



U.S. Commission on Civil Rights

September 2005

**FUNDING FEDERAL CIVIL RIGHTS ENFORCEMENT:
THE PRESIDENT'S 2006 REQUEST**

U.S. Commission on Civil Rights

The U.S. Commission on Civil Rights is an independent, bipartisan agency established by Congress in 1957. It is directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices.
- Study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.
- Appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin.
- Submit reports, findings, and recommendations to the President and Congress.
- Issue public service announcements to discourage discrimination or denial of equal protection of the laws.

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Introduction

The year 2005 marks 40 years since Congress passed the Voting Rights Act of 1965, which was signed into effect by President Lyndon B. Johnson during the height of the Civil Rights Movement. The Act protects the right to vote, which is guaranteed by the 15th Amendment of the U. S. Constitution. Impediments to voting rights still exist, along with other civil rights problems. Insufficient resources can hinder federal agencies from thoroughly investigating and enforcing laws to protect individuals from these injustices. It is thus imperative that agencies be given the authority and adequate funding to carry out their civil rights responsibilities. At the same time, agencies must be accountable for achieving results that can justify continued expenditures. The Commission, over a period of years, has collected and disseminated data relevant to civil rights enforcement funding, staffing and workload levels. This year, the Commission has also collected and reviewed data relevant to agency goals and output evaluation factors for 2003 to 2005, in order to assess whether each program is producing its intended results. Specifically, the Commission requested and obtained data representing fiscal years¹ 1994 to 2006 for the following agencies:

- U.S. Department of Education (DOEd), Office for Civil Rights (OCR)
- U.S. Department of Justice (DOJ), Civil Rights Division (CRD)
- U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR)
- U.S. Equal Employment Opportunity Commission (EEOC)
- U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP)
- U.S. Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity (FHEO), which includes the Fair Housing and Assistance Program (FHAP) and Fair Housing Initiatives Program (FHIP)

Since 1957, Congress and the President have greatly expanded the federal civil rights effort through the creation of additional substantive rights and enforcement agencies. Today, the major statutes and executive orders affecting civil rights enforcement include:

- Equal Pay Act of 1963
- Civil Rights Act of 1964
- Voting Rights Act of 1965
- President Johnson's Executive Order 11246 of 1965
- Age Discrimination in Employment Act of 1967

¹ Throughout this report, all referenced years are expressed in the federal government accounting period that begins October 1 and ends September 30.

- Title VIII of the Civil Rights Act of 1968
- Title IX of the Education Amendments of 1972
- Equal Employment Opportunity Act of 1972
- Rehabilitation Act of 1973
- Voting Rights Act Amendments of 1975
- Age Discrimination Act of 1975
- President Carter's Reorganization Plan No. 1
- Executive Orders relating to equal opportunity in 1978-1979
- Voting Rights Amendments of 1982
- Civil Rights for Institutionalized Persons Act of 1986
- Housing and Community Development Act of 1987
- Civil Rights Restoration Act of 1987
- Civil Liberties Act of 1988
- Fair Housing Amendments Act of 1988
- Americans with Disabilities Act of 1990
- Civil Rights Act of 1991
- Voting Rights Language Assistance Act of 1992
- Boy Scouts of America Equal Access Act

Scope and Methodology

The Commission tracked and analyzed the budget requests of the William J. Clinton and George W. Bush administrations from 1994 to 2006, as well as the funding levels appropriated by Congress in response to the Presidents' requests. The Commission documented the changes in workload and staffing levels of the six civil rights agencies. To do so, it requested from each agency not only budget and workload data but also information on outputs and goals. This report's emphasis on goals and outputs reflects the importance of assessing results and not just expenditures. The information in this report is based on documents and data that the agencies provided in response to questionnaires and requests. Through interrogatories, the Commission also obtained relevant strategic planning information including: agencies' evaluation factors by which they measure progress; the extent to which prior years' goals had been met; and future output measurements that would ensure appropriate resource utilization. Staff also secured public documents from the Internet. In some instances, agencies have made corrections to budget data submitted in previous years because of rescissions or transfers added after funding appropriations were made. This study did not determine the aptness of agencies' goals to their civil rights enforcement obligation, since an evaluation of that nature is beyond the scope of the current report.

All references to real funding are expressed in constant 1994 dollars. Expression in constant dollars accounts for inflationary trends and more accurately reflects the actual purchasing power of the funds. In previous Commission reports, as well as this one, adjusted values have been referred to as "real funding" or "real spending power." The deflators used are the same as those used by OMB in the U.S. Office of Management and Budget, *Budget of the United States: Historical Tables, Fiscal Year 2006*, Table 1.3. The deflators have been used in other analyses performed by the Commission, including its 1995 *Funding Federal Civil Rights Enforcement* report, its 2001 *Funding Federal Civil Rights Enforcement: 2000 and Beyond* report, its 2002

Funding Federal Civil Rights Enforcement: 2000-2003 report, its 2003 *Funding Federal Civil Rights Enforcement: 2004* report, and its 2004 *Funding Federal Civil Rights Enforcement: 2005* report.

Analysis

Adequate funding and resources allow civil rights agencies to fulfill and strengthen their enforcement responsibilities by (1) using mediation to assist in efficiently and expeditiously resolving complaints; (2) proactively providing education and outreach and technical assistance; (3) updating and issuing policy guidance; (4) initiating and conducting compliance reviews; and (5) providing staff training as needed. Agencies are hindered from enforcing laws against discrimination when resources are not forthcoming. While the amount of funding plays an important role in determining the extent to which agencies have sufficient resources to carry out their civil rights responsibilities, it is also important that agencies demonstrate effective use of resources by achieving set goals, which will show whether they are in fact meeting these responsibilities.

Since 1995, the Commission has issued numerous reports describing and analyzing the budget requests and Congressional appropriations for civil rights enforcement agencies and programs. In some of its earlier reports, the Commission concluded that inadequate funding has hindered most of these agencies from sufficiently exercising their civil rights authority.² The data which follow demonstrate that since the 1995 report, civil rights law enforcement continue to receive decreasing funding and staffing.

For 2005, the President requested increased funding for five civil rights enforcement agencies (see Summary Table 1). Congress granted increases for four of the agencies, with EEOC and OFCCP receiving less than one percent of the President's request. HHS and the Commission were the only agencies for which Congress met the President's request. Although the President requested a two percent increase in funding for HUD/FHIP, Congress granted a two percent decrease.

For 2006, the President is requesting increased funding for DOJ, level funding for the Commission, and decreased funding for all other civil rights agencies (see summary table 1). DOJ will receive a budget increase of 1.2 percent. DOE's budget will decrease 1.4 percent and all HUD program components will receive double digit decreases.

Inflation diminishes the actual dollar amount of an agency's budget. For 2006, after accounting for inflation, the President's request amounts to decreases for all civil rights enforcement agencies (see summary table 2). Of the seven agencies, the President requested the largest decreases for all three HUD fair housing components. The President's request calls for a one percent decrease for both DOJ and the Commission (see Summary Table 2). HUD/FHEO would decrease by 20.3 percent, HUD/FHAP by 17.7 percent, and HUD/FHIP by 23.8 percent.

² U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement*, June 1995; U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2000 and Beyond*, February 2001; U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2000-2003*, April 2002; U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2004*, June 2003; U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2005*.

Summary Table 1- Civil Rights Enforcement Funding, FY 2004-2005

(actual dollars)

Civil rights enforcement agency	President's request	Congressional appropriation
<i>FY 2004-2005 change</i>		
DOEd	↑ 1.7%	↑ 1.2%
EEOC	↑ 4.7%	↑ 0.9%
OFCCP	↑ 2.6%	↑ 0.8%
DOJ/CRD	↓ 0.5%	↓ 1.1%
HHS	↑ 3.2%	↑ 3.3%
HUD/FHEO	↓ 7.1%	↓ 3.9%
HUD/FHAP	↓ 9.1%	↓ 4.7%
HUD/FHIP	↑ 2.0%	↓ 2.0%
USCCR	0.0%	0.0%
<i>FY 2005-2006 change</i>		
DOEd	↓ 1.4%	
EEOC	↓ 5.6%	
OFCCP	Not Available	
DOJ/CRD	↑ 1.2%	
HHS	↓ 1.0%	
HUD/FHEO	↓ 18.7%	
HUD/FHAP	↓ 16.1%	
HUD/FHIP	↓ 22.0%	
USCCR	0.0%	

Summary Table 2- Civil Rights Enforcement Funding, FY 2004-2005

(1994 inflation-adjusted dollars)

Civil rights enforcement agency	President's request	Congressional appropriation
<i>FY 2004-2005 change</i>		
DOEd	↓ 0.9%	↓ 1.4%
EEOC	↑ 2.1%	↓ 1.7%
OFCCP	0.0%	↓ 1.7%
DOJ/CRD	↓ 3.7%	↓ 3.6%
HHS	↑ 0.7%	↑ 0.7%
HUD/FHEO	↓ 8.9%	↓ 5.9%
HUD/FHAP	↓ 11.2%	↓ 7.1%
HUD/FHIP	↓ 0.6%	↓ 3.7%
USCCR	↓ 2.7%	↓ 2.7%
<i>FY 2005-2006 change</i>		
DOEd	↓ 3.3%	
EEOC	↓ 7.4%	
OFCCP	Not Available	
DOJ/CRD	↓ 0.8%	
HHS	↓ 3.2%	

HUD/FHEO	↓ 20.3%
HUD/FHAP	↓ 17.7%
HUD/FHIP	↓ 23.8%
USCCR	↓ 1.4%

For 2005, President Bush requested inflation-adjusted budget increases for only two civil rights enforcement offices, EEOC and HHS. The President requested the largest decrease in funding for HUD's FHEO (8.9 percent) and HUD's FHAP (11.2 percent) programs (see Summary Table 2).

Furthermore:

- Of the federal agencies reviewed in this report, DOJ/CRD received the largest percentage budget increase over the past 12 years. Between 1994 and 2005, the Division's budget grew 79.6 percent, 42.5 percent after adjusting for inflation. Between 1994 and 2005, even if Congress had approved funding based on the President's request, DOJ/CRD's budget would have grown 85 percent in actual dollars and 46.9 percent in real dollars. Between 1994 and 2004, CRD's FTE level increased 32.9 percent. However, since 2002 the number of FTEs in all CRD sections, except for the Civil Rights Prosecution Section, remained stagnant.
- Between 1995 and 2005, Congressional appropriation for the Commission has increased one percent. However, the amount of funding has not kept pace with inflation causing the Commission's buying power to erode over time. After adjusting for inflation, the Commission's budget has decreased 18 percent over the past 11 years. In 1995, the Commission's \$9.0 million budget was worth \$8.8 million; and in 2005, the Commission's \$9.1 million budget is worth \$7.2 million. Both the President's request and Congressional appropriation have remained at \$9.1 million since 2002 and have not changed substantially since 1995. After adjusting for inflation, the Commission's budget has decreased 8 percent since 2002. For 2006, if Congress grants the President's request, the Commission's budget will be worth \$7.1 million, 19 percent less than its worth in 1995.
- Since 1994, DOEd/OCR's budget, in actual dollars, has increased 58 percent. But after adjusting for inflation, the agency realized a 25 percent increase during that period. For each fiscal year between 1994 and 2005, had Congress appropriated the President's request, DOEd/OCR's budget would have increased 64 percent, 30.2 percent after adjusting for inflation. Between 1994 and 2004, OCR's FTE level decreased 20.2 percent and the number of initiated compliance reviews decreased 62.5 percent. The number of backlogged complaints, however, is now lower than the 1994 level.
- Between 1994 and 2005, Congressional appropriations for EEOC increased 44 percent. After adjusting for inflation, EEOC's budget has increased only 14.4 percent in the past 11 years. If Congress meets the President's request for 2006, EEOC's budget will increase 44 percent in

actual dollars, and 12.1 percent in real spending power between 1994 and 2006. After decreasing to a low of 2,544 in 1998, the number of FTEs now stands at 2,942, which is nearly four percent more than the 1994 level. EEOC's private sector pending inventory decreased 65.4 percent, from 86,547 in 1994 to 29,966 in 2004. Pending inventory for federal sector enforcement after increasing from 1994 through 1999, has continuously declined.

- Since 1994, OFCCP's budget has increased 41.8 percent. But once inflation is taken into account, this increase amounts to 12.8 percent. Had the President's requests been met between 1994 and 2005, OFCCP would have received an increase of 48.2 percent, which would have represented a 17.7 percent increase after adjusting for inflation. Since 2000, the number of FTEs has continuously declined. In 2004, OFCCP's FTEs were 16 percent below its 1994 level.
- Between 1994 and 2005, Congressional appropriations for HHS/OCR increased 57.9 percent in actual dollars, 25.2 percent after adjusting for inflation. Had the President's requests been met between 1994 and 2005, HHS/OCR's budget would have increased 59.4 percent in actual dollars and 26.6 percent in real dollars. In 2004, OCR had less staff (244 FTEs) than in FY 1994 (284 FTEs). After decreasing between 2000 and 2003, pending inventory of post-grant reviews and investigations decreased 20.7 percent between 2003 and 2004.
- HUD/FHEO is the only agency for which Congressional appropriation for the past 12 years has always been less than the amount requested by the President. Between 1994 and 2005, Congressional appropriation for FHEO decreased 6.6 percent. After adjusting for inflation, FHEO realized a huge 25.9 percent decrease in its budget. Even if Congress had granted the President's request between 1994 and 2005, FHEO would still have received decreased funding. The President's request would have amounted to a decrease of 24 percent, and after adjusting for inflation FHEO's spending power would have been reduced 25.8 percent. The number of FTEs dedicated solely to complaint processing declined between 2003 and 2004, after continuously increasing between 2000 and 2003. The total number of program compliance complaints that FHEO reviewed and processed as well as reviews it conducted increased between 1994 and 2004.
- Of the two HUD programs, FHAP has received the larger increase in funding in the past 12 years. Between 1994 and 2005, FHAP's budget increased 481.7 percent. As for real spending, the budget has grown 364.4 percent.
- Unlike FHAP, between 1994 and 2005, FHIP's budget decreased 3.1 percent in actual dollars and 22.9 percent in real dollars. FHIP's spending power is now less than it was in 1994. Had Congress granted the President's requests between 1994

and 2005, FHIP's budget would have increased 22.2 percent in actual dollars, but decreased 3 percent in real spending power.

Chapter 1

Office for Civil Rights, U.S. Department of Education

The U.S. Department of Education's (DOEd) Office for Civil Rights (OCR) is responsible for enforcing the following five antidiscrimination statutes:

- Title VI of the Civil Rights Act of 1964;
- Title IX of the Education Amendments of 1972;
- Section 504 of the Rehabilitation Act of 1973;
- Age Discrimination Act of 1975;
- Title II of the Americans with Disabilities Act of 1990; and
- Boy Scouts of America Equal Access Act.

