

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

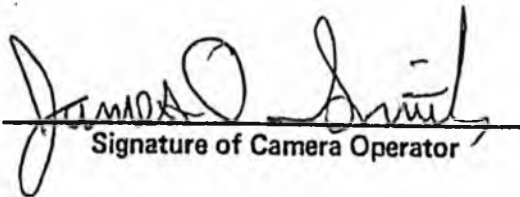
3668 HSTA HB 147

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Date

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COMMITTEE REPORT
HOUSE

4/3

(7)

FURTHER: FINANCE

1/30/55

Date: _____

The Committee on STATE AFFAIRS has had HB 147

"An Act creating a division of equal employment opportunity in the Department of Administration."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 147 (2) same title
 new title
- and recommends it do pass
- AND attaches a "Letter of Intent" New Fiscal Note Sept 40
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Katie Hurley

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Roy. H. Davis No Rec.

Katie Hurley
CHAIRMAN

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill creating a division of equal employment opportunity in the Department of Administration. This bill will provide the division with statutory responsibility for equal employment opportunity that will transcend administrations and provide continuity in equal employment opportunity within the executive branch of state government.

The bill establishes the division of equal employment opportunity by adding AS 44.21.450 -- 44.21.485 to AS 44.21, relating to the Department of Administration. The division's powers and duties, which include advising and consulting with other departments and divisions about equal employment opportunity, affirmative action, and recruitment matters, are set out in AS 44.21.460. Most significantly, the division is under a mandate to develop an affirmative action plan for the executive branch of state government, to be submitted to the governor on an annual basis. The plan becomes effective once signed by the governor, and the head of each executive agency or department must report to the division about activities undertaken to implement the plan. The division reports annually to the governor and legislature on the plan's content and implementation. AS 44.21.470.

The bill requires the division to conduct an impartial

investigation of every complaint of employment discrimination in the executive branch of state government. The division will work with the complainant and the agency involved to informally resolve the complaint. AS 44.21.475. Another feature of the bill is that it gives the division access to all records necessary to carry out its functions, although information that is confidential under AS 39.25.080 or other statutes may not be made public. AS 44.21.480.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the printed name and title.

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____ Page 1 of 1

REQUEST
 Bill/Resolution No.: HB 147
 Title: Creating a Division of
Equal Employment Opportunity
 Sponsor: Governor Sheffield
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Administration
 Program Category Affected: General Government/Labor Services
 BRU, Program or Subprogram(s) Affected: Equal Employment Opportuntiy

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-
POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Merwin H. Peters *MHP* Phone: 465-3570
 Division: Equal Employment Opportunity Date: 12/19/84

Approved by Commissioner: Lisa Rudd *LJR* Date: _____
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

SCS CSHB 147 FIN

AN ACT ESTABLISHING AN EQUAL EMPLOYMENT OPPORTUNITY PROGRAM FOR THE EXECUTIVE BRANCH OF STATE GOVERNMENT AND CREATING AN OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY IN THE OFFICE OF THE GOVERNOR.

PRIME SPONSOR: RULES COMMITTEE
CO-SPONSORS:

BY REQ OF THE GOVERNOR

\$10,000 GENERAL(FNOTE)

\$000 OTHER(FNOTE)

CURRENT STATUS: CHAPTER 97 SLA 85

DATE		PAGE	ACTION
01/30/85	(H)	199	READ THE FIRST TIME - REFERRAL(S)
01/30/85	(H)	199	GOVERNOR'S TRANSMITTAL LETTER
01/30/85	(H)	199	ZERO FISCAL NOTE
04/03/85	(H)	797	SA RPT CS, NEW TITLE 6DP 1NR
04/03/85	(H)	797	FISCAL NOTE HSE SUPPL 40
04/22/85	(H)	1017	FIN RPT CS, NEW TITLE 9DP
04/22/85	(H)	1017	FISCAL NOTE HSE SUPPL 53
04/26/85	(H)		RLS TO CALENDAR
04/26/85	(H)	1101	READ THE SECOND TIME
04/26/85	(H)	1102	CS (FIN) ADOPTED UNAN CONSENT

HB 147

MEASURE HISTORY

PAGE 02 OF 03

DATE		PAGE	ACTION
04/26/85	(H)	1102	ADVANCED TO THIRD READING UNAN CONSENT
04/26/85	(H)	1102	READ THE THIRD TIME CSHB 147(FIN)
04/26/85	(H)	1102	PASSED Y36 N3 X1
04/26/85	(H)	1103	PETTYJOHN NOTICE OF RECONSIDERATION
04/27/85	(H)	1150	RECONSIDERATION NOT TAKEN UP
04/27/85	(H)	1150	TRANSMITTED TO (S)
04/29/85	(S)	961	READ THE FIRST TIME - REFERRAL(S)
05/07/85	(S)	1105	SA RPT 2DP 2NR
05/11/85	(S)	1246	FIN RPT SCS 2DP 4NR ZERO FISCAL NOTE
05/12/85	(S)	1302	RLS RPT 1ST SUPPLEMENTAL CALENDAR
05/12/85	(S)	1305	READ THE SECOND TIME
05/12/85	(S)	1305	FIN SCS ADOPTED UNAN CONSENT
05/12/85	(S)	1306	ADVANCED TO THIRD READING UNAN CONSENT
05/12/85	(S)	1306	READ THE THIRD TIME SCS CSHB 147 FIN
05/12/85	(S)	1306	PASSED Y15 N- A2
05/12/85	(S)	1311	HALFORD NOTICE OF RECONSIDERATION
05/12/85	(S)	1311	RECONSIDERATION TAKEN UP UNAN CONSENT
05/12/85	(S)	1311	PASSED ON RECONSIDERATION Y20 N-
05/12/85	(S)	1336	TRANSMITTED TO (H) AS AMENDED
05/12/85	(H)	1667	CONCUR AM OF (S) Y33 N7
05/16/85	(H)	1706	9:25 AM 5/16/85 TRANSMITTED TO GOVERNOR

HB 147

MEASURE HISTORY

PAGE 03 OF 03

DATE		PAGE	ACTION
06/07/85	(H)	1743	SIGNED INTO LAW CHAPTER 97 SLA 85
06/07/85	(H)		EFFECTIVE DATE OF LAW 9/5/85

Cramer
4/1/85✓

Original sponsor: Rules/Governor

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IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 147 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an equal employment opportunity program for the executive branch of state government and creating a division of equal employment opportunity in the Department of Administration."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 44.21 is amended by adding new sections to read:

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY.

Sec. 44.21.450. AFFIRMATIVE ACTION PLAN. The governor shall establish an equal employment opportunity program and adopt annually an affirmative action plan for the executive branch of state government. The plan remains in effect until the governor adopts a subsequent plan.

Sec. 44.21.455. DIVISION CREATED. The division of equal employment opportunity is established in the Department of Administration.

Sec. 44.21.460. DIRECTOR. The commissioner shall appoint a director to administer the division.

Sec. 44.21.465. POWERS AND DUTIES OF THE DIVISION. (a) The division shall administer the equal employment opportunity program for the executive branch of state government to ensure compliance with AS 44.21.450 - 44.21.490 and shall

(1) assist state officials to carry out their equal employment opportunity responsibilities, including promoting the recruitment, employment, training, and retention of members of protected classes, and recommend solutions to any problems identified;

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2 (2) train state managers and supervisors in their equal
3 employment opportunity and affirmative action responsibilities and
4 offer orientation programs to employees to inform them of their rights
5 and responsibilities under AS 44.21.450 - 44.21.495;

6 (3) monitor records of personnel actions, develop auditing
7 and reporting systems to acquire statistical information, and prepare
8 federal and state reports concerning the composition of the work
9 force;

10 (4) prepare and submit the affirmative action plan for
11 employment in the executive branch of state government to the gover-
12 nor;

13 (5) prepare guidelines for the affirmative action programs
14 of agencies and review, audit and make recommendations concerning the
15 programs;

16 (6) ensure that agencies comply with the affirmative action
17 plan and with the agency affirmative action program;

18 (7) implement standards by which performance evaluations of
19 supervisors reflect compliance with affirmative action plans and
20 objectives, including the granting or denial of merit increases;

21 (8) enforce equal employment opportunity by filing a legal
22 action against a state officer or employee who violates affirmative
23 action standards and procedures; for purposes of a legal action under
24 this paragraph, the director may employ independent legal counsel not
25 associated with the Department of Law;

26 (9) assist the division of labor relations in collective
27 bargaining negotiations between the state and employee bargaining
28 organizations to ensure that each collective bargaining agreement
29 negotiated by the state ensures equal employment opportunity;

(10) inform the governor when an agency fails to comply with

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its affirmative action program, the affirmative action plan, or state or federal equal employment opportunity laws or regulations, and recommend action to correct the noncompliance;

(11) accept, investigate, and resolve complaints of discrimination from employees, previous employees, or applicants for employment;

(12) serve as primary liaison between the executive branch and state and federal agencies, minority and women's organizations, and community groups concerned with equal employment opportunity, and work to enhance equal employment opportunity in state employment; and

(13) prepare and submit an annual report to the governor and the legislature by February 15 on the progress and problem areas in the equal employment opportunity program and the implementation of the affirmative action plan.

(b) The division may recommend legislative or administrative action to the governor and the commissioner relating to equal employment opportunity and affirmative action matters.

Sec. 44.21.470. ADMINISTRATIVE REGULATIONS. The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the division's duties.

Sec. 44.21.475. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. Each agency shall comply with the affirmative action plan. Each commissioner or executive head of an agency shall adopt an affirmative action program to implement the plan within the agency. At the request of the division, a state official shall report to the division about agency employment practices and activities to implement and comply with the plan or program.

Sec. 44.21.480. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The division shall accept complaints of employment discrimination in the

1 executive branch of state government and shall confer with the com-
2 plainant and the agency involved to bring about an informal resolution
3 of the complaint. If the complainant agrees to comply with the
4 resolution proposed by the division, the agency involved shall imple-
5 ment it.

6 (b) An agency shall notify the division when the agency receives
7 a complaint alleging employment discrimination.

8 (c) The division may not make public the records of an inves-
9 tigation.

10 Sec. 44.21.485. RETALIATION PROHIBITED. (a) An agency, offi-
11 cer, or state employee may not directly or indirectly refuse to hire,
12 transfer or promote, or dismiss, demote, suspend, lay off, or other-
13 wise discipline for filing a complaint with the division for a failure
14 to comply with affirmative action or equal employment opportunity or
15 for assisting the division in an investigation of a complaint.

16 (b) A person who knowingly violates this section is liable for a
17 civil penalty of not more than \$1,000.

18 Sec. 44.21.490. ACCESS TO CONFIDENTIAL RECORDS. The division
19 may have access to all data, records, and reports necessary to carry
20 out its functions under AS 44.21.450 - 44.21.495. The division may
21 not make public information designated as confidential by AS 39.25.-
22 080 or another law. However, the division may make public statistical
23 information compiled from confidential records.

24 Sec. 44.21.495. DEFINITIONS. In AS 44.21.450 - 44.21.495,

25 (1) "agency" means a department, office, agency, public
26 corporation, board, commission, authority, or other organizational
27 unit of the executive branch;

28 (2) "commissioner" means the commissioner of administra-
29 tion;

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2 (3) "division" means the division of equal employment
3 opportunity in the Department of Administration;

4 (4) "employment in the executive branch of state govern-
5 ment" includes employment as a permanent, probationary, provisional,
6 nonpermanent, or temporary employee in the classified, partially
7 exempt, or exempt services in the executive branch of state govern-
8 ment;

9 (5) "member of a protected class" means a person protected
10 by federal or state laws that prohibit discrimination in employment or
11 a person who experiences or has experienced difficulty in obtaining
12 employment or advancement in employment because of another factor not
13 related to merit.

