

**STATEMENT OF GABRIELLE MARTIN, PRESIDENT,
NATIONAL COUNCIL OF EEOC LOCALS, NO. 216, AFGE/AFL-CIO
TO
THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON
COMMERCE, JUSTICE AND STATE
ON
FY 2008 APPROPRIATION FOR EEOC,
INCLUDING DEFUNDING THE EEOC'S CONTRACT CALL CENTER**

April 24, 2007

Chairman Mollohan, Ranking Member Frelinghuysen, and members of the Subcommittee, my name is Gabrielle Martin and I am President of the National Council of EEOC Locals, No. 216, AFGE/AFL-CIO. The Council is the exclusive representative of the bargaining unit employees at the Equal Employment Opportunity Commission (EEOC), including investigators, attorneys, administrative judges, mediators, paralegals, and support staff located in offices in 53 cities around the country. I want to thank you for the opportunity to express our views to the Subcommittee on the proposed FY 2008 budget for the EEOC, including defunding the EEOC's contract call center. The Council is gravely concerned that civil rights enforcement in this country is being compromised due to: four years of level budgets at EEOC; a failure by EEOC's administration to appropriately prioritize what funds are available for replenishing frontline staffing losses; and millions of dollars of critical funding wasted on a poor performing call center pilot. To address these concerns, the Council urges the inclusion of bill language in the FY08 Funding Measure which: defunds the contract call center; directs the hiring of frontline staff; and requires ongoing oversight of Headquarters and Field restructuring.

Introduction:

The EEOC was created by the Civil Rights Act of 1964. The EEOC's mission is to enforce this nation's laws, which protect against discrimination in employment based on race, religion, color, national origin, age, and disability. Being able to work, put food on the table, and pay the rent or mortgage bill are basic necessities for supporting families. However, the ability to provide these basic necessities is threatened when Americans face discrimination at the workplace. An effective EEOC is integral to ensuring that workers can provide the bare necessities and reach for the American dream. Yet, recent headlines demonstrate that older Americans face hiring obstacles, black Americans are still harassed by nooses on the job, women have not overcome a gender pay gap, long time employees who develop cancer lose their jobs, and disabled Americans, who with minor accommodations could work, are not allowed the opportunity.

The EEOC received over 75,000 charges of discrimination during FY 06 and this number continues to rise. It takes frontline EEOC workers to resolve these charges through investigation, mediation and if necessary litigation. Resolution of these charges is very labor intensive. People must talk to other people. However, since 2001, EEOC has lost 23% of its workforce to a multi-year hiring freeze. [See Chart on Page 4].

The Contract Call Center Adds A Costly Bureaucracy To EEOC's Work:

EEOC has counterintuitively used its shrinking workforce to justify outsourcing customer service to an expensive contract call center pilot, which costs more than replacing staff in-house. For \$2.5 million annually, the contract call center employs only "up to" 36 script reading operators. A June 2006 Office of Inspector General (OIG) Report found that despite the expense, the call center saves the work of only 6.71 employees and receives only a fraction of the calls anticipated. The OIG also found 37% of information recorded by the call center to be inaccurate. Yet EEOC has failed to examine any other avenue to provide better service to the public. Instead, on January 1, 2007, all EEOC local and Headquarters offices were required to place a message on the phone directing callers to hang up and call the contract call center. Call center operators, with just one week of training in EEOC's laws, merely take down an address and mail a four page questionnaire for completion. So before the public can speak to the EEOC to receive meaningful assistance, they must first talk to a contract operator and fill out a lengthy form. Simply put, the call center imposes an unnecessary layer of bureaucracy.

Lack Of Resources Threatens Failure Of EEOC Mission:

I am aware that EEOC's Chair Naomi Earp addressed this Subcommittee last month claiming that the agency is surviving well on level funding, by relying on greater "efficiencies." The truth is that the American people who seek help from the EEOC are suffering, because EEOC's staffing cuts, controversial restructuring, and poor performing call center have harmed EEOC's ability to carry out its mission. In 2006, EEOC determined that staffing losses or separation savings were inadequate. EEOC offered staff early outs and buyouts, paying some employees \$25,000 to retire early. With 50% of EEOC's workforce eligible to retire the attrition will continue, along with the rising workloads and resolution processing times.

EEOC's FY06 year end performance data demonstrates the truth - that a diminished EEOC is failing the public. [See Chart on page 4]. EEOC's backlogs continues to rise, ending FY06 at 39,946. This is the highest backlog since 1999 and the greatest single year increase, as well. Just since 2005, average charge processing time went up from 171 days to 193 days. Fewer cases were resolved in FY06 than the previous year, due to fewer staff. Another very significant figure is that the benefits garnered on behalf of victims of discrimination plunged \$100 million from FY05 to FY06.

Interestingly, to stakeholders, Chair Earp herself paints a bleak picture of EEOC's increasing processing times and exploding backlogs. [See Slides from the Chair's presentation, page 5]. Higher backlogs and longer processing times mean that victims of discrimination continue to suffer sexual harassment, retaliation, wage disparity, etc., while their cases languish at the EEOC. When cases do proceed, the impact of time is obvious – evidence is lost, witnesses have moved on or their memories fade.