These laws apply throughout the nation and coverage extends to nearly 15,000 school districts; more than 4,000 colleges and universities; about 5,000 proprietary organizations, such as training schools for truck drivers and cosmetologists; and thousands of libraries, museums, vocational rehabilitation agencies and correctional facilities.

Budget Analysis

In 1994, the amount of funding Congress granted OCR matched the President's request. However, between 1995 and 1997, Congress consistently granted funding well below the President's request. For example, in 1996 Congress appropriated \$55.5 million in funding, 12 percent less than the President's \$62.8 million request (see table 1.1).

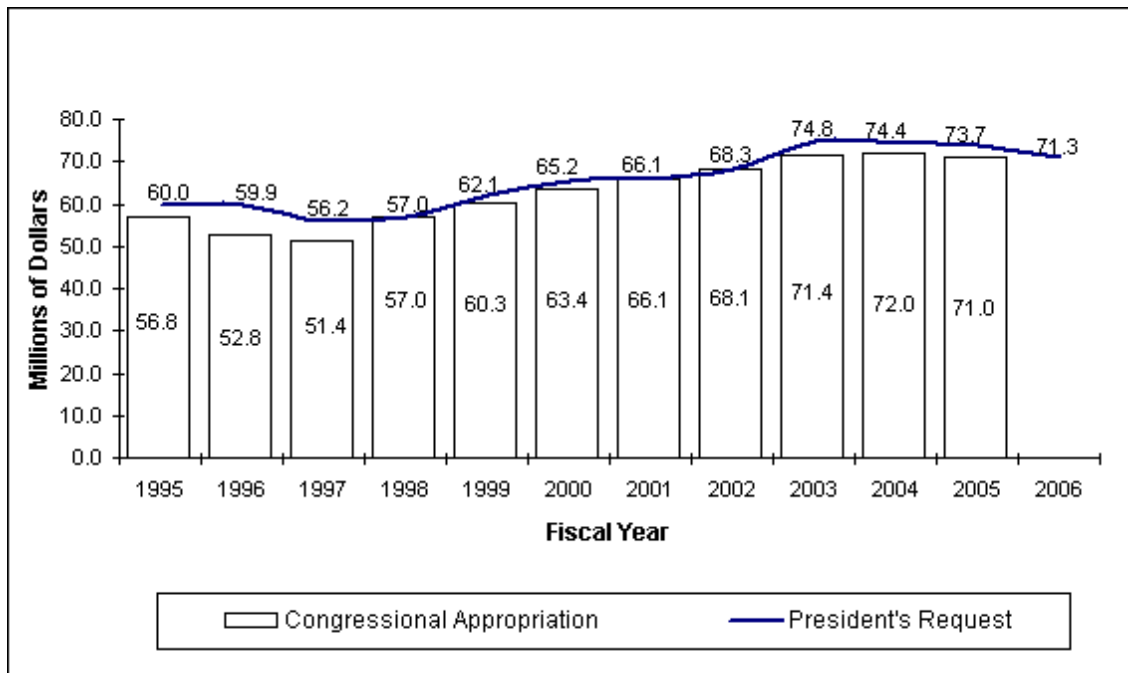
Table 1.1 - DOEd/OCR Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$56,570,000	\$56,570,000
1995	61,457,000	58,236,000
1996	62,784,000	55,277,000
1997	60,000,000	54,900,000
1998	61,500,000	61,500,000
1999	68,000,000	66,000,000
2000	73,262,000	71,200,000
2001	76,000,000	76,000,000
2002	79,934,000	79,660,000
2003	89,710,000	85,715,000
2004	91,275,000	88,305,000
2005	92,801,000	89,375,000
2006	91,526,000	

Source: U.S. Department of Education, Office for Civil Rights.

Beginning in 1998, congressional appropriation began to steadily increase, as did the amount of funding requested by the President. Although OCR's funding increased, the amounts were not sufficient to keep pace with inflation. For example, in 2004 OCR received funding of \$88.3 million, but after adjusting for inflation, the amount was worth \$72 million (see table 1.1 and figure 1.1). Although OCR did not receive the requested \$91.3 million in 2004, this did not impair its ability to execute its civil rights programs. OCR was still able to meet its GPRA Performance indicators, resolve 4,968 complaints, initiate 54 compliance reviews and provide technical assistance to parents and recipients.³

Figure 1.1 – DOEd/OCR Funding History
(in constant 1994 dollars)



Source: Calculated from table 1.1.

Between 2004 and 2005, OCR's budget increased 1.2 percent, from \$88.3 million to \$89.4 million (see table 1.1). After adjusting for inflation, the amount was worth \$71 million. For 2006, the President requested \$91.5 million, which is only 1.4 percent more than the level requested in 2005 (see table 1.1). If Congress grants the President's request, after adjusting for inflation, OCR will receive \$71.3 million. Based on the amounts of funding Presidents have requested between 1994 and 2006, and if honored, OCR's budget would have increased \$35 million, \$14.7 million after adjusting for inflation.

OCR intends to use its 2005 level of funding to process approximately 5,000 complaints to insure civil rights compliance in educational institutions receiving federal assistance, initiate more than 70 compliance reviews, provide technical

³ U.S. Department of Education, Office for Civil Rights' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Feb. 21, 2005, p. 1 (hereafter cited as DOEd OCR's Response to Funding Interrogatory, 2005).

assistance, monitor resolution agreements, develop policy guidance, respond to customer inquires, and perform other enforcement activities.⁴

Staffing and Workload Analysis

Approximately 80 percent of OCR's annual budget is allocated for staffing. As OCR's funding level decreased, so did its full time staff. The number of FTEs declined from 821 in 1994 to 681 in 1997 (see table 1.2). The largest decrease in the number of FTEs occurred between 1996 and 1997, from 744 to 681 (see table 1.2). Between 1998 and 1999, OCR's staff grew nearly 8 percent but began decreasing again the following fiscal year. Between 2003 and 2004 there was no significant increase in the number of FTEs (see table 1.2). The 2004 FTE level was 655, 90 percent of whom were responsible for complaint processing, conducting compliance reviews, providing technical assistance, monitoring resolution agreements, developing policy guidance, providing technical assistance, responding to customer inquiries, among other duties. At no time during the past 11 years has the number of full time employees returned to the 1994 level.

Table 1.2 - DOEd/OCR Staffing History

Fiscal Year	FTE Level
1994	821
1995	788
1996	744
1997	681
1998	685
1999	737
2000	712
2001	696
2002	698
2003	654
2004	655

Source: U.S. Department of Education, Office for Civil Rights.

As the number of staff declined, OCR's workload increased. Decreasing staff during the 1990s may have hindered OCR from resolving all of its complaints within the fiscal year in which they were received. During the early 1990s, OCR focused on investigating rather than resolving complaints, which could also have accounted for its inability to resolve complaints in a timely manner.⁵ In 1997, when OCR's budget did not increase from the previous year and its staff had been cut by 8.5 percent, it resolved 4,981 of the 5,296 complaints it received (see table 1.3). In 1999 and 2000, OCR accumulated its largest backlog of complaints since 1994. In 1999, the backlog of complaints numbered 1,259, which by the following year had grown to 1,467. By 2001, OCR reduced the backlog to 206 and even further since then. In 2004, OCR received 5,043 complaints and resolved 4,968, leaving a backlog of only 75 (see table 1.3).

⁴ Ibid.

⁵ U.S. Government Printing Office, "Department of Education: Resolving Discrimination Complaints Has Improved with New Processing System," March 23, 1999.

Table 1.3 - DOEd/OCR Workload History

Fiscal year	Complaints received	Complaints resolved
1994	5,302	5,751
1995	4,981	5,559
1996	4,828	4,886
1997	5,296	4,981
1998	4,827	4,753
1999	6,628*	5,369
2000	4,897	6,364
2001	4,571	4,777
2002	5,019	4,842
2003	5,128	5,225
2004	5,043	4,968

*1614 of these complaints filed by an individual complainant
Source: U.S. Department of Education, Office for Civil Rights.

As OCR's complaints backlog was increasing in 1999 and 2000, the number of compliance reviews it initiated was decreasing. Between 1997 and 2002, the number of compliance reviews initiated fell 93 percent, from 152 to 11, respectively (see table 1.4).

Table 1.4 - DOEd/OCR Compliance Workload

Fiscal year	Compliance reviews initiated
1994	144
1995	96
1996	146
1997	152
1998	102
1999	76
2000	47
2001	21
2002	11
2003	74
2004	54

Source: U.S. Department of Education, Office for Civil Rights.

OCR initiated fewer compliance reviews between 1998 and 2002 due to an increased monitoring workload.⁶ With the number of complaints rising, OCR cut back the number of compliance reviews initiated. However, OCR initiated 63 more compliance reviews in 2003 than in 2002 (see table 1.4). Again in 2004, OCR cut back the number of compliance reviews initiated, and it intends to initiate 30 percent more reviews in 2005.⁷

Strategic and Output Measures

⁶ U.S. Commission on Civil Rights, *Ten-Year Check-Up: Have Federal Agencies Responded to Civil Rights Recommendations? Volume IV: An Evaluation of the Departments of Education, Health and Human Services and Housing and Urban Development, and the Equal Employment Opportunity Commission*, September 2004.

⁷ DOEd OCR's Response to Funding Interrogatory, 2005, p. 1.

While the number of complaints resolved and compliance reviews initiated are indicators of OCR's workload, they do not comprehensively measure program effectiveness or mission accomplishment. OCR has developed performance indicators in response to Government Performance and Results Act (GPRA) requirements. OCR uses these GPRA performance indicators in its strategic self-evaluation and also in the annual budget request to OMB. OMB and Congress measure OCR's effectiveness as they do other agencies by reviewing its ability to successfully reach certain targets. OCR's foremost goal is to ensure equal access to education and promote educational excellence throughout the nation through the vigorous enforcement of civil rights. During 2004, OCR pursued two objectives to meet its goal: (1) to eliminate discriminatory educational practices within schools and (2) to obtain results through efficient management of civil rights compliance activities.⁸ For 2004, OCR exceeded performance targets that were established.

To evaluate its first objective to eliminate discriminatory educational practices within schools, OCR measured (1) the percentage of technical assistance it provides to recipients and (2) the percentage of technical assistance it provided to parents. For 2004, the performance target was 50 percent of OCR materials designed to assist recipients in identifying and addressing their obligations under federal civil rights laws. OCR's actual performance, 66 percent, exceeded the target. OCR set and succeeded a second target for 20 percent of materials assisting parents with understanding recipients' federal civil rights obligations. OCR's actual performance was 34 percent.

To meet the second objective of obtaining results through efficient management of civil rights compliance activities, OCR measured the percentage of complaints resolved within 180 days of receipt. OCR exceeded its 80 percent target by resolving 92 percent of its complaints within 180 days.

OCR also sets goals for obtaining results through efficient management of civil rights compliance activities. OCR measures the percentage of complaints resolved within 180 days of receipt. In each year between 2001 and 2004, OCR exceeded its performance target of resolving 80 percent of its complaints within 180 days.⁹

For 2005, OCR has established the following performance targets to evaluate its civil rights programs:

1. Provide high quality customer service throughout the case resolution process. In 2005, OCR's customer service survey will be used to establish baseline data against which a performance target will be developed.
2. Obtain results by the efficient management of civil rights compliance activities. OCR continues to use timely resolution of complaints as a measure of effectiveness and efficiency. Using the percentage of complaints resolved in 180 days as a measure, OCR will resolve 80 percent of its cases within 180 days.

⁸ U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2005*, September 2004, p. 10.

⁹ DOEd OCR's Response to Funding Interrogatory, 2005, p. 2.

OCR also plans to continue to maintain the efficiency of its civil rights compliance activities by resolving at least 80 percent of its complaints within 180 days.¹⁰

¹⁰ Ibid.

Chapter 2

U.S. Equal Employment Opportunity Commission

The Equal Employment and Opportunity Commission (EEOC), established by Title VII of the Civil Rights Act of 1964, enforces the following federal statutes:

- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964, as amended
- Age Discrimination in Employment Act of 1967
- Section 501 and 505 of the Rehabilitation Act of 1973, as amended
- Title I and Title V of the Americans with Disabilities Act of 1990
- Civil Rights Act of 1991

Throughout its existence, EEOC has focused on the elimination of illegal discrimination from the workplace. With its headquarters in Washington, DC and through the operations of 50 field offices nationwide, EEOC interprets federal employment discrimination laws, monitors programs that protect federal workers from employment discrimination, provides funding and support to state and local fair employment practices agencies and tribal employment rights organizations, and conducts outreach and technical assistance programs. EEOC's responsibilities have continued to grow throughout its existence, but its budget has not always increased to commensurate with its workload.

Budget Analysis

Although EEOC's congressional appropriation was less than the President's request between 1994 and 2005, the agency received increased funding each year except 1996 when it was flat funded (see table 2.1). In 2003, EEOC received \$308.8 million, a 5 percent decrease from its 2002 appropriation of \$310.4 million. In 2004, EEOC's congressional appropriation increased from \$308.8 million to \$328.4 million or 6.3 percent. After adjusting for inflation, EEOC's budget is worth less, \$267.6 million (see figure 2.1). At this level of funding, EEOC was only able to accomplish limited staffing of vacancies.¹¹

The President requested \$350.8 million in funding for 2005 and Congress granted \$331.2 million (see table 2.1). The appropriation, after adjusting for inflation, is worth \$263.1 million (see figure 2.1). Approximately 80 percent of EEOC's budget is devoted to fixed costs, such as compensation, benefits and rent. The remainder

¹¹ Equal Employment Opportunity Commission's Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Feb. 16, 2005, p. 1 (hereafter cited as EEOC's Response to Funding Interrogatory, 2005).