14 * Sec. 2. This Act may not be applied to limit the right of a person to
15 file a complaint with the State Commission for Human Rights under AS 18.-
16 80.100.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 147(SA)
 Title: Creating a Division of
 Equal Employment Opportunity
 Sponsor: Governor Sheffield
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: General Government/Labor Relations
 BRU, Program or Subprogram(s) Affected: Equal Employment Opportunity

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	-0-	10.0	10.0	10.0	10.0	10.0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	10.0	10.0	10.0	10.0	10.0

CAPITAL						
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	10.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	10.0	10.0	10.0	10.0	10.0

POSITIONS: -0- -0- -0- -0- -0- -0-

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Merwin H. Peters Phone: 465-3570
 Division: Equal Employment Opportunity Date: 4-1-85

Approved by Commissioner: Lisa Ruoff Date: 4/1/85
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

CSHB 147
Fiscal Note Analysis
Prepared by the
Division of Equal Employment Opportunity
Department of Administration
April 1, 1985

CSHB 147, Section 44.21.465 (6) empowers the Division of Equal Employment Opportunity to enforce compliance with equal employment opportunity regulations by employing independent legal counsel not associated with the Department of Law. The Department estimates that the number of incidents where such enforcement action would occur would be no more than one or two per fiscal year. At the current estimates of hourly rates for legal services provided by the Department of Law of \$100/hr., the total amount of contractual hours required in FY 86 would be 100 hours. This would total \$10,000 in contractual services.

A SPECIAL REPORT ON THE
DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

April 29, 1983

Audit Control Number

02-4164-33-R

Commissioner, Department of
Administration

Lisa Rudd

Deputy Commissioners, Department
of Administration:

Personnel Management
Administrative Management
Telecommunications

Eleanor Andrews
Anselm Staack
Julianna Guy

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

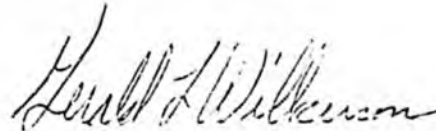
May 17, 1983

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes and your special request, the attached report is presented for your review:

A SPECIAL REPORT ON THE
DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

September 1981 - March 1983



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee request and Title 24 of the Alaska Statutes, this special report has been prepared to evaluate the Division of Equal Employment Opportunity's performance in promoting and achieving equal employment opportunity in the executive branch departments of the State of Alaska.

Evaluation of performance was essentially based on activities from the beginning of the 1982 fiscal year through the third quarter of the 1983 fiscal year. Administrative Order #59 (effective June 20, 1980) was used as evaluative criteria in determining DEEO's performance of its responsibilities. Near the end of the audit Administrative Order #75 was adopted, effective April 2, 1983, which replaced the previous order.

The policy and audit approach utilized by the Division of Legislative Audit for Performance Review can best be described as "audit by exception".

This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

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ORGANIZATION AND FUNCTION

The Division of Equal Employment Opportunity (DEEO) is responsible for carrying out the State's equal employment opportunity policy in the Executive Branch of the State of Alaska.

Specific duties of the agency include the development of guidelines, standards, and procedures to assist in the preparation and timely submission of affirmative action plans for each executive branch department. The agency serves as a coordinator and provider of technical assistance to each department in the implementation of their respective affirmative action plans. In addition to these duties DEEO is responsible for representing the executive branch in discrimination complaints brought by outside agencies and for development of an internal discrimination complaint resolution process within the Executive Branch.

Besides the specific duties listed above, DEEO has become an informal referral source for the State and private sector on the current status of Federal equal employment laws and regulations and their interpretation by the courts. The agency has developed and tested management information systems to provide better analysis of the applicant screening process and the current utilization of Federally designated "protected classes" employed in the State's Executive Branch.

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SUMMARY OF REPORT FINDINGS

The focus of the audit centered on four evaluative questions and one policy issue. The Division of Equal Employment Opportunity (DEEO) was evaluated in the context of the following questions:

1. How effective has DEEO been in assuring that each department of the Executive Branch provides equal employment opportunity in filling positions and screening applicants for positions?

The filling of positions and the screening of applicants is largely a duty of the Department of Administration's Division of Personnel and individual departments. There does exist a system by which equal employment opportunity and affirmative action can be enhanced at the point of hire (see Recommendation No. 3 for a discussion of expanded certification). However, the legal justification for implementing affirmative action is predicated on the timely and reasonable analysis of an Affirmative Action Plan (AAP).

To the extent that DEEO has failed to have put in place departmental AAPs they have failed to assure equal employment opportunity, because the needed justification and proof of underutilization is lacking. As discussed in Recommendations No. 1 and 2 there has been less than satisfactory compliance with developing departmental AAPs. Much of the affirmative action at the point of hire has been stymied. DEEO does not have the authority to assure that each department is providing equal employment opportunity at that point.

DEEO will be able to use a computerized information system to better monitor the flow of applications and hiring of individuals. In Recommendations No. 2 and 3, we discuss this prospective use to afford better implementation of equal employment opportunity goals.

2. How effective has DEEO been in assuring that each department take affirmative action to improve minority and female utilization in functions where under-utilization has been noted?

The legal basis for taking remedial affirmative action lies with the development of a prescribed AAP. As discussed in Recommendation No. 2 of the report there has been widespread disregard and lack of use of the AAP process and data. As a result, DEEO has been rendered ineffective in assuring that each department take affirmative action to improve minority and female utilization.

~~Ironically, DEEO has been placed into a position of actually discouraging the use of affirmative action measures such as expanded certification (see Recommendation No. 3). Departments that have not submitted recent, approved AAP have no legal basis for implementing such measures and DEEO has elected to restrict their efforts to protect the State from legal liability.~~

3. Has DEEO provided effective procedures for dealing with complaints of discrimination filed by State employees or applicants for employment with the State?

DEEO is the departmental representative for discrimination complaints filed against Executive Branch departments through outside anti-discrimination agencies. In the past, the Division has acted as a departmental advisor and complaint resolution coordinator. Actual fact finding investigations were not conducted by the Division. We found that, taken as a whole, departmental personnel interviewed were satisfied with DEEO's performance in the handling of externally received discrimination complaints.

As detailed in Administrative Order No. 75 (effective April 7, 1983) DEEO will expand the scope of its external complaint procedures to include the fact finding investigation of all discrimination complaints. These complaints will be investigated by a DEEO trained, Department of Administration, investigator.

~~DEEO has not established a comprehensive internal complaint procedure that could be utilized by employees of all Executive Branch departments (see Recommendation No. 5). Administrative Order No. 59 gave this responsibility to DEEO. Not all departments have established their own internal complaint procedures. For these reasons we recommend that a comprehensive internal complaint procedure be established and administered by DEEO.~~

4. How effective has DEEO been in reviewing the accomplishments or non-accomplishments of State supervisors and managers in the performance of their EEO functions?

DEEO does not review the accomplishments of supervisors in the performance of their equal employment opportunity (EEO) responsibilities. Additionally, based on interviews, departments individually do not have an effective means of evaluating supervisory EEO performance.

On the standard State performance evaluation form EEO duties are lumped together with a list of other miscellaneous administrative functions. The evaluator guide issued by the Division of Personnel provides no criteria or suggestions on

how EEO performance can be evaluated. Supervisory evaluations are especially critical in the current situation where the Division of Personnel has delegated much of hiring and recruiting for State positions to the Departments.

Policy Issue Are there any indications that DEEO would function better under the Office of the Governor?

Our report points out in Recommendation No. 1 that gubernatorial leadership and support is especially vital to DEEO's effectiveness. To the extent that the needed leadership and support would be enhanced as part of the Office of the Governor, DEEO would benefit from a transfer.

However, we feel that EEO is essentially a personnel function. DEEO is developing data for, and uses information from, the Department of Administration's (DOA) Division of Personnel. EEO issues also affect the State's dealings with unions, which require some administrative contact with the Division of Labor Relations. These necessary contacts would probably be better maintained and more efficiently coordinated if left within DOA. The necessary gubernatorial leadership and support needed should accrue to DEEO just as well in DOA as it would in the Office of the Governor.

Another option to be considered is giving DEEO and its activities a more clear cut statutory mandate. Currently, DEEO uses two rather broad sections of the statutes (AS.18.80.200 and 39.25.150) for their legal authority. The legislature, may wish to consider if they want to provide statutory reference, to what has heretofore been an essentially administrative program, strictly coordinated within the executive branch.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Department of Administration, Division of Equal Employment Opportunity needs more support and authority from the Governor to increase its effectiveness.

The Division of Equal Employment Opportunity's (DEEO) performance of responsibilities as listed in Administrative Order No. 59 has been inadequate and incomplete. DEEO has not effectively developed, coordinated or monitored a comprehensive, widely supported policy of equal opportunity and non-discrimination in all executive branch employment decisions, programs, and activities.

DEEO's lack of effective performance is demonstrated by the following:

1. Of the 15 executive branch departments, 4 did not submit the annually required affirmative action plans for 1982, and 2 of 11 submitted were done in rough draft form only and were not generally available for public review (See Recommendation No. 2).
2. DEEO has not completed the overall State affirmative action report required annually by January 31, for the past two years.
3. DEEO does not have adequate review procedures to ensure that the state's conditions of employment such as recruitment, hiring, assignment, evaluation, promotion, demotion, transfer, layoff, termination, training, compensation, and treatment are not arbitrarily discriminatory.
4. DEEO has not effectively monitored various departments' implementation of affirmative action goals (See Recommendation No. 3).
5. DEEO has not established a uniform internal complaint procedure for the executive branch (See Recommendation No. 5).
6. DEEO has not developed an adequate analysis of female and minority utilization compared to work force availability. As a result, the Division cannot adequately assess the performance, or nonperformance of the State's affirmative action efforts (See Recommendation No 4).

Many of these deficiencies noted in the course of our review have been of long standing concern. We found that several

of the problems that plague effective Equal Employment Opportunity (EEO) implementation in the executive branch were previously identified in a 1980 report of the Alaska Advisory Committee to the United States Commission on Civil Rights.

In general, our audit work indicates there has been no cohesive, centrally directed management attack on eliminating discriminatory practices in state government employment. Impetus for any significant action has come from other sources such as legal rulings, relief agreements, Human Rights Commission decisions and the initiative of individual departments. In such a setting, the executive branch becomes a passive actor, reacting to outside uncontrollable events, rather than an aggressive initiator of a reasonable, well coordinated effort.

As will be evident in the discussions that accompany the following recommendations, a great deal of DEEO's ineffectiveness can be attributed to a lack of centralized administrative support. DEEO has no specific statutory responsibility or support. The Division derives what authority and responsibilities it has from executive order. Consequently, the effectiveness of the Division depends on the nature and extent of the Governor's leadership. Commitment and leadership are especially vital to a function that requires coordination and direction of various executive branch departments.

Recommendation No. 2

DEEO should improve affirmative action plan procedures and elicit more cooperation from executive branch departments.

The primary analytical tool for identifying problems and promoting EEO is the departmental Affirmative Action Plan (AAP). An AAP begins with a breakdown of the work force by women and minorities, by job classes for each department. The departments then analyze the work force compared to a subjective appraisal of female and minority availability to determine what job classes in the department "underutilize" women and/or minorities.

