



SILENCE OF THE LAWS

**How America's Leading
Defense Companies Employ
Women and Minority Executives**

(Based on Annual Reports)



Encarnacion Pyle

THE CENTER FOR PUBLIC INTEGRITY

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Employ Women and Minority Executives**

By Encarnacion Pyle

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The Center for Public Integrity is an independent, nonprofit organization that examines public service and ethics-related issues. The Center's studies combine the substantive study of government with in-depth journalism. The Center is funded by foundations, corporations, labor unions, individuals, and revenue from news organizations.

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ISBN 0-962-90126-1

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It is interesting to **find** so often the little ways in which women are discriminated against, but with passage of the years one does find a great improvement. One must not let this improvement, however, lull one to complete oblivion.

Eleanor Roosevelt

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SUMMARY

The United States deployed more than half a million military troops in the Persian Gulf war. Unlike previous wars, more than 33,000 women served in the Persian Gulf.¹ Women worked side by side with men, filling sandbags, flying support aircraft, driving supply trucks, and crewing missile units. They sweated and cursed under the desert sun, fighting for the liberation of Kuwait. Two women were taken prisoner; 15 died.²

With the exception of combat, women have become a hallmark of the U.S. military. One in 10 soldiers is a woman.³ In many ways, the U.S. armed forces are on the leading edge of social change.

However, while servicewomen put their lives on the line in Saudi Arabia and Kuwait, the defense companies that provided the weapons of war to U.S. military troops continued to keep women out of top management jobs.

Despite their growing responsibilities and advancement in the armed forces, women make up fewer than six percent of the upper levels of management in the nation's top defense companies. According to the annual reports of these companies, fewer than three percent women are at the vice president level of management or higher; outside of day-to-day management just over three percent women serve on boards of directors. These figures represent an increase of approximately one percent over 1980. Thirteen of 20 companies had no women or only one woman on the board of directors in 1990. Women can die or be taken prisoner by the enemy in a war, but they apparently cannot be trusted with top managerial responsibilities at America's leading defense contractors.

U.S. law mandates equal employment opportunities for all people. Corporations boast of equal employment policies, and yet most women and minorities (African Americans, Hispanic Americans, Native Americans, etc.) encounter the "glass ceiling" -- a barrier that keeps them from advancing past a certain point on the career ladder.

Whether intentional or not, the low number of women in top positions sends an unmistakable message to women that they are unlikely to advance to the higher echelons of management in major defense companies.

This Center REPORT attempts to document the number of minorities and women in the upper-management ranks of the 20 largest defense companies, based on dollar allocation for government contracts in 1989, over the past ten years.⁴ We found that with fewer than six percent women and two percent minorities in 1990, equal employment opportunities do not seem to be a serious priority at these companies. Moreover, it appears that there is very little government accountability regarding this issue. The Labor Department does not aggressively push for the advancement of women and minorities in the major defense corporations. And

Congressional oversight has been neither steadfast nor tenacious.

America will never truly be a land of freedom as long as a transparent and silent barrier keeps people from realizing their dreams. The glass ceiling in the defense industry illustrates how little our social consciousness has changed.

INTRODUCTION

The Origins of the Federal Contract Compliance Program

On June 25, 1941, President Franklin D. Roosevelt issued an executive order to prohibit discrimination in employment by federal defense contractors. Executive Order 8802 required that defense contracts include a pledge against discrimination on the basis of race, creed, color, or national origin. It also created a five-member Committee on Fair Employment Practices to "receive and investigate complaints of discrimination" and to "take appropriate steps to redress grievances which it finds to be valid."⁵

On May 27, 1943, Roosevelt extended coverage to all federal contractors and subcontractors — not only defense contractors — with Executive Order 9346. "Although the Order gave the Committee the authority to hold hearings, issue regulations, and make recommendations, it lacked enforcement powers -- a situation which was not changed until 1961," according to the U.S. House Committee on Education and Labor.⁶

From 1946 through 1951, according to the Citizens' Commission on Civil Rights, a private, nonprofit, bipartisan organization which monitors civil rights enforcement, Congress refused to provide any funding to implement Executive Order 9346, causing it to fade as a legislative priority.

On August 13, 1953, President Dwight D. Eisenhower issued Executive Order 10479, which established a 15 member Government Contract Committee chaired by Vice President Richard M. Nixon. "It is the policy of the United States Government to promote equal employment opportunity for all qualified persons employed or seeking employment on government contracts," Eisenhower said, "because such persons are entitled to fair and equitable treatment in all aspects of employment on work paid for by public funds."⁷

On March 6, 1961, President John F. Kennedy issued Executive Order 10925, which for the first time required federal contractors to develop equal employment plans; it also gave the President's Committee on Equal Employment Opportunity the power not only to conduct hearings, but to also recommend enforcement action.

The Johnson Years: An Emerging Commitment to Equal Employment Opportunity

As the chairman of the President's Committee on Equal Employment Opportunity, Vice President Lyndon B. Johnson said on May 19, 1962 that the problem of equal employment opportunity was not confined to the availability of jobs. Equal employment, he said, included equal access to job training and the education that qualifies people for jobs.⁸

After he became president in 1963, following Kennedy's assassination, Johnson continued his strong commitment to civil rights, including equal employment opportunity for all Americans.

This, of course, did not occur in a vacuum, but in the midst of turbulent, angry, violent times, as the Reverend Martin Luther King, Jr., and many others urged Americans to stand united against discrimination. It was against this momentous historical backdrop — the huge marches on Washington and the dramatic civil rights demonstrations in Alabama, Mississippi, and elsewhere, for example -- that Johnson exerted courageous leadership to legally safeguard the rights of all Americans. Specifically, he initiated the Civil Rights Act of 1965 and Executive Order 11246 (see Appendix VII.)

On September 24, 1965, Executive Order 11246 (Equal Employment Opportunity) became law. The order, as later amended, states that it is the policy of the government of the United States to provide equal opportunity in federal employment to all qualified individuals regardless of race, color, sex, religion, or national origin. Under the executive order, it is also the federal government's responsibility to promote the realization of equal employment opportunity through positive, ongoing programs within all government agencies. Moreover contractors are required to take affirmative action to ensure against employment discrimination.

The Secretary of Labor was given the responsibility of assuring compliance with the Executive Order as well as the authority to investigate the employment practices of any government contractor or subcontractor. Should a contractor be found to be in violation of any part of the order, the Secretary of Labor could issue a recommendation for action or the imposition of penalties and sanctions.

Equal Employment Opportunity and Affirmative Action in Today's Workplace

Employers who are government contractors are required to sign contracts with the federal government that guarantee equal opportunity in all of their employment practices. Within these contracts employers agree to take affirmative action to hire and promote people who have traditionally been discriminated against in the workplace. Minorities, women, members of religious and ethnic groups, disabled persons, and veterans are protected by the EEO and affirmative-action requirements.

All aspects of employment — including hiring, training, promotions, pay, seniority, and benefits — are incorporated in the EEO requirements. The Office of Federal Contract Compliance Programs (OFCCP), a division of the Department of Labor, enforces these requirements. Individuals who believe that federal contractors or subcontractors have discriminated against them may file complaints. Complaints involving discrimination against one person are filed with the Equal Employment Opportunity Commission (EEOC), an independent agency; cases involving discrimination against groups of people are generally filed with the OFCCP.

OFCCP's employees investigate and review the employment practices of federal contractors and subcontractors to determine if they are fulfilling their EEO and affirmative-action obligations. The reviews are not only done after a complaint is filed but on a regular basis. During a compliance review, investigators examine a company's written affirmative-action program, as well as personnel and other employment records. Employees and corporate officials are also interviewed. When problems are uncovered, companies enter into conciliation agreements with the OFCCP by promising to remedy the source of the problems as quickly as possible while protecting employee rights.

The Reagan Years

Within a few weeks of his inauguration as president, Ronald Reagan abolished the White House Office on Women, which had been established during the 1960s and expanded during the Nixon administration.⁹ Many women across the nation feared that this single act symbolized the lack of political commitment in Washington to women's issues.

Indeed, Reagan's policies and public messages during his two terms as president caused considerable public concern over the stalled progress of the movement for equal rights for women.