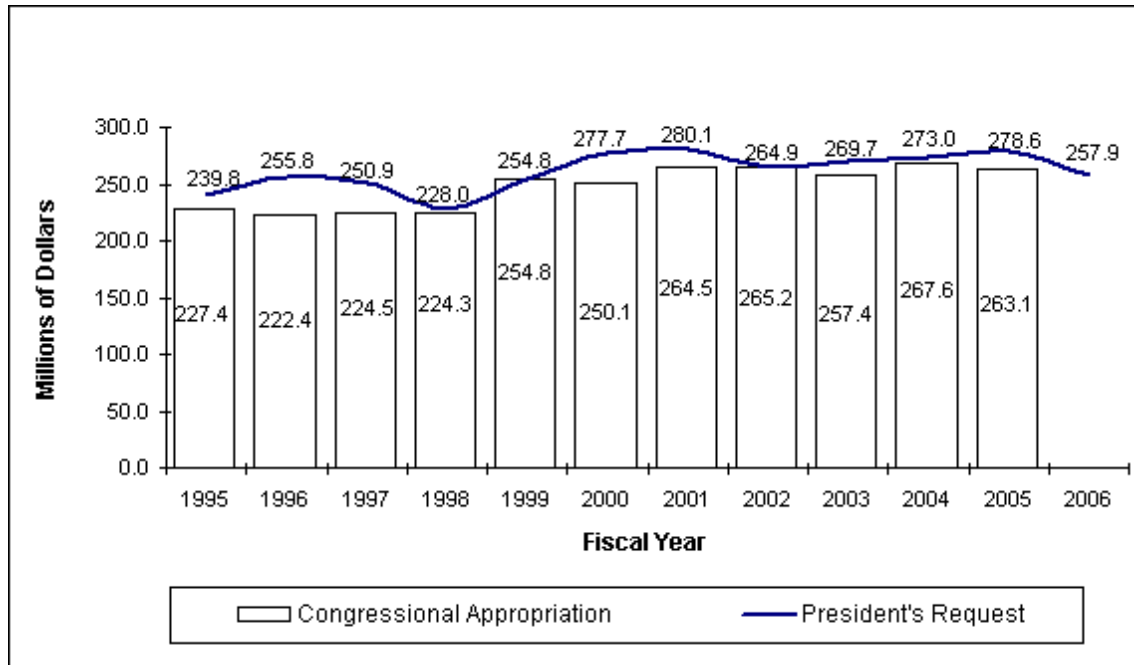
primarily supports mediation/Alternative Dispute Resolution (ADR), litigation, state and local programs, outreach, and technology.¹² According to EEOC, this leaves few resources to devote to human capital investments and transfers and reassignments to better balance its workload.¹³

Table 2.1- EEOC Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$234,845,000	\$230,000,000
1995	245,720,000	233,000,000
1996	268,000,000	233,000,000
1997	268,000,000	239,740,000
1998	246,000,000	242,000,000
1999	279,000,000	279,000,000
2000	312,000,000	280,900,000
2001	322,000,000	304,000,000
2002	310,000,000	310,406,000
2003	323,516,000	308,822,000
2004	335,000,000	328,400,000
2005	350,754,000	331,228,000
2006	331,228,000	

Source: Equal Employment Opportunity Commission.

Figure 2.1 - EEOC Funding History
(in constant 1994 dollars)



Source: Calculated from Table 2.1.

¹² Equal Employment Opportunity Commission, *FY 2005 Performance Budget*, February 2004, p. 4.

¹³ *Ibid.*

Staffing and Workload Analysis

At no time during the past 11 years has Congress allocated the number of FTEs the President requested. Starting in 1994, the number of FTEs continuously declined and by 1998 EEOC had 10 percent fewer FTEs than in 1994 (see table 2.2). By 2000, EEOC's staff once again returned to its 1994 level; however, the number of actual FTEs has fluctuated in the past four years. In 2004, EEOC requested 2,720 FTE's and received 2,442, a 10 percent gap between requested and actual staff. According to EEOC, the hiring freeze imposed in 2001 remains in effect today.¹⁴ More than 50 percent of EEOC's current workforce is eligible for retirement and it continues to lose high performing, front-line professionals without being able to replace them.¹⁵

Table 2.2 - EEOC Staffing History

Fiscal year	Requested	Actual
1994	3,000	2,832
1995	3,020	2,813
1996	3,219	2,676
1997	3,022	2,586
1998	2,680	2,544
1999	2,748	2,593
2000	2,946	2,852
2001	3,055	2,704
2002	3,055	2,783
2003	2,720	2,617
2004	2,720	2,442

Source: Equal Employment Opportunity Commission.

As a result of implementing the Priority Charge Handling Procedures (PCHP), EEOC has continued to complete more complaints thus reducing its backlog.¹⁶ Under the PCHP system, incoming charges are prioritized into three categories based on the likelihood that discrimination occurred. Between 1994 and 1996, EEOC received 15 percent fewer private sector complaints, resolved 45 percent more complaints, and reduced its backlog 20 percent (see table 2.3). In 1997, EEOC resolved 106,312 complaints, the most since 1994. Of the total complaints resolved in 1997, 61 percent were "no cause" decisions, 28 percent administrative closures, and 11 percent merit resolutions (see table 2.3). Between 1994 and 2004, EEOC reduced its private sector backlog 65 percent (see table 2.3).

Between 1994 and 1996, the number of merit resolutions decreased from 11,100 to 9,430. Merit resolutions began increasing in 1997 and peaked at 19,938 in 2000. Between 2002 and 2004, the total number of resolutions decreased partly as a result of fewer merit resolutions and no cause decisions (see table 2.4). After decreasing 22.3 percent between 2002 and 2003, the number of administrative closures increased slightly between 2003 and 2004 (see table

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ U.S. Commission on Civil Rights, *Overcoming the Past, Focusing on the Future – An Assessment of the U.S. Equal Employment Opportunity Commission's Enforcement Efforts*, September 2000, pp. 118-19.

2.4). In 2004, EEOC resolved 85,259 cases of which 18.1 percent were merit resolutions, 62.4 percent were no cause decisions, and 18.1 percent were administrative closures (see table 2.4).

Table 2.3 - EEOC Private Sector Enforcement

Fiscal year	Complaints received	Complaints resolved	Pending inventory
1994	91,189	71,563	86,547
1995	87,529	91,774	88,263
1996	77,990	103,467	69,142
1997	80,680	106,312	64,850
1998	79,591	101,470	51,561
1999	77,444	97,846	38,478
2000	79,896	93,672	34,297
2001	80,840	90,106	32,481
2002	84,442	95,222	30,245
2003	81,293	87,755	29,368
2004	79,432	85,259	29,966

Source: Equal Employment Opportunity Commission.

Table 2.4 - EEOC Resolutions

Fiscal year	Total resolutions	Merit resolutions	No cause decisions	Administrative closures
1994	71,563	11,100 (15.5%)	34,451 (48.1%)	26,012 (36.3%)
1995	91,744	10,921 (11.9%)	46,700 (50.9%)	34,153 (37.2%)
1996	103,467	9,430 (9.1%)	63,216 (61.1%)	30,821 (29.8%)
1997	106,312	11,668 (11.0%)	64,567 (60.7)	30,077 (28.3)
1998	101,470	12,558 (12.4%)	61,794 (60.9%)	27,118 (26.7%)
1999	97,846	16,102 (16.5%)	58,174 (59.5)	23,570 (24.1%)
2000	93,672	19,938 (21.3%)	54,578 (58.3%)	19,156 (20.5)
2001	90,106	19,908 (21.1%)	51,562 (57.2%)	18,636 (20.7%)
2002	95,222	19,075 (20.0%)	56,514 (59.3%)	19,633 (20.6%)
2003	87,755	17,134 (19.55)	55,359 (63.15)	15,262 (17.4%)
2004	85,259	16,661 (19.5%)	53,182 (62.4%)	15,416 (18.1%)

Source: Equal Employment Opportunity Commission.

Workload demands continued to rise in the federal sector between 1994 and 2000 (see table 2.5). The number of hearing receipts increased 30 percent and appeal receipts increased 26 percent. Appeal receipts increased through 2001. Between 1994 and 1999, pending inventory increased dramatically each year reaching a six-year high of 24,356 in 1999, an increase of 155 percent (see table 2.5). Since 2000, pending inventory has continuously declined (see table 2.5). Between 2003 and 2004, hearing receipts decreased nine percent and appeal

receipts increased 11.3 percent. As a result, pending inventory decreased from 12,298 to 9,609 or 21.9 percent (see table 2.5).

Table 2.5 - EEOC Federal Sector Enforcement

Fiscal year	Hearing receipts	Appeal receipts	Total pending inventory
1994	10,712	7,141	9,540
1995	10,515	8,152	12,865
1996	10,677	8,001	16,651
1997	11,198	8,453	20,155
1998	12,218	8,480	23,193
1999	12,637	8,690	24,356
2000	13,942	8,986	21,128
2001	11,812	9,634	19,195
2002	9,617	6,725	14,881
2003	9,918	7,035	12,298
2004	9,027	7,831	9,609

Source: Equal Employment Opportunity Commission.

Strategic and Output Measures

EEOC's 2004-2009 Strategic Plan became effective on October 1, 2004. Because most of EEOC's performance measures were newly implemented in 2004, several did not include the required activities that would allow EEOC to access results.¹⁷ Of the 24 long-term performance goals outlined in EEOC's Strategic Plan and reported in its 2006 performance budget and 2004 PAR, 14 were met, six partially, and four unmet. EEOC considered targets as partially met if: (1) the agency completed at least half of the activities necessary to meet the measure's goal, (2) the goal represented a two-year target, or (3) information was not yet available to assess results.¹⁸ The following four goals were not met:

- (1) By 2009, the general public rates their confidence in the EEOC's enforcement of Federal equal employment laws at a certain percentage or higher.
- (2) By 2009, increase to 50 percent the percentage of Federal agencies that successfully implement the model EEO program attributed described in EEOC guidance.
- (3) By 2009, customers rate their confidence in EEOC's services at a certain percentage or higher.
- (4) By 2009, ensure that at least 50 percent of Federal sector hearings will be resolved in 180 days or fewer.

The first three goals were not met because they involved the use of surveys. Originally, EEOC had anticipated conducting surveys in 2004 to establish these

¹⁷ EEOC's Response to Funding Interrogatory, 2005, p. 2.

¹⁸ Ibid.

baseline and target values through 2009 so that it could begin measuring results. However, EEOC was required to balance many critical and competing priorities throughout 2004, which impeded its ability to conduct surveys.¹⁹ EEOC has initiated steps during the fiscal year that will help it complete surveys in 2005. With the survey information, EEOC plans to establish intermediate and final target goals and stay within its long-term frames for the measures that rely on surveys.²⁰

The goal for hearing resolutions (#4 above) was not met because EEOC achieved a rate of 32.8 percent for 2004 and its target was 35 percent. According to EEOC, it did not meet its performance target because it focused on reducing the aged inventory and the inter-district transfer cases.²¹ In 2004, EEOC targeted the oldest cases in its inventory for resolution. Because of staffing considerations in its field offices, EEOC had to utilize complaint transfers to shift its workload. EEOC does not expect this to affect the achievement of long-term goals. For 2005 and 2006, EEOC has established performance targets as 38 and 40 percent, respectively.²²

These goals will be achieved by using coordinated initiatives EEOC began in 2004 to provide substantive and operational support and oversight toward the resolution of hearings cases to help prepare decisions more expeditiously. EEOC plans to continue expanding the use of ADR to resolve complaints at the hearings stage. Finally, EEOC will make its Federal sector appellate legal tools available to assist administrative judges in processing hearings more efficiently. These tools make fully researched and computerized legal language available for inclusion in findings and decisions and make past decisions fully searchable on the agency-internal Intranet site.

The number of complaints resolved, number of resolutions, number of administrative closures, and number of hearing and appeal receipts are other indices that EEOC uses to monitor its programs. Managers use this data to assess workload inputs and outputs, and the time requirements for processes. The data also enables managers to make decisions about resources.²³ These indices help ensure that charge and complaint processes are implemented in an accurate, appropriate and fair manner, and that staff and other resources are deployed effectively and efficiently to ensure the quality and timeliness of charge processing, complaints and litigation.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid, p. 3.

²² Ibid.

²³ Ibid, p. 2.

Chapter 3

Office of Federal Contract Compliance Programs, U.S. Department of Labor

The Office of Federal Contract Compliance Programs (OFCCP) was formed in 1965 as the Office of Federal Contract Compliance. In 1971 the word “Programs” was added to the title. In the late 1970’s the entire federal contract compliance program was consolidated under the Department of Labor (DOL). The Office is responsible for assuring that employers doing business with the federal government comply with the equal opportunity (EEO) and affirmative provisions of their contracts. OFCCP enforcement authority and responsibilities are encompassed in the following:

- Executive Order 11246, as amended
- Vietnam Era Veterans’ Readjustment Assistance Act of 1974
- Section 503 of the Rehabilitation Act of 1973, as amended
- Immigration Reform and Control Act of 1986
- Title I of the Americans with Disabilities Act of 1990

OFCCP asserts its authority through the following enforcement activities such as: (1) conducting compliance reviews and investigating complaints; (2) negotiating conciliation agreements and letters of commitment from contractors and subcontractors who are in violation of regulatory requirements; (3) monitoring contractor compliance and compliance reports; (4) forming links between contractors and DOL job training programs; (5) providing technical assistance to aid contractor understanding of and compliance with federal nondiscrimination requirements; and (6) recommending enforcement actions to the DOL Solicitor, its chief legal officer.²⁴ OFCCP’s jurisdiction covers approximately 26 million workers or nearly 22 percent of the total civilian workforce.²⁵ OFCCP monitors contractors and subcontractors with a federal contract of \$50,000 or more, and 50 or more employees.

Budget Analysis

Over the past 12 years, in most instances Congress did not grant OFCCP the amount of funding the President requested. Only during 1994, 2002, and 2003 did Congress fund OFCCP above the President’s requested level (see table 3.1). These increases did not keep pace with inflation. After adjusting for inflation, the 2002 appropriation of \$76 million was

²⁴ U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2000 and Beyond*, February 2001, p. 21.

²⁵ Bureau of National Affairs, “Remedies at OFCCP Totaled \$34.5 Million in Fiscal 2004; An Increase of 31 Percent,” *Daily Labor Report*, Nov. 19, 2004, p. A-3.

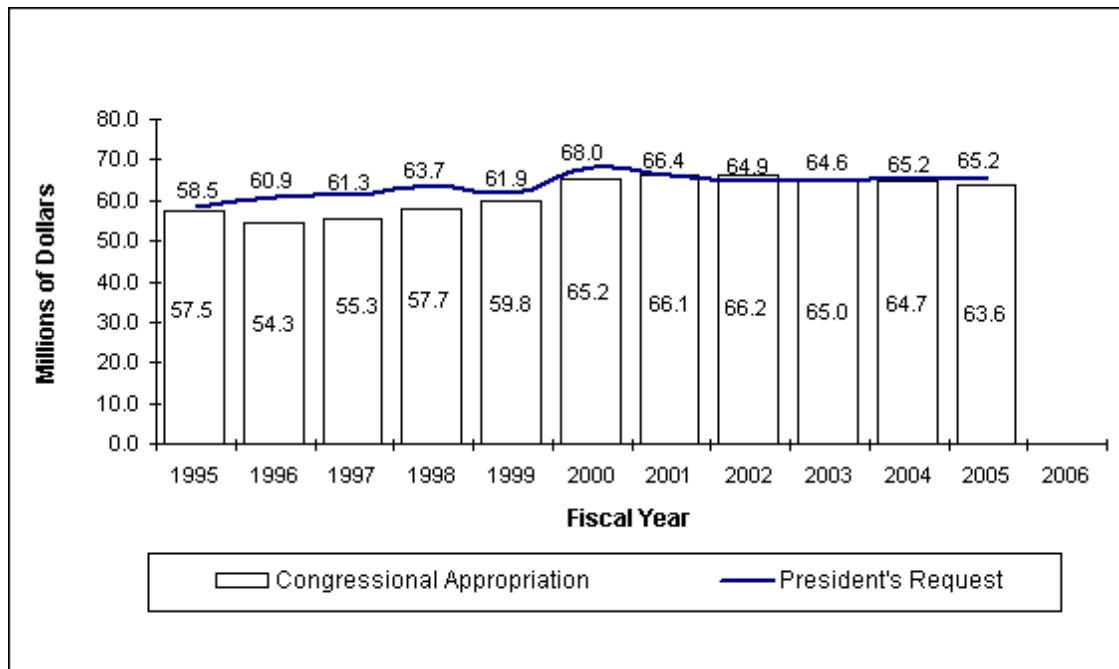
worth \$66.2 million and the 2003 appropriation of \$78.0 million was worth \$65 million (see table 3.1 and figure 3.1).

