

From the Daily Labor Report, April 11, 2008:

**Appropriations  
EEOC Chair Earp Discusses Budget Request  
At House Appropriations Panel Hearing**

Equal Employment Opportunity Commission Chair Naomi Earp told a House Appropriations subcommittee April 10 that a proposed \$12.6 million increase in EEOC's fiscal 2009 budget will help EEOC start addressing hiring needs, but the House panel's Democratic chairman said an underfunded EEOC remains ill-equipped to handle a growing case backlog.

The Bush administration has requested \$341.9 million for EEOC in fiscal 2009, which would represent a \$12.6 million increase from the commission's \$329.3 million funding level for fiscal 2008 (23 DLR AA-5, 2/5/08 ). Earp said most of the funding increase would go toward hiring some 175 new EEOC employees, the majority in positions to address the agency's private sector charge caseload. As of last month, EEOC has hired, trained, and put in place 61 "information intake representatives" to handle calls from the public in the commission's 15 districts after shutting down the contractor-operated National Contact Center last December, Earp told the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies.

Subcommittee Chairman Alan B. Mollohan (D-W.Va.) said the administration's essentially flat funding of EEOC "has not been sufficient" and that EEOC's inadequate resources are reflected in a "chronic backlog" of charges that "grows larger every year." Mollohan said even though the administration for the first time proposes a "real increase" in EEOC's budget, he remains concerned EEOC is unable to achieve "such essential tasks as reducing the backlog."

Rep. Rodney Frelinghuysen (R-N.J.), the subcommittee's ranking minority member, said the \$12.6 million increase largely reflects the costs of returning the EEOC call function in house plus a "modest amount" to address the case backlog.

**Wrestling With a Backlog**

Earp told the panel the agency's workload is "prodigious," with 82,792 private sector discrimination charges received in fiscal 2007. EEOC ended fiscal 2007 with an inventory of 54,970 pending cases and it projects a case backlog of 67,000 by the end of fiscal 2008 and 75,000 by the close of fiscal 2009, Earp said.

Earp said although EEOC hired 172 employees in fiscal 2007, the commission had no net gain in staff. She said the "news is better" so far in fiscal 2008 as the commission has a net gain of 46 employees due to new hiring. For fiscal 2009, EEOC projects 175 new hires, with the "vast majority" in "frontline" positions, Earp told the subcommittee. The newly installed intake employees will handle an average of about 85,000 calls a month, but Earp said the "bad news" is that the in-house call centers are "costlier to operate" than the now-defunct private call center.

Mollohan said the projected backlog numbers, which Earp acknowledged could reach 100,000 pending cases in 2010, are "really unacceptable." He asked whether the proposed addition of 109 frontline employees in fiscal 2009 is adequate to address the upward trend. Earp replied that EEOC's funding issues are "very long-standing" and she was "very pleased" the proposed budget increase would allow EEOC to start to address some "long-standing issues." Given the net gain in employees, Earp added, "we feel we are a bit ahead" of fiscal 2007.

Mollohan said the House panel wants to hear EEOC address not only the requested budget, but what the commission needs to reverse "this unmistakable trend line" of a growing case backlog. He said the subcommittee needs information on how many employees, what positions, and what dollar amount of expenditures is necessary to reduce the backlog.

Asked by Frelinghuysen to explain the "dramatic growth" in case inventory, Earp said the reason is primarily staffing. Earp said EEOC knows it has some "aged cases" but she added the work is "very labor intensive" and that a "lack of resources slows the process." When Frelinghuysen asked how "aged" the pending cases are, Earp said the "best information" available to her indicates the average age of charges in the current inventory is 209 days.

Mollohan recited statistics that suggest EEOC's case inventory problem is worsening. He said as of February 2008, 70,209 charges were pending, as compared with about 46,000 charges a year earlier, amounting to a 53 percent increase in the backlog. Earp said that appeared to be an accurate measure but she predicted that by the end of fiscal 2009, that percentage would "drop significantly."