At one news conference, Reagan said that part of the unemployment problem "is the great increase in the people going into the job market, and ladies, I'm not picking on anyone, but [unemployment goes up] because of the increase in women who are working today and two-worker families and so forth."¹⁰

Reagan also expressed wavering and contrary sentiments toward the issue of civil rights. In the fall of 1965, he had said, "I favor the Civil Rights Act of 1964, and it must be enforced at gunpoint, if necessary." Eight months later, he said, "I would have voted against the Civil Rights Act of 1964."¹¹

Reagan was never a strong supporter of Executive Order 11246; he repeatedly said that affirmative action was nothing more than a government quota system, a kind of reverse discrimination. He proposed to modify the order by relieving federal contractors, which were responsible for more than seven million jobs, of affirmative-action pressures to hire women and minorities. He also tried to discontinue back-pay awards as penalties for the failure to make satisfactory progress against discriminatory practices. The U.S. Civil Rights Commission, however, protested and successfully blocked Reagan's proposals.¹²

The U.S. Commission on Civil Rights reported that under Reagan's 1983 budget proposals, the federal government would have been spending nearly one-fourth less on civil rights enforcement than three years prior.¹³

The EEOC's general counsel told a number of federal workers to stop pursuing lawsuits by

women who complained that they were paid less than men for equal work. There were further allegations that the enforcement of job discrimination suits by the OFCCP and the EEOC had become **lax**.¹⁴

"In March 1985, the U.S. Justice Department asked more than 50 states, cities and counties throughout the nation to modify or eliminate their affirmative action [in employment] hiring plans," according to an article in the Journal of Social Issues. "Undaunted, the Reagan administration in August 1985 announced its intention to give up use of hiring goals and timetables in its implementation of affirmative action in **employment**."¹⁵

Although Reagan had said in 1980 at a press conference, "I am heart and soul in favor of the things that have been done in the name of civil rights and desegregation and so forth," he continued to oppose most equal employment opportunity and civil rights proposals advanced by Congress during his **presidency**.¹⁶ In this way, Reagan brought the progress in equal employment opportunity and affirmative action to a screeching halt by creating a political environment hostile to further improvement.

Civil Rights Enforcement -- On a Decline?

In 1986, amid concerns that the OFCCP was not adequately enforcing the **nondiscrimination** provisions of Executive Order 11246, the House Committee on Education and Labor conducted an investigation of the **OFCCP's** civil rights enforcement activities. The committee investigated a wide range of issues, including the OFCCP's reported emphasis on generating large numbers of compliance reviews of federal contractors, forsaking quality and thoroughness; the crucial need to provide comprehensive training to Equal Opportunity Specialists, OFCCP's compliance officers; OFCCP's failure to seek monetary relief for individuals suffering from past discrimination, but who may not have been classified as victims; and the substantial amount of time spent pushing paper on desk audits rather than on-site inspections of contractor facilities. The committee said that it conducted its investigation with the goal of restoring the OFCCP as a "vigorous civil rights enforcement **agency**."¹⁷

Among its major findings, the committee concluded that based on Labor Department statistics, enforcement at the OFCCP had for all practical purposes come to a halt since 1980. Although the total number of compliance reviews and complaint investigations had almost doubled, most other indicators of enforcement had shown a significant decline. The number of individuals receiving back pay as a redress for past discrimination had decreased by 88 percent, for instance, and the total amount of back pay for people winning discrimination cases had declined by nearly 80 **percent**.¹⁸

Sanctions against contractors who fail to comply with OFCCP regulations include suspension or termination of federal contracts. The Solicitor of Labor authorizes administrative enforcement actions. The committee found that the number of cases referred to the Solicitor of Labor had plummeted from 269 in 1980 to 22 in 1986. Furthermore, severe punishment, such as **debarment** from receiving additional federal contracts, had become virtually nonexistent. Failure to use

debarment conveys to the contractor community that violations of Executive Order 11246 will be tolerated. After all, what is a slap on the wrist for violating **nondiscriminatory** rules if future multimillion-dollar contracts are almost assuredly forthcoming?

The committee's overall assessment of the OFCCP: It was an agency "in substantial disarray," in which "effective enforcement had come to a virtual standstill." Further, the committee concluded training of OFCCP's staff became nearly nonexistent, field-office employees were suffering from low morale and inadequate staffing, and employees had to tolerate working in hostile environments.¹⁹

Although it is largely responsible for failing to enforce strict equal employment policies, the OFCCP is not solely to blame. Several OFCCP field staffs indicated to the Education and Labor Committee that many federal contractors have been less than cooperative with the agency's enforcement efforts since the beginning of the Reagan Administration.

The consensus of OFCCP employees was that contractors do not take the agency seriously and that it has lost its foothold of strong antidiscrimination enforcement. Many contractors routinely failed to update affirmative action plans, as required by the OFCCP; others take a defensive stand by attempting to intimidate compliance investigators.

Following the release of the House Education and Labor Committee's investigation, the OFCCP has made efforts to reorganize its equal employment opportunity and affirmative-action enforcement efforts, but has it been restored as a "vigorous civil rights enforcement agency?" Janet L. Ellis, the director of public affairs, said in an interview with the Center: "We have increased contractor awareness of what their responsibilities are, and have placed the glass-ceiling problem at the head of our focus." The OFCCP has been able to do a lot more with less federal funding, Ellis added.²⁰

Although improvements in training, guidance, and automated equipment have allowed the OFCCP to do more with its resources, one could argue that with fewer than six percent women and two percent minorities in the upper ranks of management in defense companies (some of the biggest recipients of federal contracts), little has changed. Furthermore, one woman trying to work with the agency to settle a sex discrimination dispute said, "It is frustrating trying to work within the system when my case has taken more than two years of bureaucratic red tape, and it is still not over."²¹ Similar sentiments might account for the relatively small number of cases that are filed with the EEOC and OFCCP. (See Appendix V for a listing of complaints filed with the EEOC against top defense contractors from 1970 to 1990.)

With women and minorities still encountering prejudice and discrimination in the workplace, the words of a former OFCCP official in 1984 still ring true today: "OFCCP does not, in fact, enforce the Executive Order 11246 to the fullest extent possible, but rather has assumed the role of advocate for government contractors in circumventing the legal mandate of E.O. 11246."²²

Many defense contractors neglect to submit equal employment opportunity plans, required

by the OFCCP. Yet the OFCCP seldom solicits missing data or penalizes a corporation for disregarding its duty to provide such information. In addition, few discrimination complaints ever make it to a hearing, and those that do are generally settled before a hearing is completed, suggesting perhaps that many individuals believe their chances for monetary recovery and redress are greater outside of the OFCCP's conciliation process. It is often the case that once a company signs a conciliation agreement promising to remedy a problem, the OFCCP never checks on its progress in living up to its **terms**.²³

President Johnson issued Executive Order 11246 with the good intention of ridding America's job market of unfair and discriminatory practices. Yet the federal government has done little since then to ensure that its contractors adhere to the letter and spirit of the order. As Honeywell executive Mannie Jackson said, the glass ceiling that stops many women and minorities short of reaching their full potential is really more like a "cement **ceiling**."²⁴

The Impenetrable Glass Ceiling

"While the issue for minorities and women used to be 'getting in the door' of big corporations, the issue now is 'once in the door, will they move up?'" the Los Angeles Times quoted Rep. Matthew G. Martinez (**D-Calif.**) as having said during a 1987 congressional hearing into job discrimination in the nation's aerospace **industry**.²⁵

Martinez's assessment of the job outlook for women and minorities still holds. Many studies have documented the bleak progress of women and minorities in moving into the ranks of management. The "glass ceiling" limits the potential for female and minority employees across the nation to advance.

Minorities are **underrepresented** in the defense labor force, according to a new book, *Dismantling the Cold War Economy*. Accounting for nearly 18 percent of the working population, they constituted 15 percent of defense-related scientist and engineer positions in 1982. While Asians made up 9.4 percent of defense-supported science and engineering jobs, underrepresented minorities included Latinos, **African-Americans**, and Native **Americans**.²⁶

As for women, a recent report by the Labor Department found that women made up about six percent of the top executives in the largest U.S. **corporations**.²⁷ There is some indication that women do better in government than in private industry, according to a survey by the Center for Women in Government. "If you look at cabinet-level state officials, appointed by governors, 19.8 percent are women," said Sharon Harlan, the center's director of **research**.²⁸

Minority women did even worse proportionally, the study found, with black women making up only 5.1 percent of top management. The proportion of other minority women in management-level jobs is also low, the survey **found**.²⁹

Following the resurgence of the equal rights movement in the 1970s, women across the

country have rushed to fill positions that were previously closed to them. But while women have successfully entered many jobs once off-limits to them, many are finding it difficult to maintain upwardly mobile careers.