Table 3.1 - OFCCP Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$55,398,000	\$56,443,000
1995	59,902,000	58,928,000
1996	63,831,000	56,851,000
1997	65,460,000	59,058,000
1998	68,728,000	62,271,000
1999	67,836,000	65,461,000
2000	76,417,000	73,250,000
2001	76,308,000	76,000,000
2002	76,000,000	77,701,000
2003	77,500,000	78,000,033
2004	80,000,000	79,441,513
2005	82,078,000	80,059,000
2006	Not Available	

Source: Department of Labor, OFCCP.

Figure 3.1 – OFCCP Funding History
(in constant 1994 dollars)



Source: Calculated from table 3.1.

OFCCP has received increased funding each year since 1998, although the increases have been successively smaller since 2000. Between 1999 and 2000, OFCCP's funding increased 11.9 percent; between 2002 and 2003 OFCCP's funding increased only 0.7 percent. For 2004, OFCCP received \$79.4 million in

funding, but after adjusting for inflation, its budget was worth \$64.7 million (see table 3.1 and figure 3.1). Between 2003 and 2004, OFCCP's budget increased 1.8 percent. In 2005, the President requested \$82.1 million in funding but Congress granted 2.4 percent less. After adjusting for inflation, the 2005 Congressional appropriation is worth \$63.6 million (see figure 3.1).

OFCCP indicated that if it did not receive the amount of funding requested by the President, it could maintain current services and meet program goals through the use of strategies, among others, the following: (1) focus resources on federal contractor communities with recurring systemic discrimination indicators; (2) increase the use of statistics and statistical techniques; (3) continue to assess and measure the effectiveness of program activities; and (4) provide training for compliance officers to improve investigative skills.²⁶ OFCCP also stated that if necessary, it would also initiate appropriate cutbacks in all discretionary spending including enforcement travel, eliminating cost duplication, and imposing a hiring freeze.²⁷

Staffing and Workload Analysis

Between 1994 and 1997 OFCCP's FTE level continuously declined from 785 to 712 staff members (see table 3.2). The number of FTEs peaked at 811 in 2000. Since then, OFCCP's staffing level has decreased each successive year. In 2003, OFCCP's FTE level stood at 707 and in 2004 fell to 663, its lowest level in 11 years (see table 3.2). The number of staff for 2003 is 10 percent below the FTE level in 1994.

Table 3.2 - OFCCP Staffing History

Fiscal Year	FTE Level
1994	785
1995	775
1996	727
1997	712
1998	743
1999	727
2000	811
2001	776
2002	718
2003	707
2004	663

Source: Department of Labor, OFCCP.

As OFCCP's staffing level declined between 1994 and 1997, so did its work output. Between 1994 and 1997, the number of complaints resolved decreased from 802 to 372. During the same period, pending complaint inventory also decreased and the number of compliance reviews performed decreased 10 percent (see table 3.3).

²⁶ U.S. Department of Labor, Office of Federal Contract Compliance Programs' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Mar. 18, 2005, p. 1 (hereafter cited as OFCCP's Response to Funding Interrogatory, 2005).

²⁷ Ibid.

Table 3.3 - OFCCP Workload History

Fiscal year	Complaints resolved	Pending inventory	Compliance reviews
1994	802	--	4,179
1995	566	368	3,9 91
1996	473	282	3,476
1997	372	265	3,750
1998	294	350	5,707
1999	313	284	5,875
2000	306	268	6,672
2001	279	207	7,175
2002	297	78	6,494
2003	279	250	7,709
2004	194	145	6,529

Source: Department of Labor, OFCCP.

Between 1998 and 2002, the number of complaints OFCCP resolved fluctuated between 294 and 313, but dramatically decreased between 2003 and 2004. In 2004, OFCCP resolved 30.5 percent fewer complaints than in 2003. OFCCP indicated that since ADA became effective in 1992, it has been receiving fewer complaints filed under Section 503 of the Rehabilitation Act and Executive Order 11246, resulting in an overall decline in the number of complaints received.²⁸ The decline in the number of complaints filed under the Order may be a result of the Civil Rights Act of 1991, which approved compensatory and punitive damages as remedies for unlawful employment discrimination under Title VII. Individuals being discriminated against may be opting to file with the EEOC to obtain such remedies.²⁹ Also between 2003 and 2004, pending inventory declined 250 to 145, after increasing 221 percent between 2002 and 2003.

Although the number of compliance reviews decreased from 7,709 to 6,529 between 2003 and 2004, the smaller number of reviews covered more than 3 million workers.³⁰ According to OFCCP, improved methodologies enabled it to target audits towards contractor facilities at which discrimination is most likely to occur. Consequently, the overall number of compliance reviews has decreased while overall performance has increased.³¹

In 2004, OFCCP continued to focus workplace audits on finding and remedying systemic discrimination.³² So doing allows OFCCP to:

²⁸ U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2004*, attachment, Office of Federal Contract Compliance Programs' Comments on "Funding Federal Civil Rights Enforcement: 2004," June 2003, p. 50.

²⁹ Ibid.

³⁰ U.S. Department of Labor, Employment Standards Administration, Office of Federal Contract Compliance Programs, "Improvement in OFCCP Begin to Pay Off As Agency Obtains \$34,479,294 in Financial Remedies for 10,434 American Workers in Fiscal Year 2004," p. 1(hereafter cited as OFCCP, "Improvements in OFCCP Begin to Pay Off.")

³¹ Ibid.

³² Systemic refers to discrimination that impacts a large number of workers.

- prioritize its enforcement resources for those individuals who allow discrimination to be their standard operating procedure or allow employment standards that are not legitimate to adversely impact a significant number of women or minority workers or job applicants.
- encourage employers to engage in self audits of their employment practices, by increasing the consequences of not self auditing.
- maximize its resources to protect the greatest number of workers from discrimination.
- complement its compliance assistance strategy by assisting contractors who comply voluntarily.³³

During 2004, OFCCP continued to conduct a large number of compliance evaluations, although the number of reviews decreased 15 percent from the previous year (see table 3.4). However, the 6,529 compliance evaluations conducted in 2004 covered more than 3 million workers and aside from last year's record, represented more reviews than any year since 1991.³⁴

Table 3.4 - OFCCP Enforcement Litigation and Other Statistics

Fiscal year	2002	2003	2004
<i>Enforcement Statistics</i>			
Financial remedies obtained	\$23,975,000	\$26,220,356	\$24,479,294
Workers in facilities subject to compliance evaluation	1,449,162	2,527,420	3,065,470
Corporate management reviews	42	52	50
Compliance reviews	6,494	7,709	6,529
<i>Enforcement Litigation</i>			
Estimated liability of filed systemic discrimination cases	\$2,363,241	\$6,269,169	\$6,760,445
Referred systemic discrimination cases	4	12	10

Source: Department of Labor, OFCCP.

OFCCP also continued obtaining record amounts of financial remedies. Between 2002 and 2004, the amount of financial remedies increased from \$24.0 million to \$34.5 million or 31 percent (see table 3.4). During 2004, the Solicitor's Office filed enforcement litigation in 3 OFCCP systemic discrimination cases, with an estimated liability of more than \$6.7 million.³⁵ One of the cases filed by the Solicitor's Office involved Dr. Pepper Bottling Company and was settled within the fiscal year.

Corporate management reviews or glass ceiling audits ensure that women have equal opportunity to rise to management and executive positions. In 2004, OFCCP performed 50 such reviews recovering more than \$17.9 million in financial remedies

³³ OFCCP, Improvements in OFCCP Begin to Pay Off, p. 1.

³⁴ Ibid.

³⁵ Ibid., p. 2.

for 6,150 women.³⁶ In 2003, OFCCP performed 52 corporate management reviews.³⁷ The Solicitor successfully litigated a case against Wachovia, recovering \$ 5.5 million for 2,021 current and former females whom OFCCP alleged were unlawfully subjected to compensation discrimination.³⁸

Strategic and Output Measures

When determining the effectiveness of its program activities, and in conformance with the Government Performance Results Act of 1993 (GPRA), OFCCP evaluates two outcome goals: (1) reducing the occurrence of discrimination among federal contractors and (2) increasing compliance among federal contractors in all other respects of equal opportunity workplace standards.³⁹

Internally, OFCCP also measures its effectiveness and efficiency by tracking: (1) the number of systemic discrimination cases resolved through settlement or referral to the Office of the Solicitor; (2) the number of systemic discrimination cases substantially developed; (3) the number of potential systemic discrimination cases identified; (4) the number of workers protected through financial settlements; (5) the number of corporate management reviews; and (6) the number of compliance assistance events.⁴⁰ OFCCP establishes goals for each region and ties each to regional directors' personal performance plans.

The output goals OFCCP established for 2003 were also used in 2004. During 2004, OFCCP met the foregoing output goals. For example, OFCCP expressed a goal to resolve 46 systemic discrimination cases through settlement or referral to the Office of the Solicitor (see table 3.5). OFCCP actually resolved 56 such cases (see table 3.5). Another goal was to protect 5,677 workers by obtaining financial settlements; OFCCP protected 10,434 workers. OFCCP nearly doubled the number of planned compliance assistance events.

Table 3.5 – OFCCP Performance Objectives

Objective	Performance target	Actual performance	
		2003	2004
Systemic cases resolved	46	52	56
Workers protected by systemic relief	5,677	14,361	10,434
Systemic cases to resolve next year	57	72	10
Systemic cases identified	94	147	56
Compliance assistance events	535	964	1,002
Corporate management reviews	47	52	50

Source: U.S. Department of Labor, Office of Federal Contract Compliance Programs' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Apr. 23, 2004, p. 2; U.S.

³⁶ U.S. Department of Labor, Employment Standards Administration, Office of Federal Contract Compliance Programs, "Office of Federal Contract Compliance Programs Continues Strong Enforcement in Fiscal Year 2003," p. 2.

³⁷ Ibid.

³⁸ The case was originally filed against First Union National Bank and transferred to Wachovia when the two banks merged in June 2002. Ibid., pp. 2-3.

³⁹ OFCCP's Response to Funding Interrogatory, 2005, p. 1.

⁴⁰ Ibid.

Department of Labor, Office of Federal Contract Compliance Programs' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Mar. 18, 2005, p. 2.

For 2005, OFCCP will use the same performance goals to measure effectiveness and efficiency that it used for 2003 and 2004.

Chapter 4

Civil Rights Division, U.S. Department of Justice

The Civil Rights Division's (CRD) original responsibility was enforcing voting and criminal statutes. But, with the passage of the Civil Rights Act of 1964 and more recent laws and executive orders, the authority of CRD has greatly expanded. CRD has 10 subject-matter sections: the Appellate Section, the Coordination and Review Section, the Civil Rights Prosecution Section, the Educational Opportunities Section, the Employment Litigation Section, the Housing and Civil Enforcement Section, the Special Litigation Section, the Disability Rights Section, the Voting Rights Section, and the Office of Special Counsel.

Budget Analysis

Between 1994 and 2004, Congress has most often funded CRD below the level requested by the President. However, in 1994 and 1999, CRD received more funding than the President requested. In 1999, the President requested \$71.6 million in funding and Congress appropriated \$77.3 million, resulting in CRD receiving 8 percent more than the President requested (see table 4.1). After adjusting for inflation, CRD's 1999 funding level was worth \$70.6 million (see figure 4.1). CRD received its largest increase in funding, 19 percent, between 1998 and 1999.

Table 4.1 - DOJ/CRD Funding History
(in actual dollars)

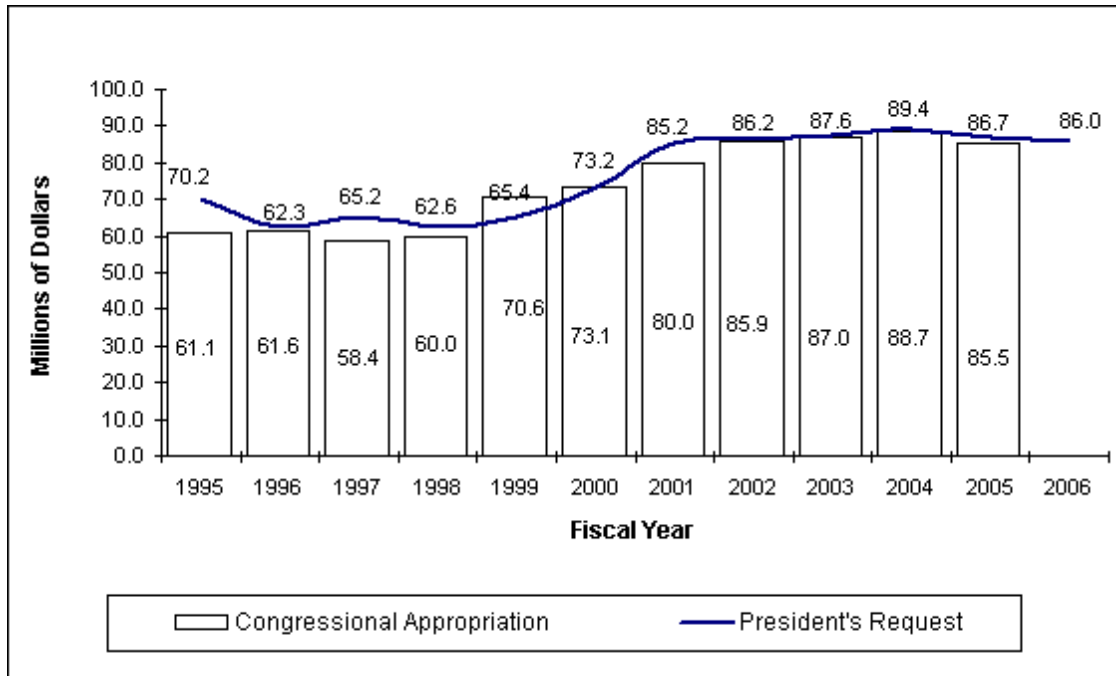
Fiscal year	President's request	Congressional appropriation
1994	\$59,000,000	\$59,956,000
1995	71,895,000	62,602,000
1996	65,304,000	64,546,000
1997	69,648,000	62,419,000
1998	67,477,000	64,689,000
1999	71,594,000	77,267,000
2000	82,200,000	82,150,000
2001	97,922,000	92,000,000
2002	100,872,000	100,547,000
2003	105,099,000	104,416,000
2004	109,690,000	108,842,000
2005	109,141,000	107,638,000
2006	110,437,000	

Source: Department of Justice, Civil Rights Division

Between 2003 and 2004, CRD's budget increased four percent, but after adjusting for inflation, the 2004 appropriation of \$108.8 million is worth \$89.4 million (see table 4.1 and figure 4.1). In 2005, after increasing for seven consecutive years, CRD's budget decreased 1.1 percent from the previous year (see table 4.1) For 2006, the President is requesting \$110.4 million and if Congress grants the President's request, CRD's budget will increase 1.2

percent. However, after adjusting for inflation, CRD’s budget will be worth \$86.0 million (see figure 4.1).

