-Serving Institutions to broaden the appeal of federal employment. In fact, as I speak to you today, OPM is in the process of creating an SES Office. One of its primary missions is to ensure that the federal government draws from a diverse pool of individuals who are trained and ready to join the SES ranks. I am personally committed to greatly expanding on these efforts once I assume my position as Deputy Director.

We all know the statistics by now. Yet too many federal agencies look at the production of these reports as goals in and of themselves, rather than the tools to reach the broader objective of a diverse and inclusive workforce at all levels of government. Knowing the statistics and determining whether there are any barriers to inclusiveness are two very different things. I won't rest until every federal agency, including the Department of Homeland Security, has identified any barriers that might exist and has implemented a viable and effective blueprint for eliminating them.

I do not believe such an effort requires a wholesale change of how the government recruits, hires and promotes its employees. As the President stated in his September 9, 2009, address to the Joint Session of Congress, "it makes more sense to build on what works and fix what doesn't, rather than try to build an entirely new system from scratch." We can look to those

agencies that have increased the diversity of their workforce for best practices on how they accomplished such achievements. We can learn from the mistakes made by other agencies whose diversity efforts have fallen short. Ours is a government filled with employees capable of keeping our planes and trains running safely and on time; who can send men and women into space; and, who daily protect us from all the dangers aimed at our homeland and our citizens abroad. I refuse to believe that creating a broad and diverse workforce is somehow beyond our capabilities as well.

Thank you for your time and I look forward to any questions you may have.