Many women can be found working for the defense industry, according to a new book on the cold war.³⁰ "Roughly 232,000 women worked for military contractors in 1985."³¹ Due to the extensive paperwork required by Pentagon officials, a disproportionately high number of women fill clerical positions in defense industries. "In the Los Angeles area, women constitute between 80 and 90 percent of all defense industry clericals, but only four percent of professionals and seven percent of **managers**."³²

Data from a 1986 survey of scientists and engineers revealed that women accounted for only nine percent of scientists and engineers supported by Department of Defense or NASA funds, although they filled 15 percent of scientists and engineer positions generally. "Occupation by occupation, women, minorities, and foreign-born workers, **underrepresented** to begin with, were also more apt in the 1980s to eventually leave defense work than were their white, male, native-born **counterparts**."³³

Not only do fewer women work for the defense industries, but women's salaries in defense corporations lag behind men's, even more so than in the economy as a whole. "In the Los Angeles aerospace industry, full-time working women make sixty-five cents for every dollar earned by men, and in the communications equipment industry, they make only **51** percent of what men do. This compares unfavorably with 64 percent for the economy as a **whole**."³⁴

"There can be little doubt that a woman or minority, no matter how well-schooled, what their wage or how thick their portfolio, enters many business organizations with limited or no hope of reaching the top," former Labor Secretary Elizabeth Dole said.³⁵

Despite advances, women still face major hurdles. Women filling entry-level positions are often fielded into lower-paying jobs with limited advancement possibilities. On average, women executives earn about 34 percent less than their male counterparts, according to the Labor **Department**.³⁶ By failing to promote women and minorities into executive positions, many corporate management teams appear to be insulating themselves from people of different backgrounds and cultures: people who might be able to bring with them new insights and approaches.

As Helen Keller once said, "One can not consent to creep when one feels the impulse to soar." The Labor Department has said it hopes that "minorities and women are not forced to creep if they have the ability and the desire to **soar**."³⁷ But, unless greater attention is given to the "glass ceiling," including the recruitment, promotion, and retention of women and minorities, little will change. Women and minorities will continue to make limited headway in advancing their legal right to equal employment opportunities.

"The bottom line," OFCCP Director Cari M. Dominguez said in an interview with HR,

Magazine, "is that America simply cannot afford to waste our human talent on something as immaterial as race or as irrelevant as **gender**."³⁸

Definitions of the Glass Ceiling

"It's a barrier just below the general management level above which most women are not able to climb even though they have all the skills, have worked hard, and paid their dues. It's glass, or transparent barriers, because women have climbed high enough to see what's available at the top, yet when they try to get there they bump their heads against an unexpected obstacle."
Provided by the U.S. Department of Labor.

"The new feminist buzz phrase from this gathering was **'the glass ceiling,'** defined variously by speakers as **'seeing the top and not being able to get there'** and an **'invisible barrier that you bump your head against when you're on your way to the top.'** A woman in the audience suggested another definition: **'It's what the men in the board room are standing on.'** **Eileen Shanahan, executive editor of Washington-based Governing magazine, as quoted by Beverly Beyette, "Media Women's Glum Message," Los Angeles Times, March 3, 1988, View, Part 5, p. 1.**

"In the past twenty years, women have moved wholesale into the middle management of American business, but they haven't got any further." **Provided by the U.S. Department of Labor.**

A Few Viewpoints on the Causes of the Glass Ceiling

"Today there is not a corporate leader who is not acutely aware of women. They are still not aware of women as a critical business resource or as a competitive advantage; but that is right around the corner." **Felice Schwartz, the president of Catalyst, as quoted by Laurie Baum in "Corporate Women; They're About to Break Through to the Top," Business Week. June 22, 1987, p. 72.**

"The problem is not getting them in at the entry level; the problem is making better use of their potential at every level, especially in middle management and leadership positions. This is no longer simply a question of common decency, it is a question of business survival." **R. Roosevelt Thomas, Jr., "From Affirmative Action to Affirming Diversity," Harvard Business Review, March 1990, p. 107.**

A yet-to-be published survey by Catalyst, a research group that helps companies foster women's careers, found that the stumbling blocks 200 CEOs mentioned were stereotyping and preconceptions (81 percent), a reluctance to take risks with women in line positions (49 percent), and a lack of careful planning and planned job assignments (47 percent). **Cindy Skrzycki, "Efforts Fail to Advance Women's Jobs; 'Glass Ceiling' Intact Despite New Benefits,"**

Washington Post, February 20, 1990, p. A1.

INVESTIGATIVE METHODOLOGY

In a world of confidential personnel records, amassing statistics on the demographics of employees at any company is no easy task. Several companies advised the Center at the onset that they considered all demographic information or statistical data about their upper-management executives to be proprietary. As a result, we relied largely on public records as a starting point for our analysis: public, legal documents provided to the shareholders of a corporation as well as to the Securities and Exchange Commission -- for the nation's 20 top defense companies. The 20 defense companies receiving the largest dollar amounts in federal contracts for fiscal 1989 were chosen as the top defense contractors for this study.

The reason for choosing annual reports as the main source of information was threefold. First, the refusal of many companies to disclose any employee demographic information left us with few options other than company annual reports. Second, most annual reports follow a similar structure and list a corporation's officers, directors, and top managers. Third, by using annual reports, the Center allowed the corporations to define their own management teams.

Annual reports were collected for the years 1980 and 1990 to examine the changes that might have taken place over time. Within the annual reports, all individuals listed as officers, directors, presidents, and vice presidents were noted.

Determining the gender and race of these persons proved to be a much more time-consuming task. Sometimes corporate personnel confirmed the gender and race of current and former employees over the telephone. All information pertaining to an employee's race was held until verified by the corporation's human resources department. In some cases, companies refused to confirm such data.

Once this information was gathered the Center sent letters to each corporation documenting the means by which the data were collected, along with a summary of how the information would be used and why it was compiled. Each corporation was asked to cooperate with the Center's project by confirming the accuracy of the information or explaining why the information was incorrect. In all but five cases, the companies cooperated.

To further illustrate the challenges involved in gathering the data, consider The Boeing Company's annual reports which list top managers by first and middle initials and full last names (i.e., W.M. Maulden, Senior Vice President). It took months of methodical research to account for each individual, and more than 300 telephone calls were made to locate former Boeing employees. Many of the individuals had long since retired or died. After accounting for each individual listed in both of the annual reports, the Center found no women in upper-management positions. Presented with this information, Boeing refused to confirm the Center's data.

The same method was used to compile statistics on all 20 of the defense corporations.

Center also sent letters to the Department of Labor, the Office of Federal Contract Compliance Program, and the Equal Employment Opportunity Commission requesting equal employment information; specifically, a copy of Standard Form 100 (EEO-1), an annual form that outlines a company's equal opportunity employment commitment — for all of the 20 companies. In addition, a Freedom of Information Act request was sent to the OFCCP. Employees at the OFCCP responded by saying that they would be able to process the request only after securing permission from each of the 20 corporations on the ground that the information sought by the Center was confidential.

The Center next requested from the OFCCP and the EEOC any public information regarding either sex or race discrimination suits filed in the past 10 years against the same 20 corporations. After numerous telephone conversations with EEOC employees on whether the information was a matter of public record, a communication specialist provided the information.

The OFCCP's national office advised the Center in a telephone conversation that its records of such lawsuits were confidential. When the Center followed up with a letter to the director of the OFCCP's national office, he advised us to send FOIA requests to all ten regional offices. The Center found working within the system, through the Labor Department, to be a long and involved bureaucratic exercise that yielded little concrete information.

The Center's final and perhaps most challenging task was to locate individuals who had filed sex or race discrimination suits against the companies examined in our project. We began by contacting numerous professional organizations that deal with women and minorities and the technology industry, as well as several organizations concerned with the professional and legal advancement of women and minorities.

We also contacted the International Association of Machinists office for each region in which the corporations in our study are located. Although we learned of many lawsuits against the 20 companies, all of them involved entry-level, not managerial, positions.

Meanwhile, the Center contacted organizations that focus on civil liberties and discrimination. We were repeatedly told that because very few women and minorities make it to high-level management positions, there are few lawsuits, and most of them are settled out of court. Most individuals who settle sign confidentiality agreements.

As San Francisco lawyer Cliff Palefsky put it: "I'm not kidding when I ask you, Are there any women out there to find? I work with sex and race discrimination suits for a living, and I have never heard of a suit against a defense contractor, probably because they never make it anywhere near the upper levels of **management**."³⁹

With what seemed much like a stroke of luck, the Center finally turned up two individuals who might be, we were told, willing to discuss their cases with us. One name was provided by the Women's Legal Defense Fund. The other name was provided by the National Organization for Women's Legal Defense and Education Fund.