EEOC's remaining professional employees – attorneys, administrative judges, investigators, and mediators are frustrated. These employees routinely spend large amounts of time performing purely clerical work, rather than working on charges, investigations, litigation or mediations. To address this inability to effectively serve the public, additional funding is necessary. Yet, staff increases are not being sought by EEOC. EEOC does, however seek to lock in the small staff

numbers by moving offices to smaller space as leases expire. Adding staff then becomes cost prohibitive.

EEOC's Ongoing Restructuring Requires Congressional Oversight:

Again using its staffing losses as justification, on January 1, 2006, EEOC downsized a dozen of its field offices as part of nationwide field restructuring. Many of the downsized offices are offices, like Baltimore, Cleveland and Detroit are located in cities with high minority populations. The restructuring has meant more bureaucratic layers in the field and additional depletion of EEOC's limited funding. Although the managers constantly travel within their expanded jurisdictions, EEOC added no front line staff. Further, EEOC failed to capitalize on the opportunity to improve to one to ten, its ratio of supervisors to staff. This would have moved redundant layers of management to frontline positions, and allowed EEOC to stay within its level budget.

The final phase of EEOC's repositioning is the upcoming restructuring of Headquarters. The Council urges the Subcommittee to retain oversight, through Bill language, of this restructuring. This will assure a transparent process wherein public and internal stakeholders have an opportunity to provide feedback of a draft plan. The intent of the Headquarters restructuring should be to reduce redundancies and layers of management. These resources should be utilized to aid the frontline work in the field offices.

Lack of Resources Sets EEOC Up to Fail On New Mission Initiatives:

While Chair Earp testified to this Subcommittee that EEOC's new systemic case initiative would save money, in fact the labor intensive nature of class cases will drain both staff and funding. An unfunded mandate to pursue systemic discrimination sets EEOC up to fail. Moreover, the ADA Restoration Act and the genetic discrimination legislation now working their way through Congress may require additional enforcement duties for EEOC. Even worse, EEOC cannot train its employees, either to improve skills or to take advantage of current technology, much less carry out new mission initiatives.

EEOC is Robbing From State Partner FEPA Agencies to Pay for Its Shortfall:

In an apparent attempt to increase funding through the backdoor, EEOC recently reduced funding for FY 07 to the Fair Employment Practice Agencies (FEPAs) from the FY06 level of \$32,558,000 to \$30,000,000. Though the bill language states "up to" \$32,558,000, it had been the consistent practice of the EEOC to fund in full the amount stated by the bill language. This reduction was apparently initiated by OMB. For FY08, EEOC's budget cuts the FEPA funding another \$2,000,000 to \$28,000,000. This means that the state agencies can process fewer cases for the EEOC, compounding the problem of EEOC's growing workload that much more. The Council would respectfully recommend that the phrase "up to" in the bill language be deleted, which has recently allowed EEOC to reduce the amount Congress intended to fully fund the FEPA agencies.

EEOC Must Comply With Regulatory Process On Federal Sector Reform:

Finally, I would like to bring to your attention that EEOC is actively studying an October 30, 2006 Commissioner's Federal Sector Workgroup Report, which incorrectly portrays certain controversial reform initiatives as the consensus recommendations of stakeholders. These

changes can affect the rights of Federal employees claiming discrimination. We ask that this Subcommittee ensure that EEOC comply with the regulatory process, including posting a notice in the Federal Register, before proceeding with any changes to Federal Sector enforcement.

Conclusion- Savings From Cutting the Wasteful Contract Call Center and Replenishing Frontline Staffing Will Enable EEOC to Better Serve the Public:

EEOC’s staff is committed to ensuring a level playing field on the job so that all workers may fairly pursue the American dream. Given the reality of inflationary costs, a new systemic initiative, and anticipated legislation, which will add to EEOC’s responsibilities, Congress should direct any additional funding for FY08 for hiring front line positions. Congress must prohibit EEOC from expending any funding on its poor performing contract call center. Replenishing staffing lost to hiring freezes and eliminating the waste and bureaucracy of the contract call center will enable EEOC to be an effective enforcement agency that serves the public well

In closing, I want to again thank the Chairman, Ranking Member and the Subcommittee for inviting me to testify. I hope my statement will give you insight into the difficult challenges facing EEOC. I urge the Subcommittee to 1) provide additional funding, 2) direct EEOC to replenish staffing, 3) defund the wasteful call center that threatens EEOC’s mission, and 4) provide oversight of EEOC’s ongoing restructuring. I would be happy to address any questions you may have at this time.

CHART: EEOC’S TROUBLING CUSTOMER SERVICE TRENDS¹

		FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1	Full Time Employees	2,924	2,787	2,617	2,462	2,349	2,250
2	Backlog	32,481	29,041	29,368	29,966	33,562	39,946
3	Resolutions	90,106	95,222	87,755	85,259	77,352	74,308
4	Charge Receipts Filed	80,840	84,442	81,293	79,432	75,428	75,768
5	Merit Resolutions	19,908	19,075	17,134	16,661	16,614	16,510
6	Average Charge Processing (Days)	182	171	160	165	171	193

¹ National Academy of Public Administration report, 2/2/03; EEOC Budget Requests; www.eeoc.gov.

7	Total Benefits	\$295 M	\$301M	\$385	\$415 M	\$380 M	\$274 M
8	Litigation Benefits	\$47 M	\$53 M	\$149 M	\$164 M	\$107 M	\$44 M

PowerPoint Slides Presented by Chair Earp to Stakeholders on 3/7/07
Demonstrate Increasing EEOC Case Processing Times and Exploding Backlogs