This method of developing affirmative action goals and timetables has proved cumbersome. Many departments contacted expressed frustration with the process. Much of the analytical work has had to be hand tallied. Departments complained that DEEO was late in issuing AAP guidelines and instructions, and often changed the guidelines, contributing to the delay in the preparation of AAPs. The table on Appendix B provides an indication of the cumbersome nature and departmental dissatisfaction with the AAP-writing process. As can be observed, 4 of 15 departments submitted no AAPs for 1982 while 2 others submitted only rough drafts which were not

printed or disseminated. Departments not submitting AAPs complained that benefits derived from them did not merit the manpower and time involved in their preparation. Clearly, it is time for a different approach.

DEEO has tested and developed a data processing management information system that will permit more timely monitoring and evaluation of the status of equal employment opportunity. The system, the Affirmative Action Internal Audit and Reporting System (AIRS) potentially can eliminate many of the burdensome duties required of departments in AAP preparation.

DEEO should carefully evaluate the current AAP process and identify areas where it can provide more centralized data analysis through AIRS. The Commissioner of Administration should consider developing the analytical portion of an AAP for the executive branch as a whole to establish statewide hiring goals and timetables. Departments would still play a significant role in developing the goals, particularly departments with unique underutilized jobs. However, the overall approach would shift from the current decentralized method to a more centrally directed effort.

Recommendation No. 3

The Department of Administration (DOA) should assume central administrative control over the use and release of expanded certification registers.

In the 1981 State Affirmative Action Report, DEEO reported that the State had adopted an expanded certification policy. Stated succinctly, the policy "expands" the number of people who can be considered for hire. Departments who have identified an "underutilization" of women and/or minorities in a particular job class may hire for positions in that class from an "expanded" register. That is, they can consider not only the top five candidates on the certified register, but in addition they can also consider up to the top five women and/or minorities for an underutilized position.

A policy of expanded hire has been identified and endorsed as a means of remedying discriminatory employment practices. DEEO reported that several other states have adopted the policy. In a personnel memorandum of January 21, 1981 the Attorney General said that "underutilization of employees of racial or sexual groups may constitute 'unique circumstances'" which allows use of expanded hire under the State's Personnel Rules.

In addition to the adoption by other states and tacit approval of the Attorney General, expanded certification has the endorsement of the Blue Ribbon Commission on the State Personnel Act. In a report entitled Employment of Women and Minorities in State Government submitted in March, 1982 the Commission recommended "...the executive branch make use of affirmative action certifications to improve employment opportunities for members of underutilized groups."

Executive branch departments have largely ignored the use of Expanded Certification Registers (ECR) when filling positions. Six departments requested no ECR at all in the nine months between April 1 and December 31, 1982. We examined 120 registers requested by those departments during that period and found that 81 or 68% of them were for positions in identified underutilized job classes (See Appendix C for a table listing use of ECR by department).

Few of the departments that we contacted have established internal departmental procedures integrating the use of ECR into the hiring process. It is significant that 3 departments (or 20% of the executive branch agencies) accounted for 93% of all the ECR requested in the nine month period reviewed.

Departments cited the following impediments to the effective use of ECR:

1. Lack of familiarity - many times the personnel division of a given department are the only people aware of the existence, potential use, and manner of using an ECR. Often the supervisor responsible for the hire is unaware of the existence or the methods used to "work" the expanded register.
2. ECR information requirements - the expanded certification register information form is extensive in the amount of data it requires. Harried personnel officers complain that they have little time to hand tabulate the expanded register to obtain information required to complete the ECR form.
3. Restricted use of ECR - DEEO would not allow departments who did not submit an AAP to use the ECR. Thus, the form was put off limits to over a quarter of all executive departments by DEEO itself. DEEO stated that they had to do this in order to protect the State from legal liability. According to the agency, departments with no AAP could induce legal challenges over hires made from an expanded register.

We recommend that along with the changes in the AAP preparation process suggested in Recommendation No. 2, DOA should have more centralized control over the dissemination and use

of ECR. If hiring was being done for a position identified as underutilized by a central, statewide AAP, the department would always receive expanded certification notice upon the verification and approval of DEEO.

In addition, the informational requirements of the ECR form should be reviewed to determine if all that is requested is necessary. If information requested is deemed necessary, then consideration should be given to better summarizing the total employment register information needed to reduce the time it takes to complete an ECR form. By modifying one or both the total register and/or ECR the process could be more efficient and thus, more useful.

EEO Training and Evaluation for Supervisors

We found that DEEO had provided little training to line supervisors regarding their EEO responsibilities. One seminar for executive level administrators and departmental personnel officers that provided an overview of the current judicial interpretation of EEO was held and was well received. Based on interviews conducted in the course of the audit and responses to questions asked of departmental EEO personnel we conclude that supervisors are not effectively evaluated on the performance of their EEO duties.

On the standard performance appraisal form used by the executive branch, EEO duties are lumped with a list of other miscellaneous administrative functions and are given one overall rating. The evaluation rating guide issued by the Division of Personnel provides no criteria or suggestions on how EEO performance can be evaluated. Supervisory training and awareness is especially critical in the current situation where the Division of Personnel has delegated much of hiring and recruiting for State positions to the Departments.

It must be recognized that the consistent use of an ECR in and of itself will not necessarily result in increased utilization. It must be complimented with instruction on implementation and use at the departmental level. Supervisors, especially those who hire, must be made better aware of and evaluated on their EEO responsibilities and performance.

Recommendation No. 4

DEEO should develop and use data that analyzes the availability of women and minorities in a more consistent and useful manner.

Definition and evaluation of equal employment opportunity in any large employment setting is complex. Tables listing female and minority work force composition are interesting and often suggest deficiencies but are often too simplistic

to accurately assess the status of equal employment opportunity.

An important evaluative concept is "availability". That is, how many women and minorities are available for hire with the needed qualifications for the position being evaluated. As discussed in Recommendation No. 2, availability is a key factor in determining if women and minorities are underutilized.

Yet historically, the discussion of availability constraints to equal employment opportunity has been omitted in reports and public discussion. In addition, the application and determination of availability has been arbitrary, unsubstantiated and inconsistent.

DEEO's 1981 Annual Affirmative Action Report for the State of Alaska's executive branch (the most recent report published) provided extensive data on the number of women and minority workers employed in various segments of the executive branch work force. However, the report did not speak to the availability of women and minorities in the State with the qualifications needed for various State positions. Availability analysis as used in AAPs has built on seven distinct population segments (such as composition of the population as a whole, working age population, unemployed, government work force, etc.). Various departments have been allowed to arbitrarily "weigh" these factors as they see fit for the job class being evaluated. The weighting of factors is very subjective. Departmental preparers that we interviewed told us that they valued factors very intuitively with little or no substantiating data.

This subjective use of availability data has resulted in a lack of consistency both between departments in any given year, and within a department from year-to-year, in establishing hiring goals and timetables. Thus, AAP goals suffer not only from lack of monitoring on the part of DEEO, but also from the inconsistent and arbitrary application of availability data used in their establishment. The goals thus lose comparability between years because the assumptions and process that establish them keeps changing. This is another obstacle to effective measurement of progress or the lack thereof of EEO.

DEEO should increase efforts to obtain and use more appropriate data on the composition of the State's unemployed, demographic make-up, government work force skills, etc. from such sources as the Department of Labor and the State's Division of Personnel. We further recommend that any future statewide affirmative action reports made to the general public include a discussion and comparison of work force composition to availability. This type of analysis would allow for a better evaluation of the progress or the lack thereof, of the State's affirmative action policy.

AIRS can prospectively be used to eliminate data inconsistencies and provide for more efficient monitoring of statewide hiring goals. We believe this can be done with no increase in staff. AIRS when used in conjunction with centrally developed AAP analysis will weigh availability factors the same for job classes common to several departments. This standardization of availability factors will contribute to the establishment of more consistent and comparable hiring goals from year-to-year. The improvement in consistency between departments within a given year and between a department's goals from year-to-year will improve the ability to monitor and evaluate improvement in equal employment opportunity activity by DEEO.

Recommendation No. 5

DEEO should establish a comprehensive internal complaint procedure to be utilized by all executive branch departments.

Administrative Order No. 59 gives the responsibility to DEEO to "establish a uniform complaint procedure which is to be included in all affirmative action plans and available to all persons subject to (the) order".

DEEO did not establish a uniform internal complaint procedure. The Division did propose a procedure, but when they met with opposition from the various departments the proposal was withdrawn.

We were told by the departments the primary reason they opposed the procedure was that they felt it would eliminate their right to resolve complaints. However, we are unaware of any formal functioning internal departmental discrimination complaint procedure. In this present situation the typical complainant is more likely to formally file with an outside anti-discrimination agency [typically the State Commission for Human Rights (HRC)] to seek remedy. As a result, discrimination complaints which could be handled more efficiently internally, are being resolved through a lengthier and more costly outside process.

If a comprehensive internal complaint procedure is to succeed, DEEO must gain both management support and employee confidence. This will be accomplished only through the fair and impartial investigation of all complaints. In instances where discrimination is found to have occurred, departmental management should be informed and directed to take action to correct the discriminatory condition or practice.

The advantages that would be realized as a result of the establishment of a comprehensive internal complaint procedure are:

1. Reduced Expense and Time Involved to the State and the Individual - a good efficient internal complaint procedure will save time and related expense that are necessarily a part of more formal outside adjudication processes.
2. Reduced HRC Work Load - complaints solved internally will reduce the caseload of the HRC. This will allow the HRC to better pursue employment discrimination in other sectors of Alaskan enterprise.
3. Promote EEO - in the course of complaint investigations, DEEO will have the opportunity to evaluate and become better aware of employment practices in general. In instances where discriminatory practices are found, DEEO can work with the department to reduce the potential for future complaints, and thus promote EEO.
4. Increased Control Over Policy - a fair and unbiased internal complaint procedure that will result in equitable resolution within the executive branch reduces the likelihood of outside, primarily judicial remedies, from being imposed. The executive branch maintains control over policy rather than surrendering its management prerogatives to another branch of government.

DEEO must be sure to stress to departmental management that any internal complaint procedure developed will complement not supplant individual departmental complaint resolution procedures. Additionally, individuals must be made aware that they can leave the internal complaint process at any time, to seek remedy from an outside enforcement agency. By doing both of the above, DEEO will promote acceptance of a centrally developed internal complaint procedure.

APPENDIX A

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
QUESTIONNAIRE RESPONSES OF EXECUTIVE BRANCH DEPARTMENTS
REGARDING THE ACTIVITY AND PERFORMANCE OF DEEO

AFFIRMATIVE ACTION PLANS - IMPLEMENTATION

1. For which of the following years did your department complete an affirmative action plan? (All questions asked of 10 departments) 1980 9 1981 10 1982 9

2. For years in which an affirmative action plan was not completed, what were the reasons?

- * We did not have the manpower.
- * Most of the analysis could have and should have been done by computer.
- * We were shorthanded. Instructions were too hard to read and changed too much.
- * Too time consuming to prepare.

3. For the last year in which you did an affirmative action plan, did you monitor the goals as stated in Part II of the standard plan? Yes 4 No 6

If yes, how?

- * Monitored through monthly computer runs of new hires and terminations.
- * Reviewed targeted job groups, with little turnover it was relatively easy.
- * Kept close statistics for a trial period, then discontinued.
- * Compiled turnover data monthly, Departmental EEO Committee reviewed progress at quarterly meetings.

If no, why not?

- * Too difficult and time consuming.
- * Most of the analysis could have and should have been done by computer.
- * Little recruitment occurred during the last year.

4. Does the Division of Equal Employment Opportunity (DEEO) monitor your progress towards achieving affirmative action plan goals? Yes 0 No 10

5. In the 1982 affirmative action plan, how did you determine the weighted figure used to calculate the availability of minority/women applicants in the work force?