FINDINGS

Despite the defense industry's claims of a growing commitment to equal opportunity employment during the past decade, little has changed in management. Older white men continue, in and out of the boardrooms, to make the key decisions in defense oriented corporations. The current chief executive officers are not making the diversification of upper management a priority.

On **average**, women constitute fewer than three percent of upper management at the vice president level or above and just over three percent of boards of directors (see Appendix III). Minorities constitute fewer than two percent of upper-management (this figure is based only on the statistics provided by 11 of the 20 corporations). With women making up more than 45 percent of the national work force, these numbers are stark indicators of the inequalities in these high-technology industries. Although women did not enter the defense industry in great numbers until fairly recently, the data suggest that very little has changed since 1980. There was an increase of slightly more than two percent women and less than one percent minorities in board of director and vice president or above positions in the last 10 **years**, which belies the rhetoric given to equal employment opportunity.

Although certain corporations were well above the average — Textron, Inc., for example had nearly 11 percent women (four out of 37 employees) in some upper management capacity — even these figures are not encouraging.

"There is no new dimension to the numbers your study has found -- that is the tragedy of it all," Mannie L. Jackson, the vice president of sales and national accounts at Honeywell, Inc., said in an interview. "Something should have happened in 10 years, but there is still a great deal of institutional racism in this **world**."⁴⁰

Executives in the defense industry agree that until management takes a good hard look at the numbers and develops an interest in improving their record, very little will change. "It takes a CEO really caring about it; otherwise it is a performance exercise; and some do, and some don't," said Alice Rivlin, a director of Unisys. "In companies where the CEO really cares, changes will **happen**."⁴¹

Not only are women far from plentiful at the upper levels of management, few women are to be found at the lower levels of management. Rivlin said that the dearth of women climbing the corporate ladder has to do with the "whole corporate culture" that does not expect women to move into line-management **positions**.⁴²

"It is what I call the '**federal attitude**' in a social environment, where those in power to lead in the changes are saying that it is okay that there are a lot of minorities and women stuck in the pipeline to leadership really believing that they will someday make it," Jackson said. "Later they will be faced with a great deal of **disillusionment**."⁴³

Until recently, very few boards of directors had any women members. "It has become fashionable to have one woman on your board," Rivlin said. "To some extent women are being placed on boards as token figures, and I don't like it."⁴⁴ Other board members fear that this tokenism will result in an unstated policy of choosing women and minority directors only for the books and not for their business skills and effectiveness as leaders.

Corporations that place women and minorities as lone token figures on their boards of directors may be inadvertently saying that they do not want to diversify their upper management positions.

Corporate officials also often give excuses why women are not fit for management in corporate America. The excuse, perhaps most often heard by women in the labor force, is that large numbers of women did not enter the work force until the early 1970s. While this is true, by now there should be quite a few women in their 30s and 40s who might be expected to be **nearing** the top, as would their male counterparts. According to the National Center for Educational Statistics, there has been a 145 percent increase of women receiving degrees - bachelor's, master's, and doctorates -- in engineering since the 1978/1979 school **year**.⁴⁵

Another common belief is that women leave work often and hop around from job to job. As long as women are responsible for bearing and raising children, women will have to spend some time away from work. Besides a large number of corporate women who have chosen to devote their time and efforts to their careers rather than to families, there are also increasing numbers of men willing to share the burden of family life.

Some people insist that men are uncomfortable with women in these traditional male roles. Unfortunately, this is the kind of thought that creates the vicious cycle that keeps the old boy network alive.

Others offer this final excuse: women shy away from leadership roles because of demands of family life, the possibility of having to relocate, a lack of qualifications or a lack of desire to be an executive. These are all key issues for everyone, men and women, to consider before taking on a management position. As it is becoming more socially acceptable for women to focus **single-mindedly** on their careers, more women are doing just that. Many of today's successful women contrast with their predecessors who more often tried to juggle the demands of both family and office. The most common response by women as to why so few women are in the executive suite, however, is a general lack of opportunity for **advancement**.⁴⁶

Until equal employment becomes a priority of the White House, a priority of Congress, and a priority of corporate America, we cannot claim to protect the constitutional freedoms of women and minorities.

For Some Companies, A Policy of Silence

Of the 20 defense corporations examined in this study, five refused to cooperate with the Center in preparing this REPORT. All responded to correspondence asking for their assistance in verifying our statistics by contending that our data were incorrect. When pressed to explain the ways in which our information was incorrect, these **five** corporations refused to elaborate. Once again, the statistics the Center attempted to verify were drawn from the companies' own annual reports. One company went as far as to say it might consider suing the Center for publishing the figures it had compiled. The five corporations that refused to cooperate are McDonnell Douglas, General Dynamics, The Boeing Co., **Lockheed**, and Rockwell International.

McDonnell Douglas responded to our requests for information by saying that the deductions the Center had made "are **incorrect**."⁴⁷ "McDonnell Douglas Corporation considers the information your organization has requested to be extremely confidential," Senior Corporate Attorney Kenneth L. Heininger wrote on March 25, 1991.⁴⁸ Since McDonnell Douglas does not publish statistics of top management as defined by the Center, by gender or minority status in its annual reports, McDonnell Douglas could not assist the Center in its inquiry, Heininger added in an August correspondence. "Information of this type which is based upon McDonnell Douglas Corporation annual reports is therefore likely to be **inaccurate**."⁴⁹

On March 14, 1991, the Center received a telephone call from **Ozell Grissom**, General Dynamics' corporate director for their equal employment opportunity program. He indicated that we had incorrect information about the demographic composition of the upper management at General Dynamics. Saying that the Center and his company have an obligation to ensure that the information presented by the Center is accurate, we officially requested the cooperation and assistance of General Dynamics.

On July 26, 1991, Ozell Grissom said in a telephone conversation that he did not appreciate our repeated attempts to contact different officials in trying to confirm our information and that our lengthy paper trail and repeated telephone messages were beginning to be considered a "form of harassment."

Avowing to the claims that our data were incorrect, he said that the sort of information we were interested in was not available to the public. "If gender were considered public information we would provide a biography for every person in the annual report, listing race and gender," Grissom added.

"If you publish the report with false information in it" General Dynamics might **sue**, Grissom said. Demanding that the Center not call or write again, he hung **up**.⁵⁰

On July 7, 1991, a Boeing official shared with us that Boeing does not use a very systematic approach in deciding which executive offices to list in its annual reports. "We try to have some rationale, but each group has a big number of senior management," Clark McCann, Boeing's

Executive Speech Writer who is also in charge of annual reports, **said**.⁵¹

A source who asked to remain unnamed told the Center that at the middle management level at Boeing only 10 out of roughly 500 senior managers are women.

"We will not confirm or deny the information -- it's not for public consumption," Lockheed Director of Equal Opportunity Program Vance Holley said. "We won't stir up public unrest, because someone always finds fault with what we're doing."⁵²

On July 25, 1991, Lockheed News and Information Director Hugh Burns said in a telephone conversation that the Center's letters were forwarded to the corporate offices, where they told him to tell the Center the information we were requesting was confidential. When asked who he had forwarded the letters to, Burns replied that the second thing he had been asked to say was that the people in the corporate offices did not wish to speak to the **Center**.⁵³

Although **five** corporations refused to verify our statistical data, most companies chose to cooperate. A Westinghouse executive said that the company generally does not give out employee statistics out of concern that they will be misinterpreted. "I'm making an exception because it is important that the public know that we have downsized substantially, but have managed to keep the minorities and women from 1989 to 1990," Steve Mahon, a Westinghouse executive, **said**.⁵⁴

Other corporate officials admitted dissatisfaction with the diversity of their management teams but expressed hope that there would be future progress with the development of new hires. "We are continuing to identify and develop our high-potential women and minorities for future upper-management positions," said John Castellani, a TRW vice president. "But the process takes time. The development time for a TRW senior executive ranges from twenty to twenty-seven years after college graduation, depending on the specific **business**."⁵⁵

Out in the Cold: Two Women Challenge Defense Corporations on Sexual Discrimination Claims

Jean Buckner Takes on Computer Sciences Raytheon:

"I must force these companies to take me back. I have an excellent academic career, unblemished job service, good performance appraisals, and I worked for a top *Fortune* 100 company. I will never be a professional again," Jean Buckner said in an interview about her lawsuit against Computer Sciences Raytheon.

Buckner is a former human resources director of Computer Sciences Raytheon, a subdivision of Raytheon. After less than 14 months on the job, she was told to take a leave of absence.