Figure 4.1 – DOJ/CRD Funding History
(in constant 1994 dollars)



Source: Calculated from table 4.1.

Staffing and Workload Analysis

As congressional appropriations increased between 1994 and 1996, CRD’s staffing levels increased 2 percent. When Congress decreased its budget 3 percent between 1996 and 1997, CRD’s staff decreased commensurately, 3 percent from 579 in 1996 to 573 in 1997 (see table 4.2). In 1999, CRD increased its FTEs to 589, and by 2000 the number of FTEs had increased 8 percent. Since 2000, CRD has continued to receive increases in the number of FTEs, most significantly between 2000 and 2001. The smallest increase, less than one percent, in the number of FTEs occurred between 2003 and 2004.

Table 4.2 - CRD Staffing History

Fiscal year	FTE level
1994	568
1995	579
1996	579
1997	573
1998	573
1999	589
2000	639
2001	713
2002	744
2003	750
2004	755

Source: Department of Justice, Civil Rights Division.

Disability Rights Enforcement

The Disability Rights Section has enforcement responsibilities for Titles I and II of the Americans with Disabilities Act (ADA), which prohibits discrimination based on disability in state and local government employment, public accommodations, commercial facilities, and the programs and services of state and local governments. The Section also has the responsibility to coordinate federal enforcement of statutes that prohibit discrimination on the basis of disability in programs that receive federal financial assistance. In FY 1995, when all disability-related coordination and enforcement responsibilities were transferred from the Coordination and Review Section, 66 FTEs handled the disability workload (see table 4.3).

Table 4.3 - Disability Rights Staffing History

Fiscal year	FTE level
1994	48
1995	66
1996	69
1997	69
1998	69
1999	73
2000	81
2001	92
2002	97
2003	97
2004	97

Source: Department of Justice, Civil Rights Division.

DRS' FTE level grew from 69 in 1996 to 97 in 2002, presenting a 40.6 percent increase in its staffing level (see table 4.3). During the same period, the number of ADA-related calls specialists received increased from 38,000 to 52,000. The number of successfully resolved mediations also increased from 76 in 1998 to 209 in 2000 (see table 4.4). The number of project civic access agreements increased 163.6 percent between 2000 and 2001 (see table 4.4).

Table 4.4 - Disability Rights Section Workload History

Fiscal year	Mediations successfully resolved	Project civic access agreements	Hits on ADA.gov (in millions)	ADA calls handled by specialists
1997	NA	NA	1.9	NA
1998	76	NA	3.6	38,000
1999	162	NA	6.0	43,000
2000	209	11	11.0	47,000
2001	136	29	17.0	52,000
2002	202	12	22.0	52,000
2003	209	12	25.0	52,000
2004	170	39	29.3	47,200

Source: Department of Justice, Civil Rights Division.

Since 2002, DRS' FTE level has remained stagnant, while its workload has fluctuated (see tables 4.3 and 4.4). Between 2002 and 2004, specialist handled 9.2 percent fewer ADA calls. In addition, the number of mediations successfully resolved increased slightly between 2002 and 2003 and then decreased from 209 in 2003 to 170 in 2004 (see table 4.4). Although DRS' workload decreased, the public still sought information from its website. Between 1997 and 2004, the number of visits to DRS's ADA website increased from 1.9 million in 1997 to 29.3 million in 2004 (see table 4.4).

Coordination and Review

The Coordination and Review Section (CORS) coordinates the civil rights enforcement activities of other federal agencies. Among its many duties, the Section develops and assists other agencies in developing guidelines and regulations for civil rights enforcement. Throughout the 1990s, FTE levels declined from 32 to 19 (see table 4.5). In 1996, the Commission concluded that CORS was "without the staff necessary to conduct an effective and comprehensive Title VI coordination and enforcement program."⁴¹ In 2004, CORS had 21 FTEs who were responsible for enforcing Title VI and Title IX of the Education Amendments of 1972. This FTE level has remained stagnant since 2001. Between 1994 and 2004, CORS' FTE level declined 34 percent.

Table 4.5 - Coordination and Review Section Staffing History

Fiscal year	FTE level
1994	32
1995	21
1996	22
1997	21
1998	19
1999	19
2000	20
2001	21
2002	21

⁴¹ U. S. Commission on Civil Rights, *Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs*, June 1996, p. 139.

2003	21
2004	21

Source: Department of Justice, Civil Rights Division.

Voting Rights Enforcement

The Voting Rights Section is responsible for bringing lawsuits to remedy alleged discriminatory actions in elections conducted in all jurisdictions and has the authority to commence civil action against any state or political subdivision that has imposed or applied a discriminatory device or procedure. It is responsible for enforcing Section 5 of the Voting Rights Act, under which nine states, mostly in the Deep South, as well as scattered counties and townships across the nation from California to New York, are required to obtain federal approval (“preclearance”) before implementing any proposed electoral changes.

Between 1994 and 1999, the Voting Rights Section’s FTE levels fluctuated, albeit minimally (see table 4.6). Between 2000 and 2002, the FTE levels increased from 92 to 109. The 2004 FTE level remained unchanged from the two previous years. Since 1994, the number of FTEs has increased 24 percent.

Table 4.6 -Voting Rights Section Staffing History

Fiscal year	FTE level
1994	88
1995	86
1996	86
1997	86
1998	85
1999	86
2000	92
2001	104
2002	109
2003	109
2004	109

Source: Department of Justice, Civil Rights Division.

Civil Rights Prosecution

The objective of the Civil Rights Prosecution Section is to reduce police and other official criminal misconduct and to eliminate or reduce violent activity by private citizens (including organized hate groups) against others because of their race, religion, national origin, or sex. To accomplish its objectives, the Section prosecutes cases of national significance involving the deprivation of personal liberties, which either cannot be, or are not, sufficiently addressed by State or local authorities. Its jurisdiction includes acts of racial violence, misconduct by local, State, or Federal law enforcement officials, violations of the peonage and involuntary servitude statutes that protect migrant workers and others held in bondage and violations of the Freedom of Access to Clinic Entrances Act. The Section ensures that complaints are reviewed on a timely basis for investigation and potential prosecution.

In 1994, 49 FTEs were assigned to the Civil Rights Prosecution Section. The number of FTEs decreased to 47 in 1995 and remained at that level through 1997. Since 1998, the number of FTEs has continuously increased, and as of 2004 101 employees were assigned to

the section. Since 1994, the Civil Rights Prosecution Section's FTE level has increased 106 percent (see table 4.7).

Table 4.7 - Civil Rights Prosecution Section Staffing History

Fiscal year	FTE level
1994	49
1995	47
1996	47
1997	47
1998	54
1999	61
2000	71
2001	85
2002	95
2003	101
2004	101

Source: Department of Justice, Civil Rights Division.

In 1997, the Civil Rights Prosecution Section received 77 cases involving the deprivation of personal liberties, charged 189 individuals with various types of misconduct, and convicted 117 individuals charged with a crime (see table 4.8). Over the next two years, although there was an increase in the number of cases filed, the numbers of individuals charged and convicted of misconduct declined (see table 4.8).

Throughout the early 2000s, the number of cases filed fluctuated, as did the number of individuals charged and convicted (see table 4.8). In 2004, the Civil Rights Prosecution Section filed 25 percent more cases, charged 17 percent less individuals with a crime, and convicted five percent fewer individuals of misconduct.

Table 4.8 - Civil Rights Prosecution Section Workload History

Fiscal year	Cases filed	Individuals charged	Convictions
1997	77	189	117
1998	79	153	166
1999	89	138	98
2000	84	122	112
2001	93	191	119
2002	76	125	124
2003	63	125	104
2004	96	156	111

Source: Department of Justice, Civil Rights Division.

Fair Housing Enforcement

The Fair Housing Section enforces federal fair housing laws that proscribe discrimination in housing, the provision of credit, and in places of public accommodation. The section investigates complaints and litigates cases under Title VIII of the Civil Rights Act of 1968; Title II of the Civil Rights Act of 1964; and the Equal Credit Opportunity Act. In 1994, the Fair Housing Section had 89 FTEs dedicated to fighting housing discrimination. In 1995, the number of FTEs increased to 96, but beginning in 1997 the number of FTEs started decreasing, and by 1998 the section had 86 FTEs (table 4.9).

Table 4.9 - Civil Rights Housing Section Staffing History

Fiscal year	FTE level
1994	89
1995	96
1996	95
1997	93
1998	86
1999	91
2000	91
2001	95
2002	95
2003	95
2004	95

Source: Department of Justice, Civil Rights Division.

Between 1998 and 1999, the Fair Housing Section's staff increased 6 percent, from 86 to 91. The number of FTEs remained stagnant in 2000 and increased again in 2001. Since 2001, the FTE level has remained at 95 (see table 4.9).

Strategic and Output Measures

CRD's strategic goal is to uphold the civil and constitutional rights of all Americans, and to protect vulnerable members of society. To implement this goal, the agency has established objectives under the criminal and civil programmatic areas. To assess its effectiveness within the criminal enforcement area, CRD measures the percentage of criminal cases favorably resolved. When evaluating its effectiveness within the civil enforcement area, CRD measures the percent of pattern or practices cases favorably resolved.

Although CRD measures the number of investigations initiated and completed in the Disability Rights Section and the number of matters investigated by the Civil Rights Prosecution Section, these alone do not comprehensively gauge effectiveness. Furthermore, these workload categories are limited in that CRD does not report them in any of the Department plans, only in the Division's case management system for distribution to senior division management quarterly.⁴²

Two of CRD's performance goals were the same as those used in 2003. For 2004, CRD established and met all three of its goals. One of CRD's goals was to favorably resolve 80 percent of its criminal cases. CRD surpassed its goal by resolving 88 percent of its criminal cases (see table 4.10). Another goal was to favorably resolve 80 percent of its civil enforcement cases. CRD exceeded its performance target by resolving 90 percent of its civil cases (see table 4.10). CRD's final goal was to favorably resolve 80 percent of its pattern or practice cases. CRD surpassed this goal by resolving 94 percent of its pattern or practice cases. For 2005, CRD will use these same performance goals.⁴³

⁴² U.S. Department of Justice, Civil Rights Division's Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Apr. 2, 2004, p. 2 (hereafter cited as CRD Funding Interrogatory).

⁴³ Ibid.

Table 4.10 – DOJ/CRD Performance Measures, 2003 and 2004

Performance measures	Performance target	Actual performance
Percentage of criminal cases favorably resolved		
2003	87	95
2004	80	88
Percentage of civil cases favorably resolved		
2003	80	95
2004	80	90
Percentage of pattern or practice cases favorably resolved		
2003		NA
2004		94

Source: Compiled from U.S. Department of Justice, Civil Rights Division's Response to the U.S. Commission on Civil rights' Interrogatory for Funding, Apr. 2, 2004, p. 2; U.S. Department of Justice, Civil Rights Division's Response to the U. S. Commission on Civil rights' Interrogatory for Funding, Apr. 25, 2005, p. 2.

Chapter 5

Office for Civil Rights, U.S. Department of Health and Human Services

The Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) is responsible for carrying out civil rights for improving the health and well-being of all people affected by its many programs. OCR enforces statutes including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990, the community service requirements of Titles VI and XVI of the Public Health Service Act, provisions of the Omnibus Budget Reconciliation Act of 1981 relating to nondiscrimination in block grant programs, and the Health Insurance Portability and Accountability Act. Approximately 230,000 group and institutional providers, including state agencies, are subject to the nondiscrimination laws that OCR enforces.

Budget Analysis

Between 1994 and 1999, OCR's funding began decreasing and did not return to its 1994 level until 2000. However, in 2000, OCR's congressional appropriation was only 1.7 percent more than the \$22.2 million the President requested (see table 5.1). Although OCR received its largest increase in funding, 24.3 percent, between 2000 and 2001, the amount was not sufficient to keep pace with inflation. After adjusting for inflation, the 2001 appropriation of \$28.0 million was worth \$24.4 million (see table 5.1 and figure 5.1).

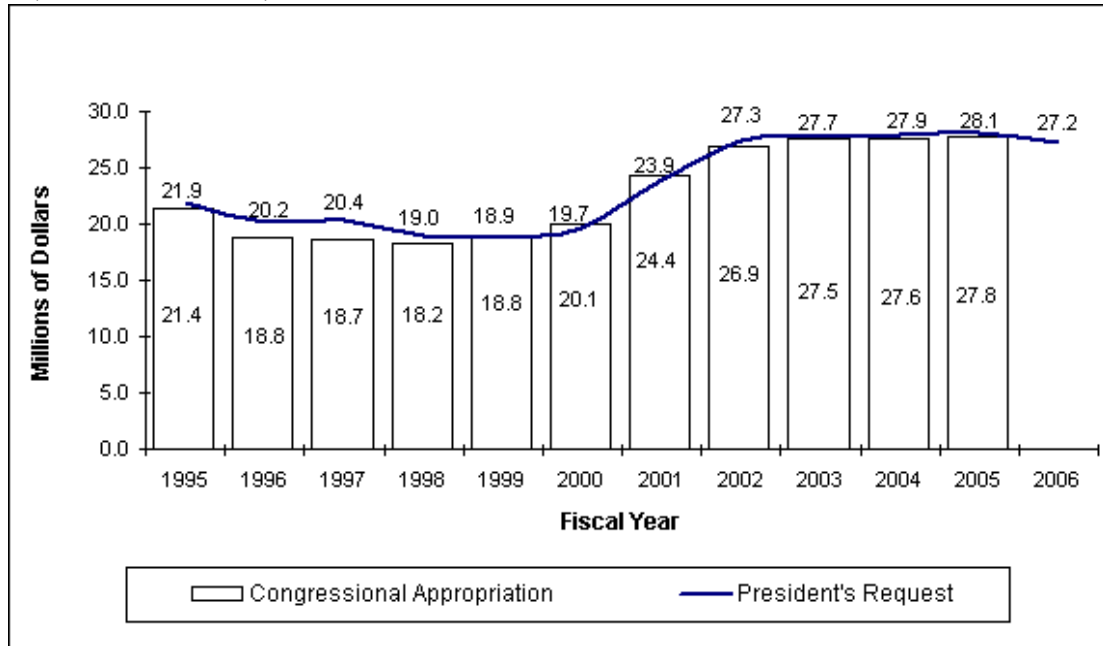
Table 5.1 - HHS/OCR Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$22,182,000	\$22,181,000
1995	22,390,000	21,891,000
1996	21,160,000	19,710,000
1997	21,790,000	19,965,000
1998	20,530,000	19,659,000
1999	20,659,000	20,618,000
2000	22,159,000	22,533,000
2001	27,456,000	28,005,000
2002	32,005,000	31,430,000
2003	33,257,000	33,038,000
2004	34,250,000	33,902,000
2005	35,357,000	35,014,000
2006	34,996,000	

Source: U.S. Department of Health and Human Services, Office for Civil Rights.