- * Common sense, relied on prior experience.
- * Guess work.
- * Used applicant flow data when available.
- * Used general population figures, didn't incorporate a weighted figure into availability determination.
- * Used breakdown of people available on the State register.

6. Should DEEO write affirmative action goals which would be uniform for all departments? Yes 5 No 2 Not Sure 3

If yes, why?

- * Would save department's time.

If no, why not?

- * All departments are different and need flexibility in writing goals.

If unsure, why?

- * Depends on whether goals are unreasonably set.

7. Are affirmative action plan goals helpful to your department in its efforts to comply with EEO requirements? Yes 9 No 1

If yes, why?

- * Goals, objectives are a measurable means of determining progress.
- * Makes departments aware of EEO responsibilities.

If no, why not?

- * Timetables are often unrealistic.
- * Comparisons are impossible because the data base changes every year.

9. Do you use the expanded certification register (ECR)? Yes 7 No 3

9. Do you ensure that all supervisors are made aware of the ECR when hiring into an underutilized job group? Yes 4 No 3 N/A 3

10. Do you monitor whether the supervisor uses the ECR? Yes 3 No 4 N/A 1

11. Does your department send quarterly reports to DEEO? Yes 4 No 6

If no, why not?

- * I heard no one else did, so I quit.
- * Quit because I received no feedback.
- * DEEO never sent us a formal reporting form.
- * Unaware of requirement to do so.

COMPLAINT PROCEDURES

12. Has DEEO handled complaints that have been brought against your department by an outside agency? Yes 6 No 3 Not Sure 1

If yes, approximately how many complaints were handled by DEEO? (Total represents combined number for all "Yes" respondents.)

13

13. In instances where DEEO was involved were you satisfied with their performance in handling complaints? Yes 4 No 2 N/A 4

If yes, why?

- * DEEO helped out a lot on complaint cases.
- * Reduces the time the department must spend researching and preparing complaints cases.
- * DEEO expertise is very helpful.

If no, why not?

- * DEEO doesn't really do anything. The department does all the actual work.
- * DEEO acts very slowly.
- * DEEO makes too big a deal out of complaints.

14. Does your department have a procedure for dealing with internal complaints? How are employees made aware of its existence? Yes 10 No 0

- * Contained in affirmative action plan.
- * Supervisors told of procedure.
- * Included in policy and procedures manual.

15. Is your department's internal complaint procedure used? Yes 5 No 5

16. Is your internal complaint procedure based on DEEO guidelines or has it evolved from within the department? Guidelines 7 Internally Evolved 3

17. Has DEEO ever requested your input on the development of a universal internal complaint procedure for all departments? Yes 0 No 10

18. Would you support an internal complaint procedure by which DEEO would handle all complaints not resolved within the department? Yes 7 No 3

SUPERVISOR EEO EVALUATION

19. Are departmental supervisors and managers evaluated on the performance of their EEO duties and responsibilities? Yes 1 No 9

20. Has DEEO provided your department with training and materials pertaining to EEO? Yes 8 No 2
21. Is training provided to supervisors and managers to inform them of their EEO responsibilities and requirements? Yes 7 No 8
22. Does your department have an active EEO or affirmative action committee? (As outlined by DEEO in the standard departmental affirmative action plan.) Yes 1 No 9
23. Do you think your department needs a full-time EEO officer position? Yes 3 No 5 N/A 2
- If yes, why?
- * Need someone in the department who has EEO expertise and knowledge.
 - * Need help getting the affirmative action plan completed.
- If no, why not?
- * The size of the department wouldn't warrant a full-time EEO officer.
 - * Wouldn't be cost effective.
24. Has DEEO ever audited your department to monitor your employment practices and policies? Yes 0 No 10
25. Are there any methods or procedure utilized in your department to promote EEO which we have not previously discussed? Yes 7 No 3
- * Exit interviews with terminating employees indicate EEO related supervisory problems.
 - * Compilation of a monthly report analyzing underutilized job classes.
 - * Internal training.
 - * Analysis of monthly hiring and firing by race and sex.
 - * Career path counseling.
 - * Recruitment efforts aimed at minorities and women.
26. Do you have any suggestions as to how DEEO could improve its effectiveness in its assistance to your department? Yes 9 No 1
- * Make affirmative action plan simpler to write and use.
 - * Provide more training regarding complaints.
 - * Become much more active.
 - * Simplify the expanded certification register system.
 - * More high level training.
 - * DEEO should write the whole affirmative action plan for all departments.
 - * Mandatory EEO training statewide.
 - * Provide more feedback on the affirmative action plan.
 - * Uniform affirmative action plan for all departments.
 - * DEEO needs to back up what it says it will do.
 - * In handling complaints, DEEO should act in an advisory capacity to the departments.

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APPENDIX B

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)

Summary of Completed Affirmative Action Plans
By Department
1980 - 1982

	<u>1980</u>	<u>1981(1)</u>	<u>1982</u>
Office of the Governor		X	X
Administration		X	**
Law		X	
Revenue		X	X
Education		X	X
Health and Social Services	X	X	**
Labor	X	X	X
Commerce		X	X
Military Affairs	X	X	
Natural Resources		X	X
Fish and Game	X	X	X
Public Safety	X	X	
Environmental Conservation	X	X	
Community and Regional Affairs	X	X	X
Transportation and Public Facilities	X	X	X

X = Denotes that department completed and submitted an Affirmative Action Plan.

(1) 1981: A legislative request for AAPs prompted all departments to complete and submit their plans.

** 1982: These departments did prepare rough drafts of AAPs but final drafts were never completed and disseminated.

Source of Information: DEEO Records

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APPENDIX C

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY
Use of Expanded Certification Registers
By Department
 April 1 - December 31, 1982

	U.U. Classes (1)		Registers Ordered		Hired (2)	
	F	M	Total	Expanded	F	M
Office of the Governor	67%	25%	42	-0-	-0-	-0-
Administration	37%	82%	393	25	1	-0-
Law	40%	60%	91	-0-	-0-	-0-
Revenue	47%	82%	154	171(3)	39	19
Education	34%	53%	162	16	-0-	1
Health and Social Services	26%	45%	402	28	8	4
Labor	33%	56%	157	-0-	-0-	-0-
Commerce	43%	71%	139	-0-	-0-	-0-
Military Affairs	67%	83%	25	-0-	-0-	-0-
Natural Resources	63%	75%	106	182(3)	43	6
Fish and Game	54%	85%	960	711	201	21
Public Safety	67%	57%	172	-0-	-0-	-0-
Environ. Conservation	63%	88%	80	-0-	-0-	-0-
Community and Regional Affairs	12%	12%	95	4	1	-0-
Trans. and Public Facilities	54%	57%	121	1	-0-	-0-

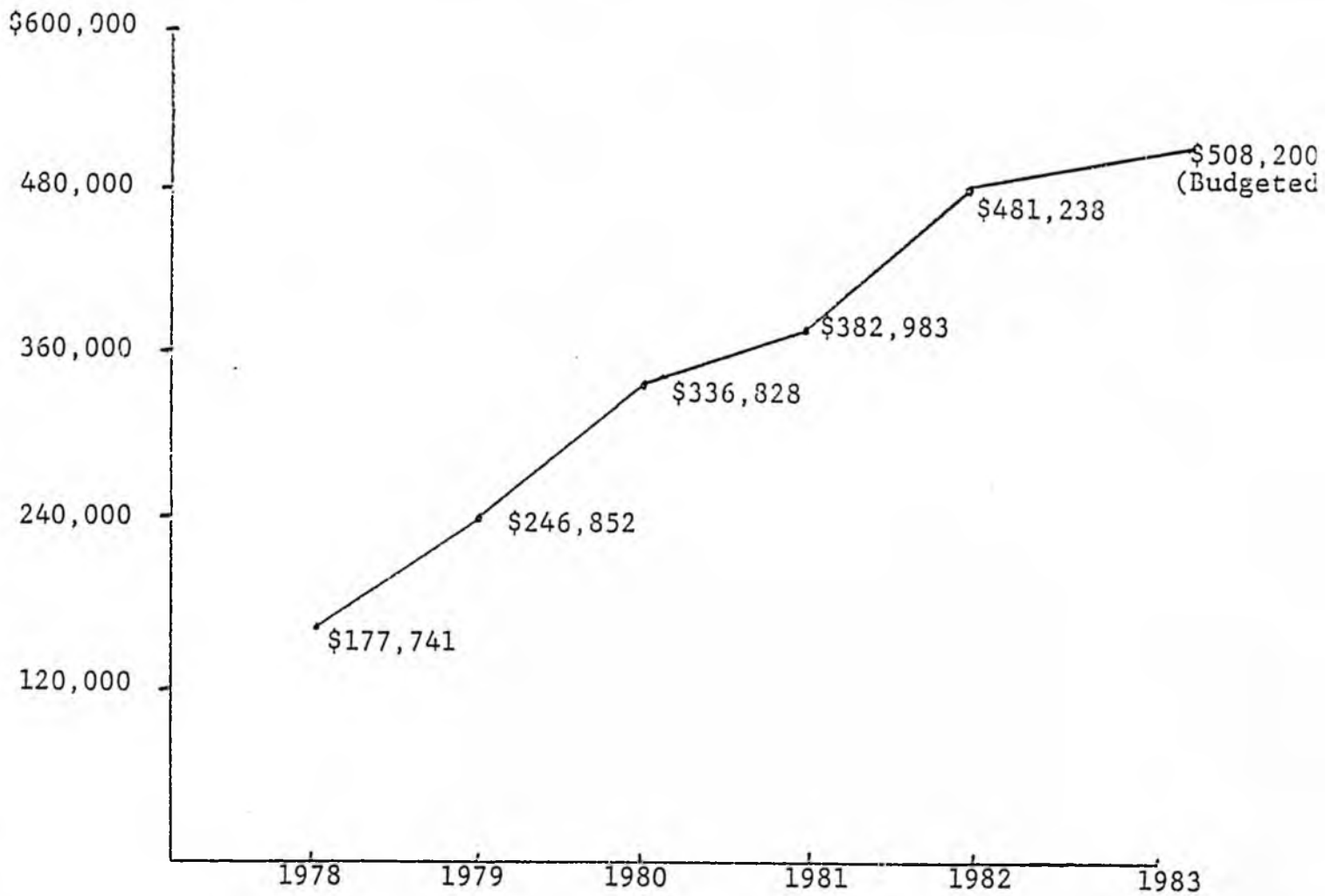
- (1) - This column represents the percentage of job groups that were identified as underutilized (F = Women, M = Minorities) by the respective department's last submitted Affirmative Action Plan.
- (2) - This column is the number of women (F) and minorities (M) hired for positions for which expanded registers were requested.
- (3) - Expanded registers requested exceed total registers in some instances, because DEEO did not receive complete listings of total register requests from the Division of Personnel. Due to this problem, total registers ordered as listed above will tend to be understated for all departments.

Source of Information: DEEO's Quarterly Reports.