Now, **Buckner** is waging a legal battle to regain her place in corporate management. To keep costs down, Buckner works full-time doing the investigative work for her lawsuit. With two years of her life and almost **\$15,000** devoted to her case, she can expect to spend another year and from \$30,000 to \$40,000 before her case is closed.

Frustrated by loopholes in the legislative system that have allowed her case to drag on, Buckner compared human resource policies to the **55-miles** per hour speed limit: just because it is law doesn't mean that everyone follows it. And someone can violate it 1,000 times without getting caught.

Buckner's lawsuit was motivated, in large part, by Raytheon's manner of handling her dismissal. Buckner was called into her supervisor's office, told she had been dismissed, and ordered to go home. "I kept asking, What do we call this -- my leaving? No one had ever told me there was a problem," she said. "The only problem was that the staff would not always perform. I identified this; no one else said a thing."

Other problems — including a broken severance package and Raytheon's denials when potential employers called for references after her leave of absence — pushed Buckner into considering legal methods of redress, she said.

"They were trying to starve me out with 30 days leave of absence, when seven-to-eight months of continual salary is usual," Buckner added. "In the recession, it has gone up to nine to 10 months."

Buckner's original severance package included a 30-day leave of absence with benefits and outplacement training, she said. Having gone through two other outplacement programs as a manager learning how to fire employees from their jobs, she asked to be compensated with the money it would cost to send her to the program.

"The amount of money we decided on was deplorable," Buckner said. "My biggest concern was living and surviving — being able to eat -- but I never again heard a word about the money or the outplacement program."

· Expecting quite a challenge when she took the job starting up the new company, Buckner said she had failed to foresee some obvious problems, including the differential treatment of women. "Florida is in the South, and the philosophy against women is **different**," she said. As the one woman manager, I was "hoping to improve the image."

Buckner came up against further resistance when she mentioned that a high number of females and minorities — roughly 47 percent — were being laid off. The usual management response she received was the last to join a company, the first to leave it, she said.

Buckner described herself as a results-oriented manager who constantly pushed her staff to meet objectives. "Isn't it funny how it was all right for me to be pressured by men into

past objectives, but if a woman puts on any **pressure**, she becomes an attack dog?" she asked.

In spite of having two good performance reviews before her termination, Raytheon insists that **Buckner** was fired for not meeting company standards, she said. "I can tell you the real problem isn't performance, because they haven't followed any of the company standards on dealing with performance problems, like setting up an improvement plan," Buckner added.

After numerous failed attempts to get her case assigned with the OFCCP and EEOC, including a letter to former Secretary of Labor Elizabeth Dole, Buckner hired a lawyer and decided to take matters into her own hands. "I want to tell individuals that filing suits with the EEOC and OFCCP does not work," she said. "The EEOC puts their thumb in their ear and does nothing. It is ludicrous, and it has led me to file a civil suit alleging sexual discrimination with a sexual harassment component, wrongful discharge, defamation and conspiracy."

Unlike many women before her, working in management in the technology industry was old hat. She graduated in 1973 from the University of Wisconsin with a master's degree in labor relations. Following graduation, Buckner took an entry-level position with Exxon.

"I knew what I wanted to do when I grew up when I was 14 years old," Buckner said. "Companies could not discriminate against me. I had my master's; I had a 4.0 grade point average, and I paid my way through school, myself."

Following several promotions at Exxon, Buckner took a management job offer at Mobil in 1980. She remained at the upper rungs of the career ladder until the oil industry started laying off massive numbers of people in the late 1980s.

When Computer Sciences bid on and won a contract to build missiles, it needed someone to manage 1,800 people and seven labor unions. The company found its human resources manager in Buckner. "It was an offer I couldn't refuse," she said. "It was everything I always wanted to do on a silver platter."

Buckner's silver platter has long since tarnished. "I have this unclean feeling for being part of the discrimination network for 20 years," she added. "I have been screwing people, because of my job. Maybe it's poetic justice that it is my turn to get screwed by the **system**."

When Raytheon was contacted by the Center regarding Buckner's allegations, Raytheon declined to comment on the case.

Beverley Harris Takes on Lockheed:

"Among other discrimination and humiliation, I'm currently the victim of a '**lynch mob**,'" Beverley Harris, a Lockheed employee, said in an interview with the Center. "Because of the mass layoffs that are now going on and because everyone thinks my job is safe on account of affirmative action quotas, fellow employees are trying to belittle me."

"It is all a ploy to prove to management that I should be laid off next. Would you believe someone forwarded my phone to the city morgue for a whole week recently?" she asked.

This and other incidents have driven Beverley Harris, a black senior associate engineer at Lockheed, to seek the counsel of an attorney. Harris first experienced sexual harassment in the workplace on June 16, 1988, less than 14 months after joining Lockheed, she said.

Just days before Harris was to go on vacation in the Dominican Republic, she said a fellow employee told her, "Just don't bring any AIDS back from your vacation.

"This wasn't the first time that he had insisted that 'those people' were the ones who started the AIDS epidemic," Harris said. "I was upset and insulted."

Harris demanded that her co-worker apologize. When he refused to apologize, she **said**, she went to her manager. After having failed to receive an apology within days of the incident, Harris asked that the employee be disciplined.

More than a week later, Harris received a letter of apology from her co-worker, but she had also received a letter from the manager of Lockheed's equal employment opportunity program encouraging her to "reconsider [her] decision to allow this matter to continue to be a source of potential conflict with **Lockheed**."⁵⁶

"Without this one sentence, I would probably have dropped the case," Harris said. "I tried to keep it low profile. I wanted to work it out in-house; wrap it up in-house, on our level."

Dissatisfied with Lockheed's decision to place the other worker on notice requiring that he refrain from making further insulting remarks, Harris took her case to the company's equal employment office.

Meanwhile, she experienced physical forms of harassment from other workers. "One day I was pinched on the butt in front of my supervisors. My boss didn't say a thing, even when I had my breasts pulled," she said.

Harris claimed that filing a sexual harassment complaint with Lockheed's human resources office and the EEOC had resulted in further incidents of sexual harassment that have continued to this day. "It is so distressing to go to work. [It] boils down to [my receiving] continuous harassment," she said.

In October 1988, Harris took part in a company-wide loan program, which allowed her to temporarily transfer to another Lockheed department outside of her own, design engineering. She transferred with the understanding that she would return to her current job in a month or two, she said. However, when Harris tried to return back to the design engineering group in January of 1989, she was told her job slot had been closed.

Two months later, on March 3, 1989, she was asked by the director to stay on in her new position. "[The director] offered me a promotion as one of the four conditions for staying," Harris said. "I agreed until I found out on March 10th, that Mr. Wilkinson did not submit the promotion, which he said involved too much 'paper work'."

Through further investigation, Harris discovered that while her job slot in the design engineering group had been closed due to manpower reduction, a new job slot was opened in the same department for a white male with little experience, she said.

Harris also claimed that she has been on the receiving end of retaliatory treatment by Lockheed in the form of overtime denials, special assignment denials, and travel opportunity denials from management and co-workers alike. "One day I finally realized that my discrimination problems didn't begin with my fellow employee in 1988," she added. "My problem was Lockheed and their discriminatory practices."

She raised the concern that her discrimination suit has not been treated by Lockheed officials in a confidential manner. Other workers would often say things like "You better be careful or else I am going to file a sexual harassment complaint against you," Harris said. "People I work with should never have been told about my complaint. I never told them."

Despite the almost daily encounters of differential treatment, she said, she wants to continue to work for Lockheed, because she enjoys her job. "[Lockheed] gets every dime out of me that they pay me; I'm a good employee who works long and hard," Harris said. Along with working **nine-or-more-hour-days** and volunteering for special computer projects, she also acts as a mentor for NASA's high school program.

Before joining Lockheed, Harris received a bachelor's degree in aeronautics and a master's degree in business management. She also worked during the Vietnam veteran era for the Air Force.

Discouraged by a recent ruling by the Florida state Commission on Human Relations that found no reasonable cause to believe that an unlawful employment practice had **occurred**, Harris hired a lawyer to file a legal suit in a final attempt to prove that she has been an innocent victim of long-standing discrimination at Lockheed. "The 'system' as it now exists here at the Space Center is deplorable when dealing with women and minorities," she said. "The discrimination has become rampant, because it is institutionalized. Management will be the first to tell you that 'there's nothing we can do about it."

When Lockheed was contacted by the Center regarding **Harris'** allegations, a company attorney said there is no basis to her case.