Since 2001, OCR's funding has continued increasing, but the increases have become smaller each year and the increases have not kept pace with inflation. For 2005, OCR received 27.8 million in funding, which is worth only \$27.7 million after adjusting for inflation. Between 1994 and 2005, OCR's budget increased by 57.9 percent. However, OCR's current budget is worth 27.9 million once adjustments for inflation are made (see figure 5.1). For 2006, if Congress grants the President's request of \$35 million, after adjusting for inflation OCRE will have buying power of \$28.6 million (see table 5.1 and figure 5.1).

Figure 5.1 – HHS/OCR Funding History
(in constant 1994 dollars)



Source: Calculated from table 5.1.

Staffing and Workload Analysis

In the past 10 years, OCR has never received the level of staffing it has requested. In addition, OCR's staff decreased from 284 in 1994 to a low of 210 in 1999 (see table 5.2). As a result, 26 percent fewer employees were available to perform its civil rights activities including complaint investigations, post-grant reviews and investigations, pre-grant reviews, monitoring and voluntary compliance reviews, and outreach. By 2000, OCR's staff returned to its 1998 level and has continued to increase (see table 5.2). Between 2001 and 2002, OCR's staff increased 10 percent, possibly in anticipation of an increased workload as a result Congress passing the Health Insurance Portability and Accountability Act (HIPAA).⁴⁴ For 2004, OCR requested a staffing level of 267, but its actual level is 244 (table 5.2).

⁴⁴ The Health Insurance Portability and Accountability Act (HIPAA) establishes for the first time, a foundation of Federal protections for the privacy of protected health information. HIPAA sets national standards to protect individuals' medical records and other personal health information. The Act gives patients more control over their health information; sets boundaries on the use and release of health records; establishes appropriate safeguards that health care providers and others must achieve to protect the privacy of health information; and holds violators accountable, with civil and criminal penalties that can be imposed if they violate patients' privacy

Table 5.2 - HHS/OCR Staffing History

Fiscal year	Requested staffing level	Actual staffing level
1994	297	284
1995	297	259
1996	276	242
1997	274	232
1998	242	216
1999	232	210
2000	225	215
2001	259	223
2002	273	246
2003	267	244
2004	267	244

Source: U.S. Department of Health and Human Services, Office for Civil Rights.

Table 5.3 - HHS/OCR Post-Grant Review and Investigation Workload History

Fiscal year	New starts	Total workload	Pending inventory
1994	203	256	46
1995	122	168	36
1996	181	217	60
1997	328	388	90
1998	301	391	164
1999	287	451	181
2000	317	498	276
2001	137	413	250
2002	140	390	264
2003	41	305	302
2004	13	315	222

Source: Department of Health and Human Services, Office for Civil Rights.

The decreasing staff level has dramatically affected OCR's workload history. As staff levels fell between 1994 and 1999 OCR's pending inventory rose exponentially, from 46 in 1994 to 1,881 in 1999 (see tables 5.2 and 5.3). In 2000, OCR's staff increased by five, but was still not enough to handle increased post-grant review and investigation inventory. Between 1999 and 2000 OCR's pending inventory escalated to 276, a 52.5 percent increase. Between 2001 and 2003 OCR's pending inventory increased 20.8 percent. After surpassing the 2000 level of 276, pending inventory declined to 222 in 2004 (see table 5.3).

Between 1994 and 1998, OCR reduced the number of staff dedicated to complaint processing by 47.5 percent. In 1994, the complaint processing staff totaled 141 and by 1998 that number had dwindled to 74 (see table 5.4). The decrease in the complaint processing staffing level reflects the decrease in OCR's complaint workload. OCR's complaint receipts decreased from 2,222 in 1994 to 1,548 in 1998 (see table 5.5). Between 1999 and 2002, the number of complaint receipts fluctuated

rights.

as did staff assigned to specifically handle complaints processing (see tables 5.5 and 5.4).

Table 5.4 - HHS/OCR Complaint Processing Staff History

Fiscal year	Staffing level
1994	141
1995	145
1996	129
1997	84
1998	74
1999	79
2000	74
2001	83
2002	90
2003	94*
2004	89*

*Excludes 28 FTEs dedicated to processing complaints alleging violations of the Health Information Portability and Accountability Act (HIPAA) Privacy Rule.

Source: Department of Health and Human Services, Office for Civil Rights.

As a result of health care providers and businesses being required to comply with HIPAA by April 2003, OCR's complaint workload continues to dramatically increase. In 2003, OCR's staffing level increased to 94; however, this did not include the 28 FTEs dedicated to processing complaints alleging violations of HIPAA (see table 5.4). OCR's complaint workload also increased. In 2003, OCR received 2,221 complaints but this increase does not reflect the 2,267 complaints received after the April 2003 HIPAA compliance date (see table 5.5). The number of complaints OCR received in 2004 increased by 22.2 percent from the previous year. This increase does not reflect the 6,473 complaints alleging violation of HIPAA.

Table 5.5 - HHS/OCR Complaint Workload History

Fiscal year	Complaints received
1994	2,222
1995	2,094
1996	1,827
1997	1,741
1998	1,548
1999	1,950
2000	2,185
2001	2,148
2002	1,948
2003	2,221*
2004	2,716**

*Excludes 2,267 complaints alleging violations of the HIPAA Privacy Rule received on or after the compliance effective date of April 14, 2003. **Excludes 6,473 complaints alleging violations of the HIPAA Privacy Rule received during FY 2004.

Source: Department of Health and Human Services, Office for Civil Rights.

Strategic and Output Measures

OCR measures its civil rights program's effectiveness and efficiency as part of Results Act reporting. OCR has streamlined our measures into two major goals: first, to increase nondiscriminatory access and participation in HHS programs and protect the privacy of protected health information. This goal encompasses three program performance objectives: (1) to increase access to and receipt of nondiscriminatory quality health care and to protect the privacy of personally identifiable health information while protecting the integrity of HHS Federal financial assistance; (2) to increase access to and receipt of community-based services and nondiscriminatory treatment for persons with disabilities, while protecting the integrity of HHS Federal financial assistance. With respect to each of these objectives, OCR's output measure is an increased number of corrective actions, no violation findings, reviews, outreach, consultations, technical assistance and collaborative activities.

The second OCR strategic goal is enhancing operational efficiency. This goal encompasses one program objective: to increase the efficiency of case processing. With respect to this objective, OCR's output measure is the average age of all case closures.

In its effort to evaluate program effectiveness, OCR also uses information about the number of initiated and completed post-grant reviews and complaint investigations. OCR measures "decreased average age of all case closures" to assess how efficiently staff are processing cases and the extent to which staff are able to resolve issues raised in these cases. In 2004, OCR's goal was to close all cases within 255 days, including pre-grant reviews, post-grant reviews, and investigations.⁴⁵ OCR actually closes cases in 172 days on the average, exceeding its goal by 83 days. OCR committed and plans to continue to expend considerable energy to streamline case processing, and develop guidance for and training of investigators.⁴⁶

In 2004, OCR exceeded its output targets for each of the program performance objectives encompassed in the strategic goal to increase nondiscriminatory access and participation in HHS programs and protect the privacy of protected health information. The targets and accomplishments cited below envelop OCR's work under its traditional civil rights authorities.

With respect to the objective to increase access to and receipt of nondiscriminatory quality health care and treatment and protecting the privacy of personally identifiable health information, while protecting the integrity of HHS Federal financial assistance, OCR's output goal for civil rights issues was 1,470 corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities (see table 5.6). OCR exceeded this goal by 721.

⁴⁵ U.S. Department of Health and Human Services, Office for Civil Rights' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Mar. 4 2005, p 1.

⁴⁶ Ibid.

With respect to the objective to increase access to and receipt of nondiscriminatory social services, while protecting the integrity of HHS Federal financial assistance, OCR's output goal was 295 corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities (see table 5.6). OCR's actual performance of 426 corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities well exceeded this goal.

With respect to the objective to increase access to and receipt of community-based services and nondiscriminatory treatment for persons with disabilities, while protecting the integrity of HHS Federal financial assistance, OCR's output goal was 1,265 corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities (see table 5.6). OCR's actual performance of 1,474 corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities exceeded this goal by 209.

Finally, OCR also exceeded the output goal for the operational efficiency performance measure of decreased average age of all case closures.

Table 5.6 - HHS Performance Measures, 2003 to 2004

Objectives/measures	Performance targets	Actual performance
<i>Increase access to and receipt of nondiscriminatory quality health care</i> Corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities 2003 2004	770 1,470	783 2,191
<i>Increase access to and receipt of nondiscriminatory social services</i> Corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities 2003 2004	614 295	617 426
<i>Increase access to and receipt of community-based services and nondiscriminatory treatment for persons with disabilities</i> Corrective actions, no violation findings, review, outreach, consultation, technical assistance and collaborative activities 2003 2004	258 1,265	491 1,474

Source: Compiled from U.S. Department of Health and Human Services, Office for Civil Rights' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Feb. 10, 2004, pp. 1-3 and U.S. Department of Health and Human Services, Office for Civil Rights' Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Mar. 4 2005, pp. 1-2.

Chapter 6

U.S. Department of Housing and Urban Development - Office of Fair Housing and Equal Opportunity (FHEO), Fair Housing Assistance Program (FHAP), and Fair Housing Initiatives Program (FHIP)

FHEO

Under the direction of the Assistant Secretary for Equal Opportunity, the Office of Fair Housing and Equal Opportunity (FHEO) administers federal laws and establishes national policies designed to ensure that all Americans have equal access to housing of their choice. The following laws and executive orders extend fair housing enforcement powers to FHEO:

- President Kennedy's Executive Order 11063 relating to equal opportunity in federally financed housing
- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968⁴⁷
- Section 504 of the Rehabilitation Act of 1973
- Section 109 of Title I of the Housing and Community Development Act of 1974⁴⁸
- Age Discrimination Act of 1975
- Housing and Community Development Act of 1987⁴⁹
- Fair Housing Amendments Act of 1988⁵⁰
- Title II of the Americans with Disabilities Act of 1990
- President Clinton's Executive Order 12892⁵¹

Budget Analysis

The Bush Administration is focused on giving more Americans the opportunity to own their own homes, especially minority families. HUD is proposing several new or expanded initiatives for 2005 to continue efforts to make the home buying process

⁴⁷ Title VIII of the Civil Rights Act of 1968 prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, or national origin.

⁴⁸ Section 109 of Title I of the Housing and Community Development Act of 1974 prohibits discrimination in Community Development Block Grant Programs on the basis of race, color, national origin, religion, or sex.

⁴⁹ The Housing and Community Development Act of 1987 authorized the Public Housing Comprehensive Transition Demonstration, a program intended to move residents out of public housing and into their own homes.

⁵⁰ Title VIII was amended in 1988 to expand the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status.

⁵¹ Executive Order 12,892 requires HUD to coordinate certain fair housing efforts with executive departments and agencies.

simpler, clearer and less expensive, and less likely to be targeted by predatory lenders. However, at no time during the past 12 years has FHEO's congressional appropriation matched the President's request. For example, in 1994 the President requested \$51.1 million, but Congress appropriated \$49.4 million (see table 6.1). In fact, congressional appropriation has been lower than the President's request by as much as 34 percent. One demonstration of this is evident in 2003, when the President requested \$70.0 million in funding, but Congress granted only \$46.0 million (see table 6.1).

Table 6.1 - HUD/FHEO
(in actual dollars)

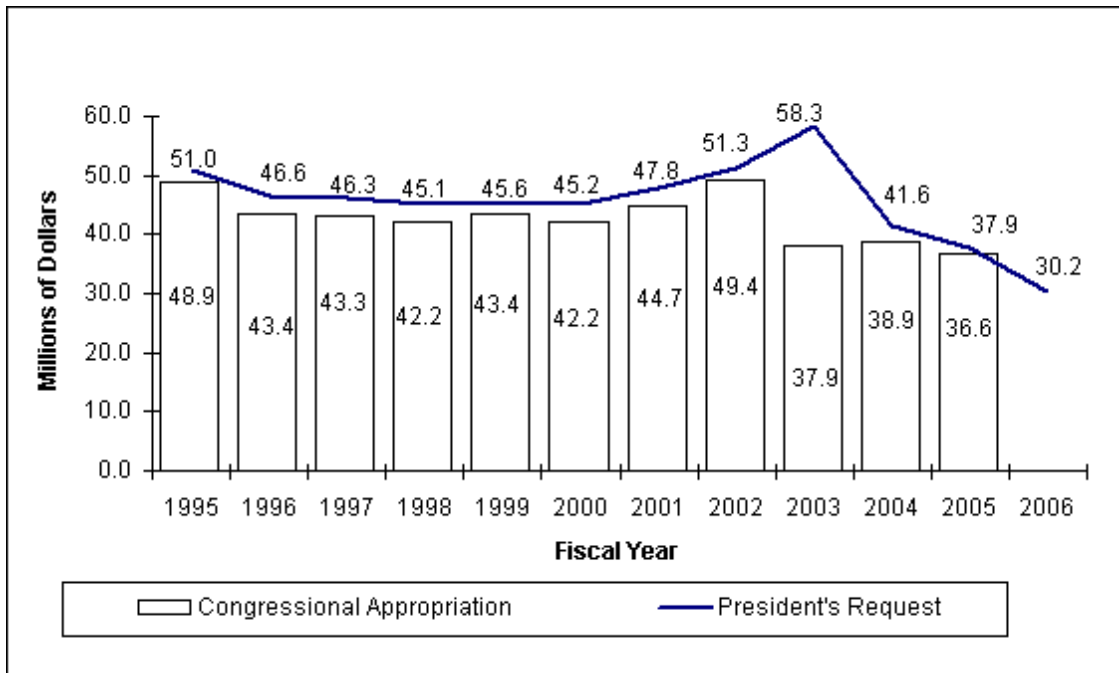
Fiscal year	President's request	Congressional appropriation
1994	\$51,080,000	\$49,380,000
1995	52,228,000	50,081,000
1996	48,790,000	45,500,000
1997	49,496,000	46,258,000
1998	48,695,000	45,510,000
1999	49,887,000	47,555,000
2000	50,776,000	47,455,000
2001	54,986,000	51,389,000
2002	60,081,000	57,771,000
2003	69,968,000	46,000,000
2004	51,000,000	48,000,000
2005	47,700,000	46,128,000
2006	38,800,000	

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

Between 2000 and 2003, the President consistently requested increased funding for FHEO (see table 6.1). Except for 2003, Congressional appropriations increased each year. However, these increases were not enough to keep pace with inflation. In 2003, when Congress appropriated 34 percent less funding than in the previous year, after adjusting for inflation the \$46.0 million was worth only \$37.9 million (see table 6.1 and figure 6.1).