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APPENDIX D

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
REPORTED EXPENDITURES BY DIVISION OF EEO
Fiscal Year 1978-1982



Source of Information: State Annual Reports 1978 - 1982

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APPENDIX E
 STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
 SUMMARY OF DISCRIMINATION COMPLAINTS
 BY DEPARTMENT, BY TYPE OF ALLEGED DISCRIMINATION
 September 1981 - March 1983

Department	TYPE OF DISCRIMINATORY COMPLAINT FILED(1)										Total
	Race	National Origin	Religion	Physical Handicap	Sex	Parenthood	Age	Sexual Harassment	Reverse Discrimination	Various(2)	
Administration	1	1	-0-	1	4	-0-	1	-0-	-0-	-0-	8
Commerce and Economic Development	1	-0-	-0-	-0-	-0-	-0-	1	1	-0-	1	4
Community and Regional Affairs	1	-0-	-0-	-0-	-0-	-0-	-0-	-0-	1	-0-	2
Education	2	-0-	-0-	-0-	-0-	1	-0-	-0-	-0-	-0-	3
Environmental Conservation	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Fish and Game	1	-0-	-0-	-0-	1	-0-	-0-	1	-0-	-0-	3
Health and Social Services	5	1	-0-	1	6	-0-	1	-0-	-0-	3	17
Labor	1	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	1
Law	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Military Affairs	1	-0-	-0-	-0-	1	-0-	-0-	-0-	1	-0-	3
Natural Resources	1	-0-	-0-	-0-	1	-0-	-0-	-0-	-0-	-0-	2
Office of the Governor	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Public Safety	-0-	-0-	-0-	6	1	-0-	-0-	-0-	3	1	11
Revenue	-0-	-0-	-0-	-0-	-0-	-0-	1	-0-	-0-	2	3
Transportation and Public Facilities	4	-0-	4	2	2	-0-	-0-	-0-	-0-	2	14
Total	19	2	4	10	16	1	4	2	5	9	71

(1) Complaints directed at more than one agency have been accounted for under each of these agencies in the above table. The above data includes two class action suites contending sex discrimination.

(2) Represents individual complaints asserting that greater than one type of discrimination had occurred.

Source of Information: DEEO Records

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APPENDIX F

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
SUMMARY OF DISCRIMINATION COMPLAINTS BY DEPARTMENT
ORIGINATION, AND STATUS AT 3/30/83
 September 1981 - March 1983

Department	NUMBER OF DISCRIMINATION COMPLAINTS				
	Handled From Origination (1)	Assumed From Other Departments(2)	Outstanding at 3/30/83 (3)	Closed At 3/30/83 (4)	Total Handled
Administration	4	4	2	6	8
Commerce and Economic Development	3	1	1	3	4
Community and Regional Affairs	2	-0-	2	-0-	2
Education	1	2	2	1	3
Environmental Conservation	-0-	-0-	-0-	-0-	-0-
Fish and Game	1	2	-0-	3	3
Health and Social Services	11	6	8	9	17
Labor	-0-	1	1	-0-	1
Law	-0-	-0-	-0-	-0-	-0-
Military Affairs	3	-0-	3	-0-	3
Natural Resources	-0-	2	1	1	2
Office of the Governor	-0-	-0-	-0-	-0-	-0-
Public Safety	7	4	6	5	11
Revenue	2	1	-0-	3	3
Transportation and Public Facilities	8	6	8	6	14
Total	42	29	34	37	71

- (1) Since September of 1981, discrimination complaints brought against executive branch agencies by State employees have been handled from the time of the complaints origination by DEEO.
- (2) Prior to September of 1981, discrimination complaints brought against executive branch agencies were handled by these agencies without DEEO assistance. DEEO assumed responsibility for these complaints during September of 1981. Original filing of these complaints occurred as early as 1978.
- (3) Complaints which had not been resolved as of March 30, 1983.
- (4) Complaints which had been resolved prior to March 30, 1983.

Source of Information: DEEO Records

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APPENDIX G

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
SUMMARY OF DISPOSITION OF CLOSED COMPLAINTS
 September 1981 - March 1983

Department	FINAL DISPOSITION OF DISCRIMINATION COMPLAINT CASES					Total
	Lack of Substantial Evidence	Conciliation Agreement (1)	Complaint Withdrawn	Predetermination Settlement (2)	Complainant Failure to Cooperate	
Administration	2	1	3	-0-	-0-	6
Commerce and Economic Development	-0-	-0-	2	1	-0-	3
Community and Regional Affairs	-0-	-0-	-0-	-0-	-0-	-0-
Education	1	-0-	-0-	-0-	-0-	1
Environmental Conservation	-0-	-0-	-0-	-0-	-0-	-0-
Fish and Game	1	1	-0-	1	-0-	3
Health and Social Services	4	-0-	2	2	1	9
Labor	-0-	-0-	-0-	-0-	-0-	-0-
Law	-0-	-0-	-0-	-0-	-0-	-0-
Military Affairs	-0-	-0-	-0-	-0-	-0-	-0-
Natural Resources	-0-	-0-	1	-0-	-0-	1
Office of the Governor	-0-	-0-	-0-	-0-	-0-	-0-
Public Safety	1	-0-	1	1	2	5
Revenue	2	-0-	-0-	-0-	1	3
Transportation and Public Facilities	2	1	-0-	2	1	6
Total	13	1	9	7	5	37

(1) Complaint resolution achieved only after a full investigation and finding had been made by the anti-discrimination agency representing the complainant.

(2) Complaint resolution achieved prior to the anti-discrimination agency having conducted an investigation.

Source of Information: DEEO Records

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DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

OFFICE OF THE COMMISSIONER

July 19, 1983

RECEIVED
JUL 20 1983
LEGISLATIVE
BRANCH

Gerald L. Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Re: Response to "A Special Report on the Department of Administration, Division of Equal Employment Opportunity, September 1981 - March 1983."

Dear Mr. Wilkerson:

We appreciate this opportunity to respond to the findings and recommendations of your special report on the Division of Equal Employment Opportunity. We anticipate that your audit, undertaken early in this administration, will be of considerable assistance to us in determining our direction of equal employment opportunity within the executive branch during the next few years.

The following responds to each of the five recommendations and findings in your April 11, 1983 Interim Letter:

Recommendation No. 1

The Department of Administration, Division of Equal Employment Opportunity needs more support and authority from the Governor to increase their effectiveness.

I am in complete agreement with this recommendation. Affirmative action cannot produce thorough and lasting change in any organization without the active support of top management. There is no doubt that the visible support of the Governor, Cabinet members and other levels of management is crucial for the success of affirmative action and equality of opportunity within the executive branch.

Perhaps the only solution to wavering support for EEO is the promulgation of legislation or regulation which would clearly state the division's authorities and responsibilities.

3 LAW

While specific program deficiencies enumerated here have undoubtedly contributed to the division's overall lack of effectiveness, the single most identifiable problem has been poor understanding of equal employment opportunity goals and an overall lack of dir-

Gerald L. Wilkerson, C.P.A.
July 19, 1983
Page Two

action at the division level. This situation is soon to be remedied by the appointment of a director with a proven record of effecting equal employment opportunity through affirmative action.

Recommendation No. 2

DEEO should improve affirmative action plan procedures and elicit more cooperation from executive branch departments.

GOV → It is my understanding that DEEO recognized the need to improve affirmative action plan procedures, specifically utilization analysis (comparison of the qualified Alaska labor pool available for employment with the composition of the executive branch work force to determine utilization) some time ago as evidenced by their FY 81 preparation and submission of a FY 82 capital budget request. This request received partial support in that 150.0 of the 475.0 request was appropriated. DEEO submitted capital budget requests for FY 83 and FY 84 neither of which were approved by the Governor's Budget Review Committee.

In spite of this obvious lack of support DEEO managed to develop the Affirmative Action Internal Audit and Reporting System (AIRS) by trimming portions of their operating budget appropriations in order to fund AIRS. DEEO is presently training personnel of every department in the utilization analysis portion of AIRS.

I agree that the present decentralized approach to developing affirmative action plans has proven to be cumbersome, resulting in inconsistencies. EEO representatives at the departmental level are just not knowledgeable enough to develop meaningful plans. I am now investigating whether Department of Administration can adequately produce an executive branch Affirmative Action Plan and be of more assistance to departments by helping them develop goals and timetables for increasing the hire of certain protected classes identified as under-utilized in some job categories.

Recommendation No. 3

The Department of Administration (DOA) should assume central administrative control over the use and release of expanded certification registers.

The Department of Administration currently has administrative control over the use and release of expanded certification registers. There is currently a Human Resources Committee in the Department of Administration that is working on better utilization of expanded certification registers. The directors of Personnel, Labor Relations, EEO, Retirement and Benefits and the state payroll supervisor are the Human Resources Committee members working with the Deputy Commissioner for Personnel Management to address this issue.

Gerald L. Wilkerson, C.P.A.
July 19, 1983
Page Three

Recommendation No. 4

DEEO should develop and use data that analyzes the availability of women and minorities in a more consistent and useful manner.

Your analyses of the problems located by uninformed, subjective use of availability data is accurate. DEEO will increase efforts to obtain more appropriate data through greater usage of the AIRS System, Division of Personnel and Department of Labor statistics. DEEO staff will then train departmental EEO representatives in the use of this data to develop meaningful hiring goals.

Recommendation No. 5

DEEO should establish a comprehensive internal complaint procedure to be utilized by all executive branch departments.

Establishing an effective internal complaint procedure may prove to be the most difficult task for the division of equal employment opportunity to accomplish. Department management staff tend to be resistive to a central agencies' intrusion into their internal affairs, often viewing EEO's efforts to assist in the dispute resolution process as interference. The new EEO director must go out and meet Commissioners, directors and personnel officers to establish a rapport and build confidence in the division's ability to assist in all aspects of affirmative action.

With that type of working relationship in place, DEEO will then develop a comprehensive internal complaint procedure to realize the advantage of promoting the goals of EEO, gain control over the implementation of the policy and reduce the expense and time required to resolve disputes.

Sincerely,

Lisa Rudd by *JL*
Lisa Rudd
Commissioner *Acting*

Attachments

LR/KH/EA/gmw

A FOLLOW-UP REPORT ON
THE DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

August 15, 1984

Audit Control Number

02-1165-B-85-R

Commissioner, Department of
Administration

Lisa Rudd

Deputy Commissioners, Department
of Administration

Human Resources
Administrative Management
Telecommunications
Information Resources Management

Eleanor Andrews
Anselm Staack
Vacant
James R. Shea

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

October 23, 1984

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska
Statutes, the attached report is submitted for your review.

A FOLLOW-UP REPORT ON
THE DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

August 15, 1984

Audit Control Number

02-1165-B-85-R



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REPORT

In accordance with Title 24 of the Alaska Statutes, a follow-up examination of the Department of Administration, Division of Equal Employment Opportunity was conducted to determine to what extent our prior audit recommendations (made in an April 29, 1983, report) have been implemented.

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ORGANIZATION AND FUNCTION

The Division of Equal Employment Opportunity (DEEO) is responsible for carrying out the State's equal employment opportunity policy in the Executive Branch of the State of Alaska.

Specific duties of the agency include the development of affirmative action plans for each Executive Branch department. The agency serves as a coordinator and provider of technical assistance to each department in the implementation of their respective affirmative action plans. In addition to these duties, DEEO is responsible for representing the Executive Branch in discrimination complaints brought by outside agencies and for development of an internal discrimination complaint resolution process within the Executive Branch.

Besides the specific duties listed above, DEEO has become an informal referral source for the State and private sector on the current status of Federal equal employment laws and regulations and their interpretation by the courts. The agency has developed and implemented management information systems to provide better analysis of the applicant screening process and the current utilization of Federally designated "protected classes" employed by the State.

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PRIOR AUDIT RECOMMENDATIONS

Prior Audit Recommendation No. 1

The Department of Administration (DOA), Division of Equal Employment Opportunity (DEEO) needs more support and authority from the Governor to increase its effectiveness.

In the prior Audit, we concluded that DEEO had not effectively developed, coordinated, or monitored a comprehensive, widely supported policy of equal opportunity and non-discrimination in the Executive Branch's employment decisions, programs, and activities. DEEO's ineffectiveness was attributed, in large part, to a lack of centralized executive support. Since DEEO has no specific statutory responsibility, the Division derives what authority and responsibilities it has from executive order. Consequently, the effectiveness of the Division depends on the nature and extent of the Governor's leadership.