"We have assisted the human rights commission, and we agreed with their determination that there was no cause to **Harris'** allegations, but she is free to continue pursuing her case," Dennis Diemoz, Lockheed company counsel, said.

CONCLUSION

The defense industry has an imposing image of a huge and powerful **multibillion-dollar** corporate culture. As a **result**, the industry's leading players have seldom been subject to scrutiny on issues of corporate social accountability. This Center REPORT attempted to do just that by examining the defense industry's commitment to equal employment opportunity.

The 20 top defense corporations examined in this study were generally reluctant to disclose how few women and minorities have reached their executive suites. Our data suggest that no significant improvement has taken place within the past ten years, despite rhetoric hailing the great strides in employment practices across the nation.

Interviews with corporate executives and directors suggest that women and minorities are not to be found in upper management, let alone middle management, because chief executive officers have not made such progress a priority. Management teams need to realize that diversity and fairness in employment practices are vital to effective leadership and company performance.

Laws are meaningless if they are not enforced. In recent years, neither the White House nor Congress have pushed for progress in equal employment opportunity. With women filling fewer than six percent of top management positions in major defense companies, including service on corporate boards of directors, and minorities fewer than two percent, the Labor Department has done little to remove the vestiges of discrimination from the work place. These stark figures should underscore to the OFCCP and the EEOC that women and minorities do not have equal access to senior management positions. How can the Labor Department call itself a "vigorous civil rights enforcement agency" when women and minorities fare so poorly in reaching top executive positions in defense companies?

More than fifty years after legislation was first introduced to prevent employment discrimination within defense corporations, Executive Order 11246 remains silent and dormant as a reminder of the social and political ideals that helped push a nation toward a new dream that began in 1941 and continued throughout the Johnson administration.

"Unfortunately instead of dealing with the issue, it is reduced to a cliché -- like the glass ceiling," Honeywell executive Mannie Jackson said. "What happens to the thousands of kids out there who have hopes and dreams to climb to the top in life, but when they wake up at age 35 realize it isn't going to happen? Why can't they be told at age 15 that they are growing up in a racist **institution**?"⁵⁷

It is not too late for the defense industry, the Labor Department, the Congress, and the executive branch to pay more than lip service to equal employment opportunity. Greater attention needs to be given to equal employment rights guaranteed by Executive Order 11246 through the recruitment and promotion of women and minorities at all levels, including management. Stepped up activity and comprehensive plans, which include increasing the use of

penalties and sanctions, and even **debarment** from future government contracts, should be enacted by the OFCCP and EEOC to more effectively remedy corporate discrimination. In the meantime, individuals such as Jean **Buckner** and Beverley Harris have little choice but to take what may at times be a lonely stand for their rights.

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APPENDIX I

TOP 20 DEFENSE CONTRACTORS

<u>Rank</u>	<u>Company</u>	<u>Fiscal 1989 Total Department of Defense Contract Awards</u>
1	McDonnell Douglas Corp.*	\$ 8,985,985,000
2	General Dynamics Corp.*	7,282,690,000
3	General Electric Co.*	5,870,089,000
4	United Technologies Corp.	3,542,918,000
5	General Motors Corp.*	3,381,872,000
6	Martin Marietta Corp.*	3,353,307,000
7	Raytheon Co.*	3,295,093,000
8	The Boeing Co.*	3,113,326,000
9	Lockheed Corp.*	2,559,841,000
10	GTE Corp.	2,350,800,000
11	Grumman Corp.*	2,349,083,000
12	Rockwell International Corp.	2,024,880,000
13	Litton Industries, Inc.*	1,991,171,000
14	Westinghouse Electric Corp.*	1,659,350,000
15	Honeywell, Inc.	1,535,249,000
16	Textron, Inc.*	1,410,616,000
17	TRW, Inc.	1,297,892,000
18	IBM Corp.	1,262,002,000
19	ITT Corp.	1,247,731,000
20	Unisys Corp.	1,019,112,000

***Corporations** that have ranked in the top 25 since 1972.

(Information obtained from Government Executive, August 1990, p. 24 and 100 Companies: Companies Receiving the Largest Dollar Volume of Prime Contract Awards. Fiscal Year 1972, Department of Defense OASD (Controller) Directorate for Information Operations, p. 6.)

A TOTAL OF \$1,820 BILLION WAS USED ON DEFENSE SPENDING FROM 1972-1991

(Provided by the Center for Defense Information.)

APPENDIX II

NUMBER OF WOMEN AND MINORITIES IN MANAGEMENT POSITIONS AT TOP DEFENSE CONTRACTORS IN 1980 AND 1990 (BASED ON ANNUAL REPORTS)

Corporation	1980			1990		
McDonnell Douglas*	<u>W</u>	M		ffi	M	
	BOD: 0	0	Total Number of Positions: 47	BOD: 0	0	Total Number of Positions: 26
	Pres.: 0	0		Pres.: 0	0	
	Ofcr.: 0	0		Ofcr.: 0	0	
	VP: 0	0		VP: 0	0	
	AVP: 0	0	% Women: 0	AVP: 0	0	% Women: 0
	Sec.: 0	0		Sec.: 0	0	
	A. Sec.: 0	0	% Minorities: 0	A. Sec.: 0	0	% Minorities: 0
General Dynamics*	<u>W</u>	M		<u>W</u>	M	
	BOD: 0	0	Total Number of Positions: 38	BOD: 0	0	Total Number of Positions: 39
	Pres.: 0	0		Pres.: 0	0	
	Ofcr.: 0	0		Ofcr.: 0	0	
	VP: 0	0		VP: 0	0	
	AVP: 0	0	% Women: 0	AVP: 0	0	% Women: 0
	Sec.: 0	0		Sec.: 0	0	
	A. Sec.: 0	0	% Minorities: 0	A. Sec.: 0	0	% Minorities: 0
General Electric	<u>W</u>	M		<u>W</u>	M	
	BOD: 1	1	Total Number of Positions: 165	BOD: 2	1	Total Number of Positions: 147
	Pres.: 0	0		Pres.: 1	0	
	Ofcr.: 0	0		Ofcr.: 3	0	
	VP: 1	1		VP: 1	0	
	AVP: 0	0	% Women: 1.2	AVP: 0	0	% Women: 4.8
	Sec.: 0	0		Sec.: 0	0	
	A. Sec.: 0	0	% Minorities: 1.2	A. Sec.: 0	0	% Minorities: 0.7
United Technologies	<u>W</u>	M		<u>W</u>	M	
	BOD: 2	0	Total Number of Positions: 66	BOD: 2	0	Total Number of Positions: 56
	Pres.: 0	0		Pres.: 0	0	
	Ofcr.: 0	0		Ofcr.: 0	0	
	VP: 0	0		VP: 0	0	
	AVP: 1	0	% Women: 4.5	AVP: 0	0	% Women: 3.6
	Sec.: 0	0		Sec.: 0	0	
	A. Sec.: 0	0	% Minorities: 0	A. Sec.: 0	0	% Minorities: 0

W=Women
M=Minorities
BOD=Board of Directors

Pres.=President
Ofcr.=Officer
VP=Vice President

AVP=Assistant Vice President
Sec.=Secretary
A. Sec.=Assistant Secretary

* Company would not confirm information found in annual reports

Corporation	1980			1990		
Litton	<u>W</u>	M		<u>W</u>	M	
	BOD: 1	0	Total Number of	BOD: 1	0	Total Number of
	Pres.: 0	0	Positions: 50	Pres.: 0	0	Positions: 43
	Ofcr.: 0	0		Ofcr.: 2	0	
	VP: 0	0	% Women: 2.0	VP: 0	0	% Women: 7.0
	AVP: 0	0		AVP: 0	0	
	Sec.: 0	0	% Minorities: 0	Sec.: 0	0	% Minorities: 0
	A. Sec.: 0	0		A. Sec.: 0	0	
Westinghouse	<u>W</u>	M		<u>W</u>	M	
	BOD: 1	1	Total Number of	BOD: 1	0	Total Number of
	Pres.: 0	0	Positions: 74	Pres.: 0	0	Positions: 42
	Ofcr.: 0	0		Ofcr.: 0	0	
	VP: 0	0	% Women: 14	VP: 1	1	% Women: 4.8
	AVP: 0	0		AVP: 0	0	
	Sec.: 0	0	% Minorities: 14	Sec.: 0	0	% Minorities: 2.4
	A. Sec.: 0	0		A. Sec.: 0	0	
Honeywell	<u>W</u>	M		<u>W</u>	M	
	BOD: 0	0	Total Number of	BOD: 2	1	Total Number of
	Pres.: 0	0	Positions: 31	Pres.: 0	0	Positions: 28
	Ofcr.: 0	0		Ofcr.: 0	0	
	VP: 0	0	% Women: 0	VP: 0	0	% Women: 7.1
	AVP: 0	0		AVP: 0	0	
	Sec.: 0	0	% Minorities: 0	Sec.: 0	0	% Minorities: 3.6
	A. Sec.: 0	0		A. Sec.: 0	0	
Textron	<u>W</u>	M		<u>W</u>	M	
	BOD: 2	0	Total Number of	BOD: 2	0	Total Number of
	Pres.: 0	0	Positions: 33	Pres.: 0	0	Positions: 37
	Ofcr.: 0	0		Ofcr.: 0	0	
	VP: 0	0	% Women: 9.1	VP: 2	0	% Women: 10.8
	AVP: 0	0		AVP: 0	0	
	Sec.: 1	0	% Minorities: 0	Sec.: 0	0	% Minorities: 0
	A. Sec.: 0	0		A. Sec.: 0	0	