Since 2004, the President has consistently requested less funding than in the previous year, at times by as much as 27 percent (see table 6.1). For example, in 2004, the President requested 51 million in funding, which was nearly \$19 million less than the 2003 request (see table 6.1). For 2005, the President requested \$47.7 million in funding, which is 6.7 percent less than the amount requested in 1994. Congressional appropriation, \$46.1 million, was less than the President's request and after adjusting for inflation was worth \$36.6 million, well below the level of any previous year. The President is requesting \$38.8 million for 2006. After adjusting for inflation, the President's request will be worth only \$30.2 million, which is significantly lower than its 1994 funding level. If Congress grants the President's request for 2006, FHEO's budget will be 15.9 percent lower than the previous year's budget. However, after adjusting for inflation the budget will have decreased 17.5 percent.

Figure 6.1 – HUD/FHEO Funding History
(in constant 1994 dollars)



Source: Calculated from table 6.1.

Staffing and Workload Analysis

Throughout the latter half of the 1990s and into 2000, FHEO's FTE level continuously declined (see table 6.2). From 1994 to 2000, the number of FTEs decreased 22 percent. By 2001, the number of FTEs began increasing, and for 2003 the FTE level stood at 758, resulting in a 22 percent increase between 2001 and 2003. However, the number of FTEs declined again in 2004 and is significantly lower, specifically 17 percent, than the previous year. The number of FTEs is also significantly lower than in 1994 (see table 6.2).

Table 6.2 - HUD/FHEO Staffing History

Fiscal year	FTE level
1994	750
1995	727
1996	664
1997	643
1998	591
1999	592
2000	587
2001	608
2002	653

2003	758
2004	620

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

As the number of staff decreased between 1994 and 2000, the number of Title VIII complaints FHEO received climbed. By 2000, FHEO reached its lowest FTE level, which corresponded with its largest number of complaints received (see table 6.2 and 6.3). Most housing discrimination complaints are based on race or disability and most often allege discrimination in the terms and conditions of a housing transaction, refusal to rent, the refusal to make a reasonable accommodation and interference, coercion or intimidation due to filling a complaint.⁵² Since 2000, the number of complaints has been decreasing. FHEO received 27 percent fewer complaints in 2003 than in 2002. It is noteworthy that previously FHEO estimated it would receive 10,000 Title VIII complaints for 2003, but actually received only 5,532 (see table 6.3).⁵³ In 2004, FHEO received 9,187 Title VIII complaints. The number of FTEs has declined at a time when the number of complaints has increased.

Table 6.3 - HUD/FHEO Title VIII Complaint History

Fiscal year	Complaints received
1994	9,524
1995	8,187
1996	10,945
1997	10,227
1998	10,266
1999	10,836
2000	11,218
2001	8,252
2002	7,557
2003	5,532
2004	9,187

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

Between 1994 and 1998, the total number of program compliance complaints fluctuated for Title VI, Section 109, Section 504, and ADA. In 1998, Title VI and Section 504 complaints began rising, and consequently the total number of program complaints. Between 1999 and 2000, the total number of program compliance complaints increased 93 percent overall as a result of a 93 percent increase in Title VI complaints and a 92 percent increase in Section 504 complaints. At the same time, the number of Section 109 and ADA complaints also increased, but the increase was not as great as the increases for Title VI and Section 504 (see table 6.4). Since 2002, the number of program compliance complaints has increased, as has the number of Section 504 and ADA complaints (see table 6.4) During this time, Section 109 complaints fluctuated (see table 6.4). In 2004, FHEO received 1,516 program compliance complaints of which 35.3 percent were Title VI, 4.6 percent were Section 109, 46.3 percent

⁵² U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, *Fair Housing News*, Vol. 2, Issue 2, Winter 2004, p. 3.

⁵³ U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: 2004*, June 2003.

were Section 504, and 13.4 percent were ADA. In 2004 the staff decreased for the first time since 1997 and received 935 more complaints compared to the 2001 value.

Table 6.4 - HUD/FHEO Program Compliance Complaints

Fiscal year	Title VI	Section 109	Section 504	ADA	Total
1994	228	48	285	42	603
1995	193	38	380	17	628
1996	143	103	218	107	571
1997	175	175	250	150	700
1998	74	67	206	62	409
1999	144	21	225	64	454
2000	278	42	433	123	876
2001	266	85	451	146	948
2002	339	39	522	128	1,028
2003	422	36	618	160	1,236
2004	535	70	702	209	1,516

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

The total number of compliance reviews conducted peaked in 1997 and 1998, when FEHO conducted 100 Title VI reviews, 30 Section 109 reviews, 150 Section 504 reviews, and 40 ADA reviews (see table 6.5). Between 1999 and 2002, FHEO continuously conducted fewer and fewer ADA compliance reviews, but more Section 504 reviews. In 2004, FHEO conducted 180 compliance reviews, of which 41.4 percent were title VI, 7.3 percent were Section 109, 51.3 percent were Section 504, and less than one percent were ADA (see table 6.5).

Over the past 11 years, field offices have composed 74 to 81 percent of FHEO's total staff. Headquarters staff began declining in 1996 and reached its lowest level of 115 in 1999 (see table 6.6). During the same period, field staff levels fluctuated (see table 6.6). For example, between 1997 and 1998 field FTEs decreased 4.4 percent; however, between 1998 and 1999

Table 6.5 - HUD/FHEO Program Compliance Reviews

Fiscal year	Title VI	Section 109	Section 504	ADA	Total
<u>1994</u>	<u>21</u>	<u>2</u>	<u>34</u>	<u>0</u>	<u>57</u>
<u>1995</u>	<u>12</u>	<u>2</u>	<u>155</u>	<u>0</u>	<u>169</u>
<u>1996</u>	<u>51</u>	<u>6</u>	<u>121</u>	<u>10</u>	<u>188</u>
<u>1997</u>	<u>100</u>	<u>30</u>	<u>150</u>	<u>40</u>	<u>320</u>
<u>1998</u>	<u>100</u>	<u>30</u>	<u>150</u>	<u>40</u>	<u>320</u>
<u>1999</u>	<u>39</u>	<u>3</u>	<u>38</u>	<u>32</u>	<u>112</u>
<u>2000</u>	<u>45</u>	<u>0</u>	<u>47</u>	<u>28</u>	<u>120</u>
<u>2001</u>	<u>39</u>	<u>1</u>	<u>54</u>	<u>21</u>	<u>115</u>
<u>2002</u>	<u>56</u>	<u>5</u>	<u>84</u>	<u>6</u>	<u>151</u>
<u>2003</u>	<u>67</u>	<u>19</u>	<u>93</u>	<u>1</u>	<u>180</u>
<u>2004</u>	<u>76</u>	<u>14</u>	<u>98</u>	<u>3</u>	<u>191</u>

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

FTEs increased 4.8 percent. From 2000 to 2003 the number of field FTEs has increased 28 percent and the number of headquarters FTEs has grown 22 percent. In 2003, field FTEs accounted for 79 percent of all FHEO FTEs. However, in 2004 both field FTEs and headquarters FTEs decreased 5.1 percent and 2.6 percent, respectively.

Table 6.6 - HUD/FHEO Staffing History

Fiscal year	Field FTE	Headquarters FTE
1994	603	147
1995	555	172
1996	497	167
1997	476	167
1998	455	136
1999	477	115
2000	461	126
2001	480	128
2002	492	161
2003	590	154
2004	560	150

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

Except in 1994, 1996 and 2004 the ratio of enforcement to compliance field staff has hovered around five to one. In 1996, for every program compliance FTE there were three fair housing enforcement FTEs. By 2004, for every one program compliance staff member, there were nearly five fair housing enforcement FTEs. In 2004, there were 225 fair housing enforcement FTEs, a decrease of 13.4 percent from the previous year. Between 2003 and 2004, the number of program compliance FTEs decreased less than one percent.

Table 6.7 - HUD/FHEO Field FTE Staffing History

Fiscal year	Fair housing enforcement	Program compliance
1994	406	100
1995	356	78
1996	255	77
1997	351	74
1998	356	70
1999	328	66
2000	319	61
2001	333	63
2002	339	67
2003	259.7	50.9
2004	225	49.7

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

FHAP and FHIP

In addition to its enforcement responsibilities, FHEO administers two funding assistance programs: the Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP). FHAP provides financial assistance to

supplement the enforcement activities for state and local enforcement agencies that have been certified as providing rights, remedies, procedures, and the availability of judicial review that are substantially equivalent to that provided in the Fair Housing Act. Although organizationally part of FHEO, these programs have separate funding.

FHAP

Budget Analysis

Between 1994 and 1997, congressional appropriation continuously increased from the previous year, but not enough to keep pace with inflation. For example, between 1994 and 1997, congressional appropriation increased from \$4.2 million to \$15 million (see table 6.8), or 231.9 percent. After adjusting for inflation, FHAP's budget increased 211 percent. FHAP's budget leveled off between 1997 and 1998, then decreased 15.4 percent between 1998 and 1999, although the President requested funding which would have resulted in an increase of 153 percent.

In 2003, congressional appropriation of \$25.4 million exactly matched the President's request (see table 6.8). After adjusting for inflation, the 2003 appropriation was worth \$21.5 million (see figure 6.2). Congress appropriated \$26.3 million in funding for 2006; however, once inflation is taken into account, this level of funding is worth \$21.5 million (see figure 6.2). If Congress grants the President's request for 2006, FHAP's funding level will decrease 16.1 percent from its 2005 level.

Table 6.8 – HUD/FHAP Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$ 4,519,000	\$ 4,519,000
1995	7,400,000	7,375,000
1996	15,000,000	13,000,000
1997	15,000,000	15,000,000
1998	15,000,000	15,000,000
1999	23,000,000	13,000,000
2000	20,000,000	20,000,000
2001	21,000,000	22,000,000
2002	22,950,000	25,600,000
2003	25,649,000	25,400,000
2004	29,750,000	27,586,000
2005	27,050,000	26,288,000
2006	22,700,000	

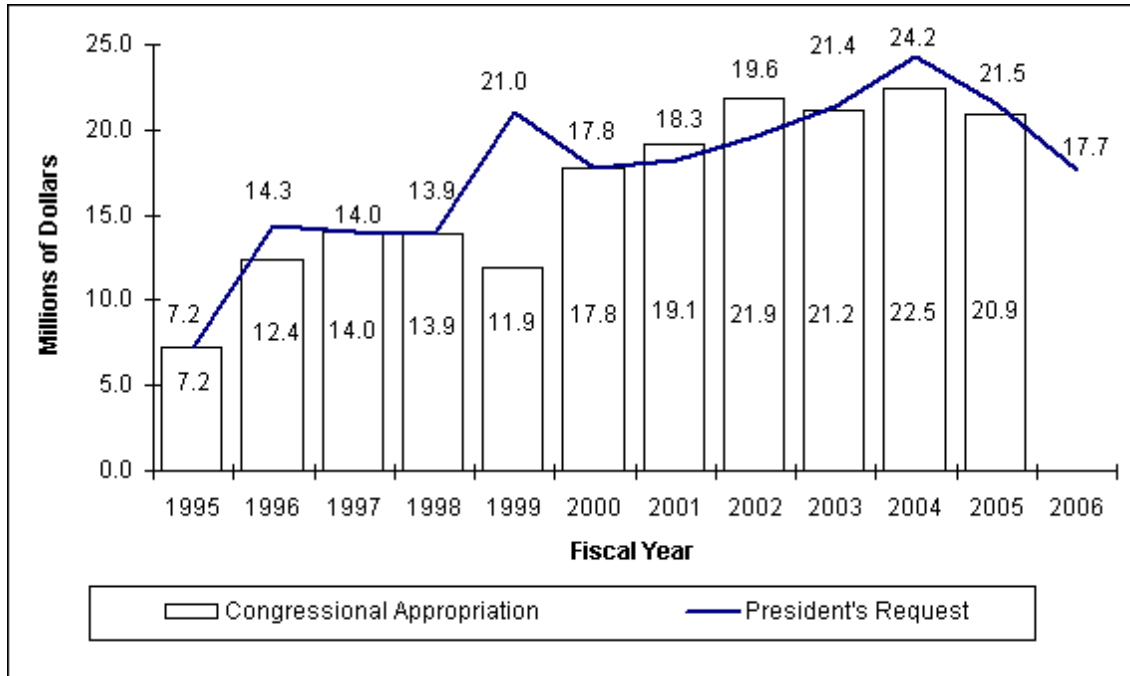
Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

Because Congress granted FHAP 2.8 percent less funding than the President requested, HUD reduced funding for technical assistance by \$200,000.⁵⁴ This money was to be used to assist

⁵⁴ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity's Response to the U.S. Commission on Civil Rights' Interrogatory for Funding, Feb. 14, 2005, p. 1.

FHAP agencies with education and outreach and to coordinate their efforts. In addition, HUD cut \$562,000 from its initiative to conduct testing and outreach in six cities to follow-up on the findings of HUD’s Housing Discrimination Study.⁵⁵ As a result, two fewer cities will receive this targeted education and outreach.

Figure 6.2 – HUD/FHAP Funding History
(in constant 1994 dollars)



Source: Calculated from table 6.8

FHIP

FHIP expends funds to help grantees provide assistance to individuals who believe they have been victims of housing discrimination. FHIP grantees help individuals identify government agencies that can help, and conduct preliminary claims investigations, including sending “testers” to properties suspected of practicing housing discrimination. FHIP also administers four programs that promote fair housing laws and equal housing opportunity awareness.