Legislative Audit's Current Position

The Governor has provided stronger support for DEEO's equal employment opportunity and affirmative action programs. This support, along with that of the Legislature, is evidenced through an increased budget appropriation for Fiscal Year 1985 (See Appendix A). In addition, the Governor's support has been demonstrated through increased attention given to Equal Employment Opportunity (EEO) matters in the Governor's cabinet meetings and by increased EEO activity within the Department of Administration. This increased support has allowed DEEO to improve its effectiveness. As shown by Appendix B, significant gains in minority employment were made during the last half of Fiscal Year 1984.

Prior Audit Recommendation No. 2

DEEO should improve affirmative action plan procedures and elicit more cooperation from Executive Branch departments.

The primary analytical tool for identifying problems and promoting EEO is the departmental Affirmative Action Plan (AAP). The method of developing affirmative action goals and time tables contained in the AAP has proven cumbersome. Many departments contacted had expressed frustration with the AAP preparation process.

Legislative Audit's Current Position

For Fiscal Year 1984, no departmental AAPs were prepared. Analytical employment data, required as a part of affirmative action hiring, was provided by the newly implemented

data processing "Affirmative Action Internal Audit and Reporting System" (AIRS). Prior to Fiscal Year 1984, this information was developed through time-consuming hand calculations made by individual departments as a part of their AAP. In addition to eliminating some of the burdensome calculations required in the preparation of past AAPs, AIRS also provides a more accurate and timely source of job class minority/female availability information. Although AIRS has replaced AAPs as the source of affirmative action hiring analytical data, AAPs are necessary to establish policies and objectives by which the State's affirmative action progress can be measured. Beginning Calendar Year 1985, DEEO plans to implement a state-wide AAP covering all State departments.

Prior Audit Recommendation No. 3

DOA should assume central administrative control over the use and release of expanded certification registers (ECRs).

The 1981 affirmative action report, prepared by DEEO, stated that the State had adopted an expanded certification policy. Under this policy, departments who have identified an "under-utilization" of women/minorities in a particular job class may hire for positions in that class from an "expanded" register. That is, under the "5 plus 5" system, they can consider not only the top five candidates on the certified register; but, in addition, they can also consider up to the top five women and/or minorities for an under-utilized position.

Executive Branch departments had largely ignored the use of ECRs. Departments cited the time-consuming, hand-generated informational requirements associated with ECR use, the restriction that ECRs were available only to departments that had submitted AAPs, and the lack of familiarity with ECRs by those responsible for hiring, as impediments to their effective use.

Legislative Audit's Current Position

DEEO has increased administrative control over and simplified the use of ECRs. At the beginning of Fiscal Year 1984, ECR informational requirements no longer required time-consuming calculations. With the implementation of AIRS (see Prior Audit Recommendation No. 2 discussion), ECR use was available to all Executive Branch departments regardless of whether the department submitted an AAP.

However, effective April 1983, the DOA, Division of Personnel revised the "5 plus 5" procedure of considering applicants. The revised procedure required the consideration of all applicants within the top five rankings. Previous

to this revision, only the top five ranked individuals were considered. A result of the revised procedures was to require ECR users to consider large numbers of applicants. Although Fiscal Year 1984 showed an increased hiring of minorities (see Appendix B), ECRs were not consistently used during this time period. Personnel officers to whom we spoke complained that the "5 plus 5" ECR system required the consideration of more people than resources would permit.

In late June of 1984, DEEO, in cooperation with the Division of Personnel and the Personnel Council (composed of departmental personnel officers), devised and implemented a simplified expanded certification system. This system requires expanded consideration of only a single member of each under-utilized group for a given job class.

Under the new expanded certification system, it remains up to each departmental personnel officer to notify hiring supervisors when expanded certifications should be used. DEEO does not monitor whether expanded certifications are used. Additionally, in instances in which expanded certifications are used but considered minorities/females are not hired, DEEO does not require explanatory documentation as to why the minority and/or female was not hired.

To provide information through which the effectiveness of expanded certification can be evaluated, DEEO needs to require agencies to document whether hirings made into under-utilized job classes were done using expanded certifications. Such information should be retained by the agency for a reasonable period of time to demonstrate why a member of the under-utilized race and/or sex was, or was not, hired.

Prior Audit Recommendation No. 4

DEEO should develop and use data that analyzes the availability of women and minorities in a more consistent and useful manner.

DEEO's 1981 Annual Affirmative Action Report for the State of Alaska's Executive Branch (the most recent report published) provided extensive data on the number of women and minority workers employed in various segments of the Executive Branch workforce. However, the report did not speak to the availability of women and minorities in the State with the qualifications needed for various State positions. In addition, DEEO's application and determination of availability had been arbitrary, unsubstantiated, and inconsistent. Availability is a key factor in determining if women and minorities are under-utilized (see Note 1).

Legislative Audit's Current Position

Publication of a 1983 DEEO State Annual Report did not take place because there were no 1983 AAPs on which to report (see Recommendation No. 2 discussion). However, DEEO's implementation of AIRS provides an analytical and consistent method of determining availability. During Fiscal Year 1984, AIRS availability data base was taken from the 1980 census figures supplied by the U.S. Department of Commerce. This information, which was available to department personnel officers through "on-line" computer terminals, was used to determine when ECRs should be used.

For Fiscal Year 1985, the AIRS data base was upgraded using a combination of State applicant flow information, University of Alaska availability figures, and the 1980 census figures supplied by the U.S. Department of Commerce. To make AIRS availability data more convenient and simpler for personnel officers to use, DEEO began preparing quarterly reports showing under-utilized job groups (see Appendix C). Executive Branch personnel officers, who receive these quarterly reports, will no longer require computer terminal access to AIRS.

A weakness of the AIRS system is that it does not monitor employee transfers, promotions, or terminations. Chapter 41, Part 60-2 of the Code of Federal Regulations (which regulates all non-construction Government contractors having fifty or more employees) requires internal audit and reporting systems to include this function as a means of measuring the effectiveness of the total affirmative action program. In order to insure that nondiscriminatory policy is carried out, DEEO needs to develop a system capable of monitoring these activities.

Prior Audit Recommendation No. 5

DEEO should establish a comprehensive internal complaint procedure to be utilized by all Executive Branch departments.

Administrative Order No. 59 gave the responsibility to DEEO to establish a uniform complaint procedure which would be available to all persons subject to the order. DEEO had not established a uniform internal complaint procedure.

Legislative Audit's Current Position

Administrative Order No. 75, which included an internal discrimination complaint procedure, replaced Administrative Order No. 59 as DEEO's authoritative mandate. DEEO has

handled ten internal discrimination complaints since the current Administrative Order's April 1983 effective date. DEEO plans to improve the procedure outlined in Administrative Order No. 75 in order to provide Executive Branch departments and employees with a more effective means of filing internal discrimination complaints. Appendix E summarizes complaints handled by DEEO which originated from external anti-discrimination agencies, as well as those brought internally to DEEO.

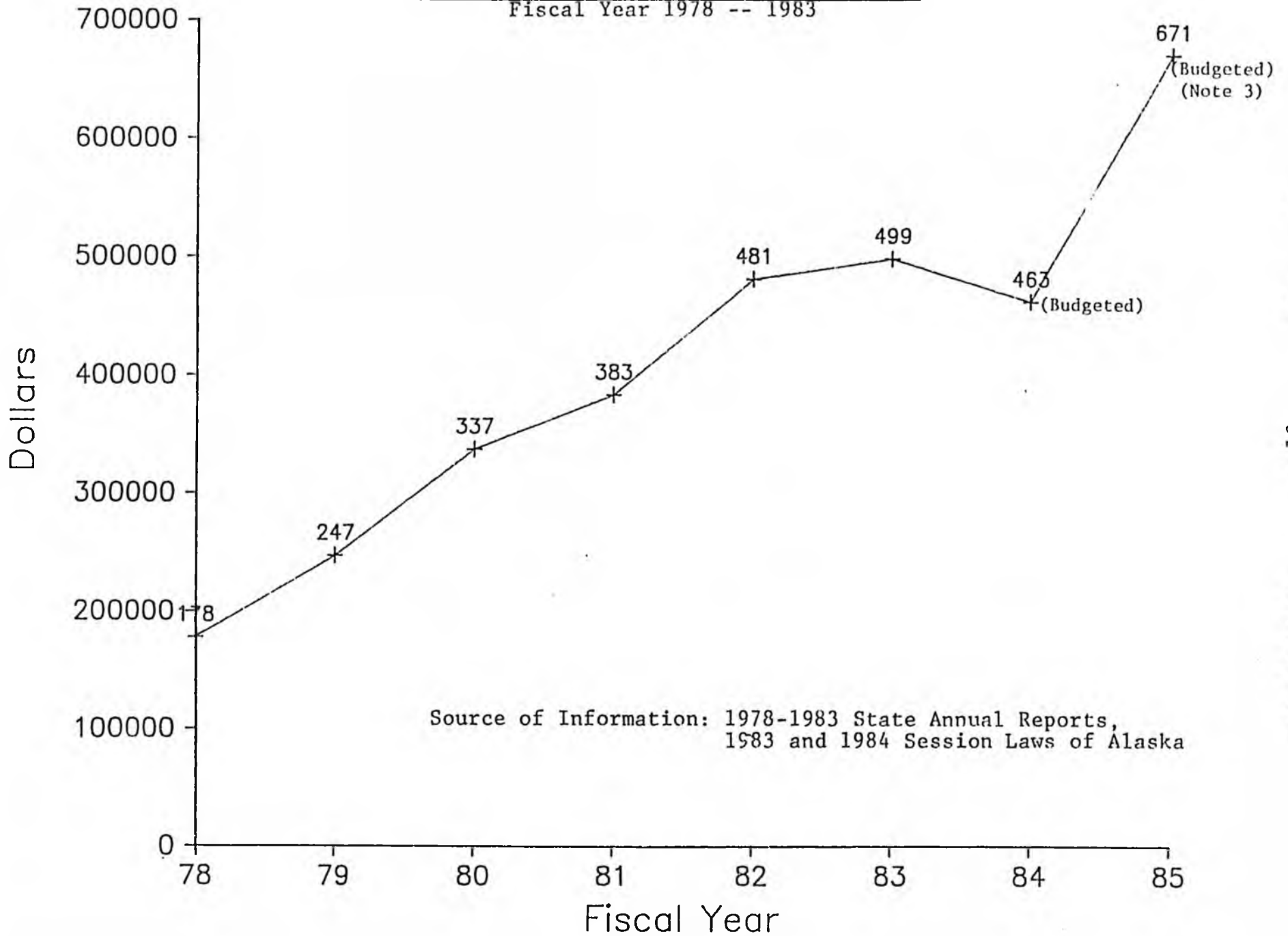
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APPENDIXES