W=Women
M=Minorities
BOD=Board of Directors

Pres.=President
Ofcr.=Officer
VP=Vice President

AVP=Assistant Vice President
Sec.=Secretary
A. Sec.=Assistant Secretary

* Company would not confirm information found in annual reports

Corporation	1980			1990				
TRW	BOD:	<u>W</u> 0	M 0	Total Number of Positions: 42	BOD:	<u>W</u> 1	M 1	Total Number of Positions: 30
	Pres.:	0	0		Pres.:	0	0	
	Ofcr.:	0	0		Ofcr.:	0	0	
	VP:	0	0		VP:	0	0	
	AVP:	0	0	% Women: 0	AVP:	0	0	% Women: 3.3
	Sec.:	0	0		Sec.:	0	0	
	A. Sec.:	0	0	% Minorities: 0	A. Sec.:	0	0	% Minorities: 3.3
IBM	BOD:	<u>W</u> 1	M 1	Total Number of Positions: 74	BOD:	<u>W</u> 2	M 2	Total Number of Positions: 93
	Pres.:	0	0		Pres.:	0	0	
	Ofcr.:	0	0		Ofcr.:	0	0	
	VP:	0	0		VP:	3	0	
	AVP:	0	0	% Women: 1.4	AVP:	0	0	% Women: 5.4
	Sec.:	0	0		Sec.:	0	0	
	A. Sec.:	0	0	% Minorities: 1.4	A. Sec.:	0	0	% Minorities: 2.2
ITT	BOD:	<u>W</u> 2	M 1	Total Number of Positions: 80	BOD:	<u>W</u> 2	M 1	Total Number of Positions: 55
	Pres.:	0	0		Pres.:	0	0	
	Ofcr.:	0	0		Ofcr.:	0	0	
	VP:	0	0		VP:	2	2	
	AVP:	0	0	% Women: 2.5	AVP:	0	0	% Women: 7.3
	Sec.:	0	0		Sec.:	0	0	
	A. Sec.:	0	0	% Minorities: 1.3	A. Sec.:	0	0	% Minorities: 5.5
Unisys	Not Available				BOD:	<u>W</u> 1	M 0	Total Number of Positions: 39
					Pres.:	0	0	
					Ofcr.:	1	0	
					VP:	0	0	
					AVP:	0	0	% Women: 5.1
					Sec.:	0	0	
					A. Sec.:	0	0	% Minorities: 0

W=Women
M=Minorities
BOD=Board of Directors

Pres.=President
Ofcr.=Officer
VP=Vice President

AVP=Assistant Vice President
Sec.=Secretary
A. Sec.=Assistant Secretary

* Company would not confirm information found in annual reports

AVERAGES

Average No. of Females
Without Unconfirmed Five

1980 - 2.89% 1990 - 5.52%

Average No. of Minorities
Without Unconfirmed Five

1980 - 1.12% 1990 - 1.85%

Average No. of Females
With Unconfirmed Five

1980-2.25% 1990-4.37%

Average No. of Minorities
With Unconfirmed Five

1980 - .83% 1990-1.39%

Top management included listings of board of director members, presidents, vice presidents, and officers. Other titles, such as secretary and treasurer, were included if they appeared with other management titles in the annual reports.

APPENDIX III

PERCENTAGE OF WOMEN IN TOP MANAGEMENT POSITIONS IN 1980 AND 1990 (BASED ON ANNUAL REPORTS)

Corporation	% of women in VP or above positions		% of women in BOD positions	
	1980	1990	1980	1990
McDonnell Douglas*	0.0	0.0	0.0	0.0
General Dynamics*	0.0	0.0	0.0	0.0
General Electric	0.6	3.4	0.6	1.4
United Technologies	1.5	0.0	3.0	3.6
General Motors	3.9	4.0	2.6	2.7
Martin Marietta	3.2	3.4	0.0	0.0
Raytheon	1.4	0.0	1.4	1.6
Boeing*	0.0	0.0	0.0	0.0
Lockheed*	0.0	1.4	0.0	0.0
GTE	0.0	3.1	2.6	3.1
Grumman	0.0	2.8	3.0	2.8
Rockwell*	0.0	0.0	2.3	3.2
Litton	0.0	4.7	2.0	2.3
Westinghouse	0.0	2.4	1.4	2.4
Honeywell	0.0	0.0	0.0	7.1
Textron	3.0	5.4	6.1	5.4
TRW	0.0	0.0	0.0	3.3
IBM	0.0	3.2	1.4	2.2
ITT	0.0	3.6	2.5	3.6
Unisys	N/A	2.6	N/A	2.6

* Company would not confirm information found in annual reports

N/A denotes figure not available

The management label VP or above includes vice presidents, presidents, and other officers.

AVERAGES

Average No. of Female VPs
or Above Without Unconfirmed 5

1980 - .97% 1990 - 2.6%

Average No. of Females
on BOD Without Unconfirmed 5

1980-2.06% 1990-3.15%

Average No. of Female VPs
or Above With Unconfirmed 5

1980 - .72% 1990 - 2.0%

Average No. of Females
on BOD With Unconfirmed 5

1980 - 1.5% 1990 - 2.4%

APPENDIX IV

PERCENTAGE OF MINORITIES IN TOP MANAGEMENT POSITIONS IN 1980 AND 1990 (BASED ON ANNUAL REPORTS)

Corporation	% of minorities in VP or above positions		% of minorities in BOD positions	
	1980	1990	1980	1990
McDonnell Douglas*	N/A	N/A	N/A	N/A
General Dynamics*	N/A	N/A	N/A	N/A
General Electric	0.6	0.0	0.6	0.7
United Technologies	0.0	0.0	0.0	0.0
General Motors	0.0	0.0	1.3	1.3
Martin Marietta	0.0	0.0	0.0	0.0
Raytheon	N/A	N/A	N/A	N/A
Boeing*	N/A	N/A	N/A	N/A
Lockheed*	N/A	N/A	N/A	N/A
GTE	0.0	0.0	0.0	3.1
Grumman	6.0	0.0	3.0	5.6
Rockwell*	N/A	N/A	N/A	N/A
Litton	N/A	N/A	N/A	N/A
Westinghouse	0.0	2.4	1.4	0.0
Honeywell	0.0	0.0	0.0	3.6
Textron	N/A	N/A	N/A	N/A
TRW	0.0	0.0	0.0	3.3
IBM	0.0	0.0	1.4	2.2
ITT	0.0	3.6	1.3	1.8
Unisys	N/A	N/A	N/A	N/A

* Company would not confirm information found in annual reports

N/A-Not available. Several corporations declined to provide this information.

The management label VP or above includes vice presidents, presidents, and other officers.