Mollohan added that EEOC had received about 40,000 charges so far in fiscal 2008, compared with about 30,000 charges at the same point in fiscal 2007 while the commission had achieved only a "slight increase" in the number of charges resolved. "This is not a good picture so we need to address this," he told Earp.

#### Personnel Issues Addressed

Mollohan emphasized that since 2001, EEOC has lost about 25 percent of its workforce, as the commission has dropped from more than 2,900 employees at the close of fiscal 2002 to 2,158 employees at the end of fiscal 2007. EEOC also has more employees nearing retirement age than the average federal agency, he said. Earp said the commission is working on a "human capital plan," and that the keys are to fill the "right jobs at the right [pay] grade with the right skills." While Earp emphasized the administration's proposed budget would allow EEOC to fill 175 full-time slots, Mollohan pointed out that figure is still 25 short of 200 full-time positions approved for EEOC in the past that were never filled.

Mollohan suggested that individuals hired to fill the new in-house call centers could play a role in resolving cases at the intake stage if they were better trained and higher-rated employees. Earp said "theoretically" that might work but added that it would be "very expensive" to have intake duties performed by investigators or attorneys.

Frelinghuysen asked Earp if her previous estimates of a one-time cost of \$2.3 million for bringing the call center functions in house with additional transitional costs of \$3.5 million in the future still hold. "Pretty much," Earp replied. When Frelinghuysen asked about the reaction to the in-house call centers so far, Earp said the in-house centers have only been operating for a short time but that EEOC plans to send out customer satisfaction surveys soon. "At this point, we are performing the intake functions and responding to the public, and we will get better," she said.

#### Improvements Along the 'Continuum.'

Remarking that EEOC "can't fail" with its call functions given its growing backlog, Mollohan returned to the notion of using "better-credentialed" employees at intake to help EEOC control the backlog. He pressed Earp for her views.

Earp said the importance of the intake function "underscores how pleased we are" with the proposed budget increase and the opportunity it provides "to address some structural issues." Although Earp said she agrees with Mollohan that the commission needs to "refine" what skills are needed "along the continuum" of charge handling, she added that "perhaps for 60 percent" of the calls received, EEOC probably would not want to "elevate the skill level" at the intake stage.

Asked by Frelinghuysen how she would characterize EEOC outreach efforts, Earp replied "highly effective" and "a contributing factor" in the rising number of filed charges. When Mollohan questioned a proposed \$3 million reduction in assistance to state and local fair employment practice agencies, Earp said those agencies' workloads are down. Mollohan suggested that perhaps greater federal outreach would lead to more state or local discrimination charge filings, but Earp said EEOC's budget priorities are frontline investigators and legal staff.

#### EEOC Union's View

In testimony submitted to the House panel April 2, the union representing EEOC employees said it would welcome a budget increase, but that the proposed amount is insufficient to overcome the past five years of flat funding. "Due to the staffing and backlog crisis, the Council respectfully requests that this subcommittee adopt the increase called for by the Senate's FY08 appropriations, i.e., a \$50 million increase resulting in a budget of \$378 million," wrote Rachel Shonfield, legislative coordinator for the National Council of EEOC Locals, No. 216, American Federation of Government Employees.

Although the Senate passed a fiscal 2008 appropriations measure that would have boosted EEOC's funding by \$50 million, that bill never was approved by a conference committee, and EEOC instead received a significantly lower sum of \$329.3 million under an omnibus appropriations bill signed by President Bush (247 DLR A-8, 12/27/07 ).

"This year, the EEOC is finally facing reality and requesting a 4 percent budget increase," Gabrielle Martin, the union president, said April 9. "Unfortunately, this simply is not enough to turn things around after five years of flat budgets. That is why the Council supports the \$50 million increase passed by the Senate last year."

By Kevin McGowan