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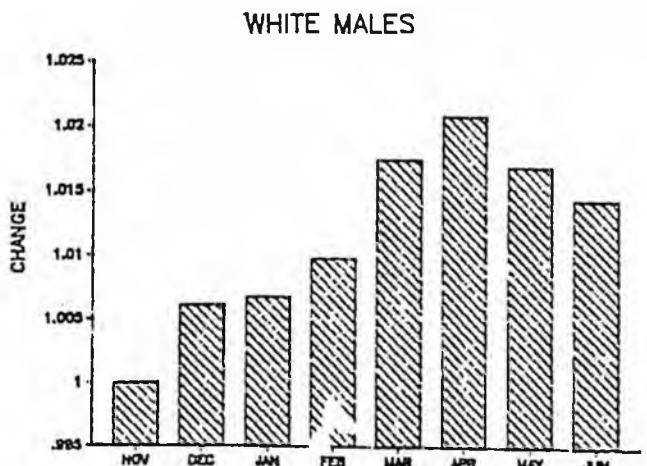
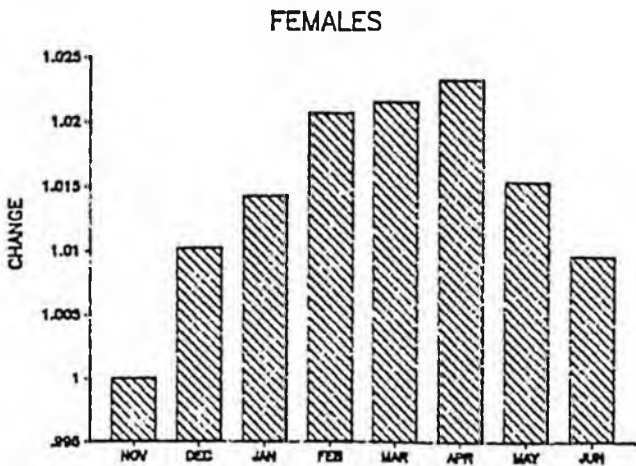
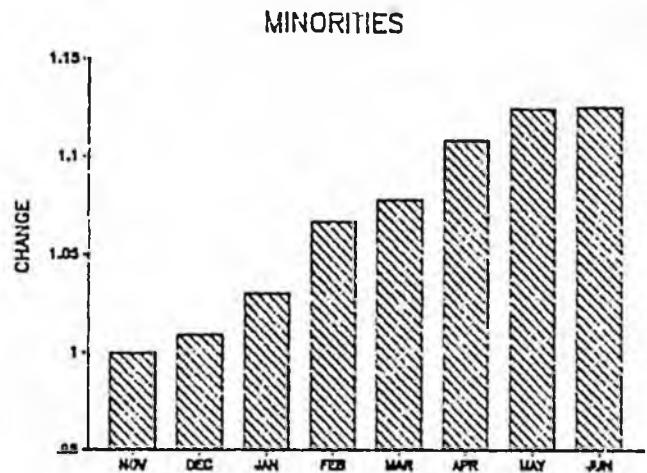
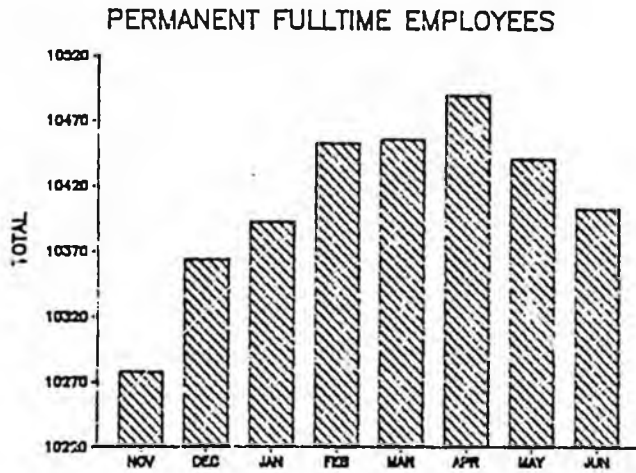
APPENDIX A

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
REPORTED EXPENDITUES BY DIVISION OF EEO
Fiscal Year 1978 -- 1983



APPENDIX B

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
PERMANENT FULL-TIME EMPLOYEE WORKFORCE TOTALS AND PERCENTAGE CHANGES
IN MINORITIES, FEMALES, AND WHITE MALES
 For the period November 1983 through June 1984



Source of Information: DEEO Records. See notes 4 and 5.

APPENDIX C
 STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
 WORKFORCE UNDER-UTILIZATION REPORT FOR PERMANENT FULL-TIME EXECUTIVE BRANCH EMPLOYEES
 Effective April 1 -- June 30, 1984

Job Group Title	Total Employees in Job Group	TOTAL NUMBER UNDER-UTILIZED											
		Race/Sex/Ethnic Breakout											
		White		Black		Hispanic		Asian/P. Isl.		Am. Ind./AK Nac.		TOTAL	
		M	F	M	F	M	F	M	F	M	F	Female	Minority
Officials/Administrators	71	-	14	-	-	1	1	-	-	3	3	18	8
Managers	293	-	12	-	3	-	1	3	1	10	8	25	26
Managers; Engineers/Math/Science	221	-	30	3	1	1	1	3	-	4	5	37	18
Management Specialists	229	-	9	3	4	-	1	-	2	2	5	21	17
Accountants/Auditor/Finance Specs.	243	-	16	1	2	4	2	3	2	3	3	25	20
Personnel/Training/L. Rels. Specs.	45	3	-	1	-	-	-	1	-	2	1	1	5
Employment & U.I. Specialists	184	9	-	1	-	2	-	1	-	5	-	-	9
Insp./Compliance/Hearing Officers	208	-	-	2	-	-	-	3	1	5	4	5	15
Engineers/Surveyors/Architects	497	-	25	6	1	1	1	12	1	1	5	33	28
Computer/Math/Ops. Research	155	-	11	-	1	2	2	1	-	6	4	18	16
Natural Scientists	651	-	1	8	1	7	-	5	-	14	8	10	43
Natural Resource Specialists	108	-	-	-	-	-	-	-	-	-	-	-	-
Social Scientists	190	-	-	2	3	1	1	2	-	7	3	7	19
Social/Rec./Religious Workers	239	16	-	-	-	-	-	-	-	10	3	3	13
Lawyers/Judges	-	-	-	-	-	-	-	-	-	-	-	-	-
Teachers/Couns./Libs./Archivists	128	-	10	-	2	-	1	-	-	3	7	20	13
Health Profess. other than Nursing	43	7	-	1	1	-	-	-	-	1	1	2	4
Registered Nurses	177	13	-	-	-	-	1	-	-	2	5	6	8
Writers/Artsists/Pub. Rel. Specs.	58	-	-	1	1	-	1	-	1	3	2	5	9
Health Technicians	88	1	-	2	-	-	-	-	1	2	2	3	7
Engineer/Science Technicians	145	-	2	1	1	2	-	-	-	6	2	5	12
Technicians, Other	126	3	-	1	1	1	1	1	-	6	2	4	13
Para-Professionals	334	17	-	-	-	2	-	1	-	11	27	27	41
Supervisors; Office/Clerical	77	20	-	2	1	-	-	-	1	3	2	4	9
Gen. Office/Admin. Support Occs.	944	72	-	16	9	7	4	4	-	32	49	62	121
Secretaries/Stenos/Typists	1,096	100	-	8	14	7	8	2	-	24	34	56	97
Financial Record Proc. Occs.	445	20	-	4	4	3	3	-	-	12	16	23	42
Protective Svc./Expt. Pol. & Det.	691	-	81	-	-	6	1	2	6	34	18	106	67
Supervisor, Protective Service	126	-	17	1	-	1	-	1	-	-	3	20	6
Police and Detectives	270	-	26	3	2	2	2	1	1	16	5	36	32
Service/Maintenance Occupations	265	6	-	-	-	3	3	3	1	18	19	23	47
Skilled Craft Occupations	31	1	-	-	-	1	-	-	-	2	1	1	4
Transportation/Material Moving	54	-	-	1	-	1	-	-	-	-	2	2	4
Total Executive Branch	8,432	288	254	68	52	55	35	49	18	247	349	408	771

Source of Information: DEEO Records -- See Notes 1, 2, and 4.

APPENDIX D

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
SCHEDULE OF TOTAL EXECUTIVE BRANCH EMPLOYEE WORKFORCE COMPOSITION BY RACE AND SEX
 December 31, 1980 -- June 30, 1984

Percentage Composition of Executive Branch Workforce

<u>Category by Race and/or Sex</u>	<u>As of Dec. 31, 1980</u>	<u>As of Dec. 31, 1981</u>	<u>As of Dec. 31, 1982</u>	<u>As of Dec. 31, 1983</u>	<u>As of June 30, 1984</u>
White Males	52.3%	52.1%	51.6%	51.0%	50.5%
White Females	38.3%	38.4%	38.9%	39.6%	39.0%
Ak. Native/American Indian Male	2.4%	2.3%	2.1%	2.1%	2.2%
Ak. Native/American Indian Female	2.5%	2.4%	2.5%	2.3%	2.7%
Black Male	.9%	.9%	1.0%	1.1%	1.2%
Black Female	1.2%	1.3%	1.2%	1.2%	1.2%
Asian/Pacific Islands Male	.6%	.7%	.7%	.7%	.8%
Asian/Pacific Islands Female	.9%	1.0%	1.1%	1.1%	1.3%
Hispanic Male	.4%	.4%	.4%	.4%	.5%
Hispanic Female	.5%	.5%	.5%	.5%	.6%
Total Male	56.6%	56.4%	55.8%	55.3%	55.2%
Total Female	43.4%	43.6%	44.2%	44.7%	44.8%
Total Minority	9.4%	9.5%	9.5%	9.4%	10.5%

Source of Information: DEEO Records

APPENDIX E
 STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
SUMMARY OF DISCRIMINATION COMPLAINTS HANDLED BY DEEO BY DEPARTMENT
 for the fiscal Year Ending June 30, 1984

DISPOSITION OF DISCRIMINATION COMPLAINT CASES CLOSED DURING FY 84

STATUS OF OPEN DISCRIMINATION COMPLAINTS AT 6/30/84

DEPARTMENT	Lack of Substantial Evidence	Conciliation Agreement (1)	Complaint Withdrawn	Predetermination Settlement (2)	Administrative Closure (3)	Total	Pre-determination (4)	Investigation (5)	Determination (6)	Conciliation (7)	Public Hearing (8)	Total
DOA	1	0	2	0	0	3	2	3	0	0	0	5
DOC	2	0	0	2	1	5	2	2	0	0	0	4
DCED	0	0	1	1	1	3	0	0	0	0	0	0
DCRA	1	0	0	0	0	1	0	0	0	0	0	0
DOE	0	0	0	1	0	1	1	0	1	0	1	3
DEC	0	0	0	1	0	1	0	0	0	0	0	0
DFG	1	0	0	0	1	2	0	0	0	0	0	0
DHSS	0	0	2	4	0	6	1	2	5	1	1	10
DOL	0	0	0	0	1	1	0	1	1	0	0	2
LAW	0	0	0	0	0	0	0	0	0	0	0	0
DOMVA	0	0	1	0	0	1	0	0	2	0	0	2
DNR	0	0	1	0	1	2	1	0	1	0	0	2
GOVERNOR	0	0	0	0	0	0	3	0	0	0	0	3
DPS	0	0	0	0	0	0	3	2	1	0	1	7
DOR	0	0	0	0	0	0	0	1	0	0	0	1
DOTPF	3	0	0	2	1	6	0	6	0	0	0	6
Total	9	0	7	11	6	32	13	17	11	1	3	45

1. Conciliation Agreement: Complaint resolution achieved only after a full investigation and finding had been made by the anti-discrimination agency representing the complainant.
2. Predetermination Settlement: Complaint resolution achieved prior to the anti-discrimination agency having conducted an investigation.
3. Administrative Closure: Complaint closed for various reasons including failure of the complainant to cooperate, failure to file the complaint in a timely manner, and lack of jurisdictional authority by DEEO to handle the complaint.
4. Predetermination: Attempt made to reach a settlement prior to an investigation.
5. Investigation: Anti-discrimination agency researches the facts surrounding the complaint in order to arrive at a determination.
6. Determination: The anti-discrimination agency investigating the complaint concludes that the complaint either has "just cause" or "lacks substantial evidence".
7. Conciliation: As a result of a determination in favor of the complainant, a formal settlement is attempted.
8. Public Hearing: After the certified failure at conciliation, a formal public hearing is held by the State Human Rights Commission in order to resolve the complaint.