AVERAGES

Average No. of Minority VPs
or Above in Corporations
Providing Information

1980 - 0.60% 1990 - 0.55%

Average No. of Minorities
on BOD in Corporations
Providing Information

1980 - 0.82% 1990 - 1.96%

APPENDIX V

INDIVIDUAL COMPLAINTS FILED WITH EEOC AGAINST TOP DEFENSE CONTRACTORS, 1970-1990

McDonnell Douglas: Total of 3 cases

Basis of Discrimination:

- 2 cases on ethnicity
- 1 case on religious preference

Outcome of Case:

- 1 consent decree-monetary award
- 1 voluntary dismissal
- 1 dropped

General Dynamics: Total of 5 cases

Basis of Discrimination:

- 1 case on ethnicity
- 3 cases on age
- 1 case on sex

Outcome of case:

- 1 consent decree-monetary award
- 1 settlement-monetary award
- 3 dropped

General Electric: Total of 4 cases

Basis of Discrimination:

- 2 cases on age
- 1 case on sex
- 1 case unspecified

Outcome of Case:

- 1 consent decree-monetary award
- 2 dropped
- 1 voluntary dismissal

General Motors: Total of 7 Cases

Basis of Discrimination:

3 cases on ethnicity
4 cases on sex

Outcome of Case:

1 consent decree-monetary award
4 settlements-monetary award
1 voluntary dismissal
1 dropped

United Technologies: Total of 1 Case

Basis of Discrimination:

1 case on sex

Outcome of Case:

1 settlement-monetary award

Martin Marietta: Total of 7 Cases

Basis of Discrimination:

1 case on sex
2 cases on age
3 cases on ethnicity
1 case unspecified

Outcome of Case:

1 consent decree-non-monetary award
1 favorable court order-non-monetary award
4 voluntary dismissals
1 dropped

Boeing: Total of 5 Cases

Basis of Discrimination:

2 cases on age
2 cases on sex
1 case unspecified

Outcome of Case:

5 dropped

Lockheed: Total of 9 Cases

Basis of Discrimination:

3 cases on ethnicity
4 cases on sex
2 cases on age

Outcome of Case:

1 favorable court order-monetary award
2 consent decrees-monetary awards
1 presuit settlement-monetary award
2 settlements-monetary awards
2 unfavorable court orders
1 dropped

GTE: Total of 2 Cases

Basis of Discrimination:

1 case on age
1 case on ethnicity

Outcome of Case:

1 voluntary dismissal
1 dropped

Rockwell: Total of 6 Cases

Basis of Discrimination:

3 cases on age
2 cases on ethnicity
1 case on sex

Outcome of Case:

2 consent decrees-monetary awards
1 settlement-monetary award
3 dropped

Litton: Total of 4 Cases

Basis of Discrimination:

4 cases on sex

Outcome of Case:

2 voluntary dismissals
2 settlements-monetary awards

Westinghouse: Total of 14 Cases

Basis of Discrimination:

8 cases on age
3 cases on ethnicity
1 case on sex
2 cases unspecified

Outcome of Case:

5 settlements-monetary awards
1 presuit settlement-monetary award
2 voluntary dismissals
5 dropped
1 resolution after appeal

Honeywell: Total of 3 Cases

Basis of Discrimination:

1 case on sex
2 cases on age

Outcome of Case:

1 voluntary dismissal
2 settlements-monetary awards

TRW: Total of 3 Cases

Basis of Discrimination:

2 cases on age
1 case unspecified

Outcome of Case:

1 consent decree-monetary award
1 voluntary dismissal
1 dropped

ITT: Total of 6 Cases

Basis of Discrimination:

4 cases on age
1 case on sex
1 case on ethnicity

Outcome of Case:

3 dropped
2 settlements-monetary awards
1 summary judgment-monetary award

IBM: Total of 1 Case

Basis of Discrimination:

1 case on ethnicity

Outcome of Case

1 unfavorable court decree

Unisys: Total of 4 Cases

Basis of Discrimination:

1 case on age

3 cases unspecified

Outcome of Case:

2 dropped

1 settlement-monetary award

1 voluntary dismissal

TOTAL CASES: 84

BASIS OF DISCRIMINATION TOTALS:

Ethnicity - 20

Religious preference - 1

Age - 32

Sex - 22

Unspecified - 9

OUTCOME TOTALS:

Consent decrees, monetary awards - 10 (12% of total)

Voluntary dismissals - 15 (18% of total)

Drops - 29 (35% of total)

Settlements - 21 (25% of total)

Pre-suit settlements - 2 (2%)

Favorable court orders - 2 (2% of total)

Unfavorable court orders - 3 (4% of total)

Resolution after appeal - 1 (1% of total)

Summary judgement - 1 (1% of total)

TOTAL MONETARY AWARDS: \$1,918,374.06

APPENDIX VI

GULF WAR ARSENAL

McDonnell Douglas;

- *F/A-18 Hornet
- *F-15 Eagle
- *AV-8B Harrier aircraft
- Tomahawk missiles
- *AH-64 Apache helicopter

General Dynamics

- *Trident submarine
- *Stinger missiles
- *F-16 Falcon fighter
- Tomahawk missiles
- *M-1 tank

General Electric;

- *Aegis radar
- *Guidance systems for Trident submarine
- *F404 and F110 aircraft engines

United Technologies;

- *F100 and J52 aircraft engines
- *Black Hawk helicopter
- *Seahawk helicopter
- *Super Stallion helicopter

General Motors;

- *Amraam missiles
- *Maverick missiles
- Tow missiles
- *Phoenix missiles
- *Parts for the M-1 tank and MK-48 torpedo

Martin Marietta:

- *Patriot missiles
- *Lantirn night vision systems
- *Hellfire and Copperhead missiles
- *Launching system for the Navy
- *Electro-optical systems for the Navy and Air Force

Raytheon:

- *Patriot missiles
- *Hawk missiles
- *Amraam missiles
- *Phoenix missiles
- *Aegis radar system

Boeing:

- *E-3 AWACS
- *CH-47 Chinook helicopters
- *Replacement wings for A-6 Intruder

Lockheed:

- *Trident II missile system
- *F-117A Stealth fighter
- *C-130 Hercules transport
- *Electronic warfare systems

GTE:

- *Mobile transcription communications systems

Grumman:

- *F-14 Tomcat
- *E-2C Hawkeye
- *EA-6B Prowler
- *A-6 Intruder aircraft

Rockwell:

- *GBU-15 Glide bomb
- *Hellfire anti-armor missile
- *Sonar and navigation systems
- *OV-10 Bronco aircraft
- *B-1 bomber
- *Digital crossconnect communication equipment

Litton:

- *Destroyers
- *Cruisers
- *Amphibious assault ships
- *Navigational systems

Westinghouse Electric:

- *Radar for F-16s and AWACS
- *Electronic jammers
- Trident missile launchers

Honeywell:

- *Flight controls, displays, navigational systems for F-15s and F-16s

Textron:

- *AH-1W Super Cobra helicopters
- *OH-58D helicopters
- *Engines and controls for M-1 tanks

TRW:

- *Satellite communication systems
- *Battlefield information processing systems

IBM:

- *Systems and software for antisubmarine warfare

ITT:

- *Army combat radios
- *Generation III night vision goggles

Unisys:

*Computers, both shipboard and groundbase, for tracking missile launches by radar

(Information obtained from individual corporations and Fortune. "America's Arsenal," Vol. 123, No. 4, February 24, 1991)

APPENDIX VII

EXECUTIVE ORDER 11246 -- EQUAL EMPLOYMENT OPPORTUNITY, AS AMENDED BY E.O. 11375

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I-Nondiscrimination in Government Employment

(Superseded by EO 11478 of Aug. 8, 1969, 34 FR 12985, 3 CFR, 1966-1970 Comp., p. 803)

Part II-Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A-Duties of the Secretary of Labor

Sec. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Subpart B-Contractors' Agreements

Sec. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor, as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

(Amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Sec. 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of

Labor may prescribe: *Provided*, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

(Amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684.; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Sec. 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided*, That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: *And provided further*, That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

Subpart C-Powers and Duties of the Secretary of Labor and the Contracting Agencies

Sec. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 **Comp.**, p. 230)

Sec. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 **Comp.**, p. 230)

Sec. 207. The Secretary of Labor shall use his best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 **Comp.**, p. 230)

Sec. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D-Sanctions and Penalties

Sec. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 **Comp.**, p. 230)

Sec. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 **Comp.**, p. 230)

Sec. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Sec. 212. When a contract has been cancelled or terminated under Section 209 (a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Subpart E-Certificates of Merit

Sec. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to **employers** or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

Sec. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment by the Secretary, has failed to comply with the provisions of this Order.

Sec. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

Part III-Nondiscrimination Provisions in Federally Assisted Construction Contracts

Sec. 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively

with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, **Subpart D**, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Sec. 302. (a) "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

Sec 303. (a) The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230)

Sec. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of **nondiscrimination** in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order:

Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

Part IV-Miscellaneous

Sec. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

(Amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 **Comp.**, p. 230)

Sec. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

Sec 403. (a) Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the **President's** Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

(Amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 **Comp.**, P. 264)

Sec. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

Sec. 405. This Order shall become effective thirty days after the date of this Order.

*President Lyndon B. Johnson, September 24, 1965

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