Budget Analysis

At no point between 1995 and 2005 did Congress meet the President’s request (see table 6.9). The President’s request and congressional appropriation were erratic during this time. For example, in 1995 the President requested \$23.0 million and Congress appropriated \$26.0 million (table 6.9). In 1996, the President requested \$30.0 million, but Congress reduced the amount 57 percent and provided FHIP \$17.0 million. After adjusting for inflation, the \$17.0 million was worth \$16.2 million (see figure 6.3).

⁵⁵ Ibid.

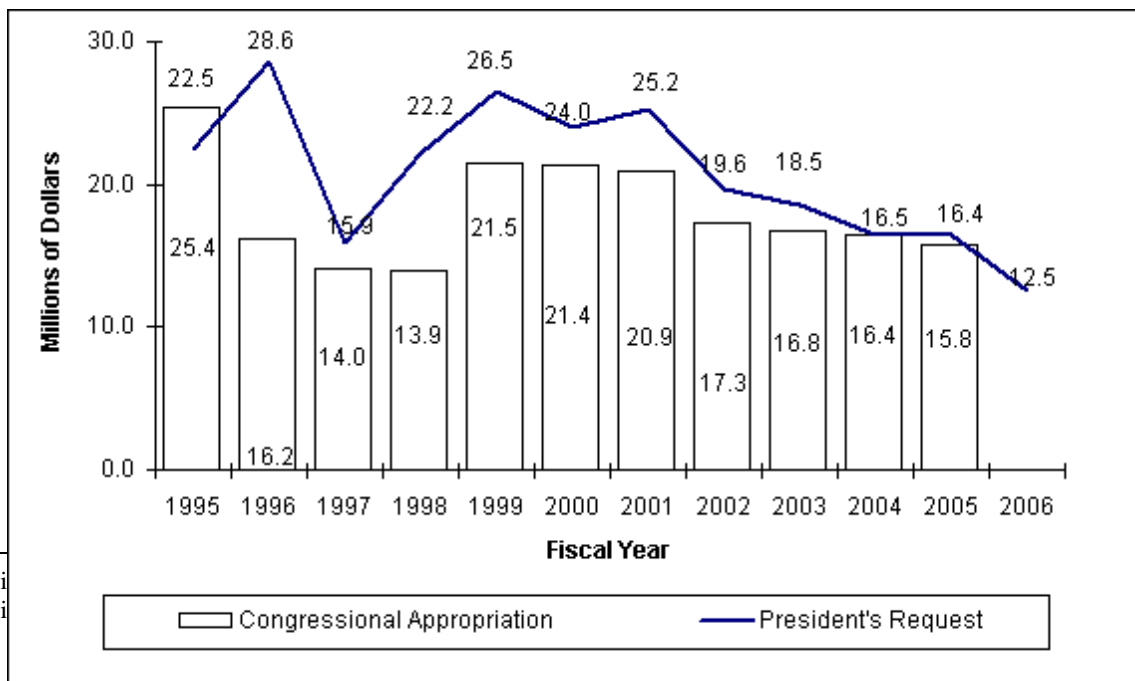
For 2004, Congressional appropriation of \$20.2 million matched the President's request (see table 6.9). In 2005, the President requested \$20.65 million in funding for FHIP and Congress granted \$19.8 million. Because Congress did not grant the President's request, funding for FHIP's Education and Outreach Initiatives will be decreased by \$610,000.⁵⁶ Fewer organizations will receive funding under each of the following components: Asian American/Pacific Islander Component, Minority Serving Institutions Component, and the General Component. In addition, HUD reduced funding for Fair Housing Accessibility FIRST by \$200,000, which educates builders, architects, code officials, advocates, and others on how to design and construct accessible multifamily housing in compliance with the Fair Housing Act.⁵⁷

Table 6.9 - Fair Housing Initiatives Program (FHIP) Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$16,900,000	\$20,481,000
1995	23,000,000	26,000,000
1996	30,000,000	17,000,000
1997	17,000,000	15,000,000
1998	24,000,000	15,000,000
1999	29,000,000	22,000,000
2000	27,000,000	24,000,000
2001	29,000,000	24,000,000
2002	22,949,000	20,300,000
2003	22,050,000	20,050,000
2004	20,250,000	20,250,000
2005	20,650,000	19,840,000
2006	16,100,000	

Source: Department of Housing and Urban Development, Budget and Administrative Support Division.

Figure 6.3 – HUD/FHIP Funding History
(in constant 1994 dollars)



⁵⁶ Ibi

⁵⁷ Ibi

Source: Department of Housing and Urban Development, Office of Management, Planning and Budget. The President's request for 2006 is lower than the amount requested in 1994 (see table 6.9). If Congress grants the President's request, FHIP will receive its lowest level of funding since before 1994 (see table 6.9). And after adjusting for inflation, the \$16.1 million in funding will be worth \$12.5 million (see figure 6.3).

Strategic and Output Measures

In 2004, FHEO identified four goals: (1) to effectively address the challenge of homelessness; (2) to embrace high standards of ethics and management accountability; (3) to ensure equal opportunity and access to housing; and (4) to support community and economic development efforts.⁵⁸ To fulfill these goals, FHEO identified 13 measurable outputs and met or surpassed nine of these goals.⁵⁹ HUD considered the following four goals as being unmet, substantially achieved, or partially achieved:

- No more than 25 percent of HUD's Section 3 complaints were to be aged at the end of fiscal year. At the end of fiscal year 2004, 37 percent of the Section 3 complaints were aged.⁶⁰ This goal was not met because of significant increases in Section 3 complaints due to education and outreach.⁶¹ Simultaneously, the office lost four staff members. With insufficient staff to handle the increased volume of complaints, the office concentrated on thoroughly investigating the complaints rather than closing them before they aged.⁶²
- HUD was to conduct monitoring reviews of 195 FHIP grants and 100 FHAP grants. During FY 2004, all 100 FHAP agencies were monitored and determined to be in full compliance with statutory requirements. HUD completed reviews of 204 FHIP grantees, exceeding its goal by four percent.⁶³
- HUD was to complete a least 1,200 housing conciliation or settlement agreements in fiscal year 2004. HUD completed 1,057 or 88 percent of its goal.⁶⁴ Although HUD attempts to conciliate every complaint, the parties are ultimately the individuals who make the decision as to whether or not enter into a settlement or conciliation agreement. Hence, HUD's goal was

⁵⁸ Ibid.

⁵⁹ Ibid., p. 2.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid., p. 3.

not met because fewer parties than expected chose to enter into this resolution. Because this goal is beyond its control, HUD removed this goal from its 2005 output measures.⁶⁵

- Within FHAP, HUD set a goal to complete at least 2,150 fair housing conciliation/settlement agreements in fiscal year 2004. FHAP completed 2,126 settlements or conciliation, meeting 98.8 percent of its goal.⁶⁶ HUD considers this goal to be substantially achieved.

FHEO identified seven measurable outputs for 2005 to evaluate its civil rights programs' effectiveness and efficiency:

- Monitor cooperative and grant agreements to ensure appropriate use of funds among FHIP and FHAP grantees.
- Increase the number of fair housing complaints closed in 100 days to 75 percent.
- Increase the percentage of FHAP complaints closed in 100 days to 60 percent.
- Provide training at the National Fair Housing Training Academy to 600 fair housing investigators to ensure consistent, efficient, and effective investigations.
- Using the 2004 level of conducted Title VI and/or Section 109 compliance reviews, conduct 2 percent more Title VI and/or Section 109 compliance reviews.
- Conduct monitoring and compliance reviews or provide technical assistance to 40 housing authorities and other recipients of HUD direct financial assisted projects covered under Section 3.
- Increase the percentage of Section 3 complaints closed in 120 days to 75 percent.⁶⁷

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid., 2-3.

Chapter 7

U.S. Commission on Civil Rights

The U.S. Commission on Civil Rights, an independent, bi-partisan, fact-finding Federal agency, was established in 1957 to monitor and report on the status of civil rights in the nation. While it does not have enforcement power, it requires adequate funding to carry out its mission.

Budget Analysis

The Commission's budget has remained stagnant since 1995 and flat since 2002 (see table 7.1). Between 1994 and 2001, Congress has continuously funded the Commission below the President's request (see table 7.1). However, between 2001 and 2002, the Commission's budget increased 2.2 percent, from \$8.9 million to \$9.1 million. Since 2002, the Commission's level of funding has not changed.

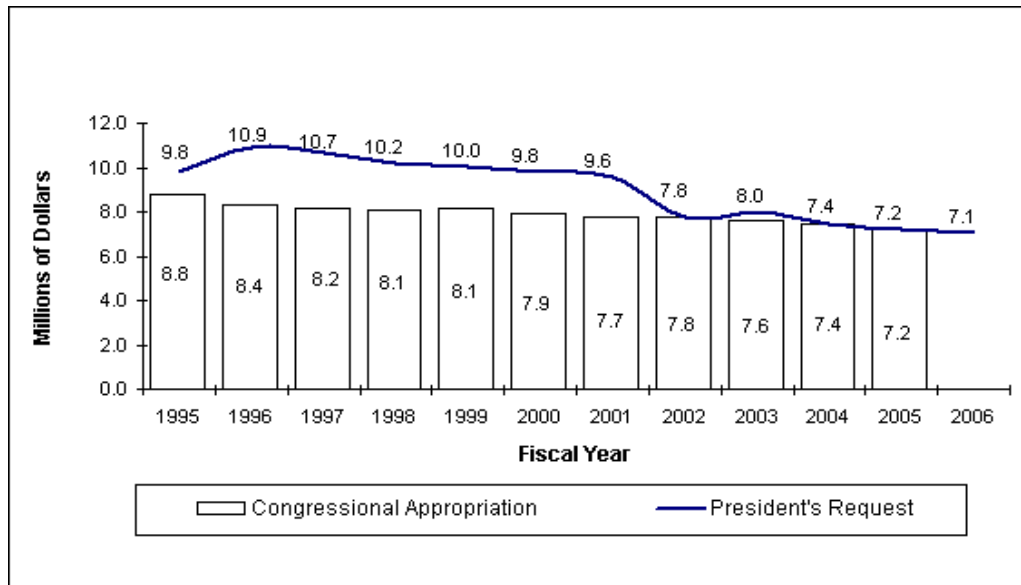
Table 7.1 - U.S. Commission on Civil Rights Funding History
(in actual dollars)

Fiscal year	President's request	Congressional appropriation
1994	\$7,923,000	\$7,776,000
1995	19,022,000	9,000,000
1996	11,400,000	8,750,000
1997	11,400,000	8,740,000
1998	11,000,000	8,740,000
1999	11,000,000	8,900,000
2000	11,000,000	8,900,000
2001	11,000,000	8,900,000
2002	9,096,000	9,096,000
2003	9,575,000	9,096,000
2004	9,096,000	9,096,000
2005	9,096,000	9,096,000
2006	9,096,000	

Source: U.S. Commission on Civil Rights.

Inflation has absorbed any increases in the Commission's budget. After adjusting for inflation, between 1995 and 2001, the Commission's budget slowly decreased, from \$8.8 million to \$7.7 million. Since 2003, once inflation is taken into account, each year the Commission's \$9.1 million budget is worth less (see figure 7.1). For 2006, if Congress grants the President's request, the Commission's budget will have decreased by nine percent since 1994. In 1994, the Commission's budget was worth \$7.8 million and for 2006 the Congressional appropriation will be worth \$7.1 million (see figure 7.1).

Figure 7.1 - U.S. Commission on Civil Rights Funding History
(in constant 1994 dollars)



Source: Calculated from table 7.1.

Decreasing and/or level funding over the past decade has forced the Commission to curtail some of its responsibilities. For example, the Commission's monitoring program was once funded with a \$1 million budget and a staff of 13 dedicated solely to that function.⁶⁸ In 2002, both functions were carried out by one office with 11 employees.⁶⁹ Today, both functions continue to be carried out by one office, but the number of employees has declined to 8.

⁶⁸ U.S. Commission on Civil Rights, *Ten-Year Check-Up: Have Federal Agencies Responded to Civil Rights Recommendations? Volume II: An Evaluation of the Departments of Justice, Labor, and Transportation*, September 2002, p. 4.

⁶⁹ Ibid.

Conclusion

This report updates and presents the President's requests, congressional appropriations, staffing and workload levels, and strategic and output measures of six principal civil rights agencies. Funding levels are also presented for the Commission. Funding, or the lack of it, affects how agencies carry out their civil rights responsibilities. Inadequate funding results in stagnant or decreasing staffing levels, restricts the types and amounts of compliance activities an agency can perform, and may hinder an agency from sufficiently exercising their enforcement authority. Ultimately, however, agencies must be evaluated based upon results.

For 2005, although the President requested increased funding for five civil rights enforcement agencies, Congress appropriated increases for four agencies. HHS' budget increased 3.2 percent with other agencies receiving smaller increases of one percent or less. Of the agencies receiving decreased funding, HUD's programs experienced the largest decreases. For 2006, DOJ is the only agency for which the President is requesting increased funding.

Inflation diminishes the actual worth of an agency's budget. After adjusting for inflation, all agencies, except HHS, received decreased funding for 2005, and even its increase was small, less than one percent. HUD's programs received the largest decreases in funding, its FHAP receiving seven percent less in 2005 than 2004.

After adjusting for inflation, the President is requesting decreased funding for all agencies in 2006. If Congress grants the President's request, DOJ will be the only agency to receive less than a one percent decrease in funding. When agencies do not receive the amount of funding they request, they must find a way to do more with less. For example, with salaries absorbing the bulk of agency budgets, HUD/FHAP will be forced to reduce funding for technical assistance and conduct testing and outreach in fewer cities.

All agencies in this report track inputs and output indicators that measure program success; however, they show great variation in how they apply the Government Performance and Results Act (GPRA) of 1993 to civil rights enforcement. While all of the agencies establish GPRA goals, those that are civil rights related vary in number and specificity. For example, EEOC uses 24 goals to measure its success while OFCCP uses six goals. DOJ has one overall goal, but uses numerous objectives/indicators to meet that goal. Nearly all agencies use their complaints workload to gauge effectiveness in achieving results. For 2004, all agencies except EEOC and FHEO met all of their goals. Some agencies, such as DOEd, far exceeded many targets. For example, DOEd set a target of resolving 80 percent of its complaints within 180 days of receipt, but actually resolved 92 percent. HHS set a goal to close all cases within 255 days and actually did so in 83 fewer days. Of those which fell short, EEOC met only 14 of its 24 goals; FHEO identified 13 and met six. Agencies unable to meet their goals most often cited competing priorities, including limited staffing, as the reason. Variation in how agencies express strategies renders comparisons

difficult. Furthermore, this report did not attempt to test the quality of evaluation factors agencies set for themselves. For example, some agencies express goals to process certain numbers of complaints, yet maintain perennial unresolved inventories. Conversely some, such as OFCCP, exceed goals by such high margins as to suggest targets were set too low.

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