Source of Information: DEEO Records.

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STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
NOTES TO THE APPENDIXES

Note 1 - Definition of under-utilization and factors to be considered when making an analysis of utilization

Chapter 41, part 60-2.11 of the Code of Federal Regulations (which regulates all non-construction Government contractors having 50 or more employees) defines under-utilization "as having fewer minorities or women in a particular job group than would reasonably be expected by their availability." The Code further states that in making a separate utilization analysis of minorities and females, the following factors should be considered:

1. The size of the minority and female unemployment force in labor area surrounding the facility;
2. The minority population of the labor area surrounding the facility;
3. The percentage of the minority and female workforce as compared with the total workforce in the immediate labor area;
4. The general availability of minorities and women having requisite skills in the immediate labor area;
5. The availability of minorities and women having requisite skills in an area in which the employer can reasonably recruit;
6. The availability of promotable and transferable minorities and women within the employer's organization.
7. The availability of women seeking employment in the labor or recruitment area of the employer.
8. The existence of training institutions capable of training persons in the requisite skills; and
9. The degree of training which the employer is reasonably able to undertake as a means of making all job classes available to minorities and women.

Note 2 - Methodology used by DEEO to compute workforce under-utilization report (Appendix C)

The Appendix C quarterly under-utilization report was prepared by DEEO to be used in determining under-utilized Executive Branch departmental job groups (see Recommendation No. 4 discussion). The number of employees under-utilized (see Note 1) per job group was determined by the following formula: $(P \times T) - E = U$ where,

P = Percentage of job group workforce availability by race/sex/ethnic category

T = Total Executive Branch job group employment

E = Executive Branch employment in job group race/sex/ethnic category

U = Number of employees under-utilized in job group by race/sex/ethnic category.

The availability figures for race/sex/ethnic categories per job group were calculated by DEEO. The Office of Federal Contract Compliance Programs approved the factor analysis approach used by DEEO in computing these figures as being a reasonable methodology for determining Executive Branch employment availability. To determine the availability of the members of race/sex/ethnic categories, DEEO applied judgemental weighting to the following factors:

1. State labor force statistics from the 1980 census conducted by the U.S. Department of Commerce (45-60% weighting applied to availability calculation).
2. State of Alaska population figures from the 1980 census conducted by the U.S. Department of Commerce (10-30% weighting applied to availability calculation).
3. Executive branch applicant flow data (10-45% weighting applied to availability calculation).
4. University of Alaska availability data (10-25% weighting applied to availability calculation where data usable).

Note 3 - Fiscal Year 1985 DEEO budget

Chapter 122 of the 1984 Session Laws of Alaska designated \$150,000 of the \$670,500 Fiscal Year 1985 budget to be granted to the Tlingit Haida Central Council for a minority recruitment project.

Note 4 - Composition of permanent full-time employee workforce

The permanent full-time employee workforce consists of those permanent employees and probationary employees in permanent positions covered under the General Government, Supervisory, Public Safety Employees Association, Excluded from Bargaining, and Confidential Bargaining Units.

Note 5 - Availability of permanent full-time employee workforce figures

Permanent full-time employee workforce employment figures provided by DEEO were available for the period November 1983 through June 1984. For this reason, the graphs shown on Appendix B are limited to this time period.

(Intentionally left blank)

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

November 19, 1984

Mr. Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

R E C E I V E D
NOV 28 1984
**LEGISLATIVE
AUDIT**

Dear Mr. Wilkerson:

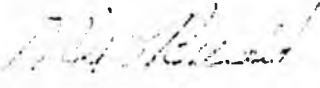
Re: A Follow-up Report on the Department of Administration,
Division of Equal Employment Opportunity, August 15, 1984

We appreciate the opportunity to respond to the findings and recommendations of your follow-up report to the special report on the Department of Administration, Division of Equal Employment Opportunity issued April 29, 1983.

In general we concur with your report and findings and have no further comments at this time.

If you have any questions regarding this response, please contact me.

Yours sincerely,


Lisa Rudd
Commissioner

LSR/MGM/jbh
1/1001/1106-01
cc: Fran Rose
Acting Deputy Commissioner
Human Resources
Department of Administration

Merwin H. Peters
Director
Division of Equal Employment
Opportunity
Department of Administration

To: Representative Katie Hurley
Chairperson/House State Affairs Committee

From: Barry F. Best ^{BB}
2800 A Peters Lane, 586-2047

Date: March 26, 1985

Re: HB 147

I thought it would be useful for me to put my comments regarding HB 147 in narrative so that my position on certain sections of the bill would be clear.

1. Sec. 44.21.465 (a) Powers and Duties of the Division
Technically the EEO Director is responsible or should be responsible for administering both the equal employment opportunity and the affirmative action programs. Since the programs are entirely different it would be prudent to include the affirmative action program as a administrative responsibility.

Sec. 44.21.465 (4).

This section should include assisting state officials with their "equal employment opportunity and affirmative action responsibilities." Again, each program has a different focus.

Sec. 44.21.465 (6).

Prior to contract negotiations the EEO Director should provide the Director Labor Relations with appropriate

recommendations regarding equal employment opportunity and affirmative action issues. Specifically this section should be rewritten to reflect a proactive posture rather than a reactive posture.

Sec. 44.21.465 (7)

I simply do not see how this provision will work as written. Perhaps what is lacking is suitable language describing what types of violations would be reported. Noncompliance could be anything from failure to document the applicant selection process to blatant discrimination. Administratively I see a conflict existing between the EEO Director's reporting lines. The Division of EEO is located in the Department of Administration and therefore under the Commissioner of Administration. Therefore, it would be administratively sound to have the Director of EEO inform the Commissioner of Administration of items of non-compliance so that appropriate remedial action could be taken. Unless there is some compelling reason to keep the Governor informed on a constant basis it would be administratively beneficial to inform the Governor thru a reporting process. Remember, the Division of EEO is not in the Governor's office and the Commissioner would prove in the long run to be more accessible.

Sec. 44.21.465 (10)

Again "affirmative action" should be added along with equal employment opportunity.

Sec. 44.21.475 - Compliance with Affirmative Action Plan

This section needs to incorporate a time for development of the Affirmative Action Plan. It should be annually to coincide with the state plan.

Sec. 44.21.480 Employment Discrimination Complaints

As presented during the March 26th testimony, there are several schools of thought. One school would disband the complaints processing unit and the other would restrict the ability of the unit to a limited informal investigatory role. While another school seeks to provide the Division of EEO with the authority to resolve allegations of illegal discrimination and provide them with the ability to make binding determinations. As I stated during my testimony each of these has some merit. But the broader issue has to be - can a EEO program function properly, without a strong, creditable complaints processing unit. The answer is no! Quite simply if a Chief Executive mandates a policy of non-discrimination and then does not provide a means for a employee to seek internal redress for alleged violations of civil rights then the policy simply has no substance and meaning. So where do we go from here. The consideration must therefore be directed towards either providing the Division of EEO with the statutory authority to investigate

and resolve complaints in a binding fashion or to provide them with the ability to seek informal resolution without the authority to bind complainant and respondent to findings of fact and remedy.

It makes absolutely no sense to select the latter. Informal non-binding ~~procedures~~ amount to a waste of human resources. If a department realizes that they are under no obligation to abide by the investigators findings then there is no incentive to cooperate. So what you are faced with is a gun without ammunition. Therefore the only practical way to resolve issues of discrimination is thru the former approach.

I also stated that as a matter of program effectiveness and priority it would be my preference to redirect the activities of the complaints processing unit towards enhancing the States' Affirmative Action program if informal non binding resolution of complaints would be the limit of their statutory authority. I would rather see increased utilization of minorities and females in the employ of the Executive Branch than to waste precious time on informal complaints processing. The utilization statistics speak to enhancing the efforts of the States' Affirmative Action Program.

I should hope that my remarks will assist the committee in preparing a sound piece of legislation which will provide EEO with the necessary authority to get the job done.

CC: Senator Vic Fischer
Merwin Peters
Earl Ford
Ron Williams

BILL SHEFFIELD, GOVERNOR

AGENCY HEADQUARTERS
431 W. 7th AVENUE, SUITE 105
ANCHORAGE, ALASKA 99501
(907) 276-7474

HUMAN RIGHTS COMMISSION

NORTHERN REGION
675 SEVENTH AVENUE, STA H
FAIRBANKS, ALASKA 99701
(907) 452-1561

March 29, 1985

MAR 29 1985

SOUTHCENTRAL REGION
431 W. 7th AVENUE, SUITE 101
ANCHORAGE, ALASKA 99501
(907) 274-4692

The Honorable Katie Hurley
Chair, State Affairs Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

SOUTHEASTERN REGION
POUCH AH
314 GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811
(907) 465-3560

Dear Representative Hurley:

On March 1, 1985 at their Annual Meeting, the Human Rights Commissioners considered HB 147 "An Act Creating a Division of Equal of Equal Employment Opportunity in the Department of Administration". At that time, the Commissioners directed me to furnish a resolution embodying their views on this bill to the Legislature. That resolution (attached) expresses support for this legislation creating the Division of Equal Employment Opportunity by statute. However, the Commissioners voiced two serious reservations in the areas of the power to adopt administrative regulations and the employment discrimination complaint section. The Commission is concerned that the section regarding employment discrimination complaints may create confusion between the role of the Division of EEO and the statutory mandate of the Human Rights Commission. Moreover, the capability to adopt administrative regulations is unclear with regard to the statutory power to conduct investigations under the employment discrimination section.

Shortly after the Commission meeting I shared these concerns with Commissioner of Administration, Lisa Rudd. Commissioner Rudd agreed at that time to eliminate Section 42.21.475 from the bill. The elimination of the employment discrimination complaints resolved our concerns with the administrative regulations section and basically relieved the Commission's concerns about full support of the bill.

On March 22, I received a communication from your office with the latest work draft of a committee substitute for HB 147. After consultation with our Chairperson Virgie King, the Commission offers the following amendments to the committee substitute: "Section 44.21.465 (9) accept, investigate and resolve internal complaints of discrimination from employees, previous employees, or applicants for employment; Section 41.21.465 (10) serve as primary liaison between the Executive Branch and state and federal agencies, minority and women's organizations and community groups concerned with equal opportunity and work to enhance equal opportunity in state government; and"

Hurley
March 29, 1985
Page 2

These latest recommendations attempt to clarify the Committees recommended additions to the powers and duties of the Division of Equal Employment Opportunity. Some of the Commission's earlier concerns about the confusion between the role of the Division of Equal Employment Opportunity and the statutory powers and duties of the Human Rights Commission have been alleviated by the addition of Section 2 "This act may not be applied to limit the right of a person to file a complaint with the State Commission for Human Rights under AS 18.80.100". We strongly support the inclusion of this section in HB 147.

The Commission has historically supported legislation to give statutory authority to the Division of Equal Employment Opportunity Commission. The Commission's reservations about HB 147 are focused on eliminating any confusion in the law about the investigations of complaints of State employees in the Division of EEO, which is an internal grievance process, and the right of an individual to file a complaint with the Human Rights Commission, which is a statutory guarantee leading to an enforcement action in cases where a violation of state employment discrimination law has been found. The Commission believes that state employees should have no less protection under state human rights law than employees in the private sector.

On behalf of the Commissioners, I want to thank your office for the courtesies you have extended to the Commission during this session. Please do not hesitate to contact me if our office can be of further service to your Committee or if you have any questions about our position on this bill.

Sincerely,

Janet L. Bradley by JMF

Janet L. Bradley
Executive Director

JLB/b

attachment