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Report to the Chairman, Committee on Appropriations, U.S. Senate, and the Chairman, Committee on Appropriations, House of Representatives

February 1991

U.S. COMMISSION ON CIVIL RIGHTS

The Commission Has Complied With FY89 Appropriation Act Provisions

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The Honorable Robert C. Byrd
Chairman, Committee on Appropriations
United States Senate

The Honorable Jamie L. Whitten
Chairman, Committee on Appropriations
House of Representatives

Public Law 100-459 provided the fiscal year 1989 appropriation for the Commission on Civil Rights and set certain restrictions on how the funds were to be spent. The law requires us to audit the Commission to determine its compliance with these restrictions and report our findings to the Appropriations Committees of the Senate and House of Representatives.[1] Appendix I contains detailed information on our objective, scope, and methodology.

Background

Congress provided a $5.7 million appropriation for the Commission's fiscal year 1989 expenses. The appropriation contained nine restrictions. Congress established two line item appropriations that specified amounts available only for regional offices and civil rights monitoring and set limitations on amounts that may be spent for seven other items, such as consultants and temporary employees. The Commission internally tracks its allocation of costs in these nine areas in its Status of Earmarks Reports.

Of the Commission's $5.7 million appropriation, $2 million was to be used for regional offices and $700,000 was to be used for civil rights monitoring. The Commission was precluded from using amounts appropriated for these two activities on other Commission activities; however, it was not precluded from spending more than the amounts allocated for the two activities as long as it did not exceed its total appropriation.

Congress also specified that no more than $20,000 could be used to employ consultants, no more than $185,000 could be used to employ temporary or special-needs appointees, and no more than $40,000 could be used for mission-related external services contracts. The Commission

[1]We did a similar audit of the Commission's fiscal year 1988 appropriation provisions, as required by Public Law 100-202, and found the Commission to be in compliance with the same restrictions as of mid-year. See U.S. Commission on Civil Rights: Compliance With Appropriation Provisions as of March 31, 1988 (GAO/GGD-88-91, June 2, 1988). Public Law 101-162 requires a similar audit of the Commission's fiscal year 1990 appropriation.

has defined mission-related contracts as contracts for research studies that further the Commission's statutory mission.

Other limitations in the Commission's appropriation included that no more than four full-time Schedule C employees and one special assistant for each of the eight Commissioners, including the Chairman, could be employed. Further, the Commission was prohibited from paying the Commissioners' special assistants more than the equivalent of 150 billable days at the daily rate of a GS-11 salary. The Commission used the GS-11 step 10 level to determine the ceiling on special assistants' annual salaries because no particular step was cited in the law. The law also limited each Commissioner to 75 billable days and the Chairman to 125 billable days.

Results

We found the Commission to be in compliance with the nine restrictions in its fiscal year 1989 appropriation, as shown in table 1.

Table 1: Commission's Compliance With Fiscal Year 1989 Appropriation Provisions of Public Law 100-459

	Appropriation or limitation	Actual obligations or status
Line item appropriations[a]		
Regional office	$2,000,000	$2,019,050
Civil rights monitoring	$ 700,000	$ 857,178
Other limitations (not to exceed)		
Consultants	$ 20,000	$ 10,895
Temporary or special-needs appointees	$ 185,000	$ 173,538
Mission-related external services contracts	$ 40,000	$ 0
Schedule Cs other than special assistants	4	4
Special assistants	$21,355 per assistant as determined by the Commission based on the law	Salaries ranged from $3,040 to $20,724
Chairman	125 billable days	122 days
Commissioners	75 billable days	Days ranged from 52 to 75

[a]The Commission is not precluded from spending more for these activities as long as it does not exceed the total appropriation of $5.7 million for all Commission activities. However, it may not use these funds for any other activities.

We found, however, that the Commission used planned rather than actual employment and salary figures, which is inconsistent with its own prescribed methodology, in determining the portions of indirect costs to be included in the total costs of regional offices and civil rights monitoring. In addition, the Commission did not include two employees in its temporary employees' costs; they were included in the special assistants' costs. This situation is described in more detail in appendix II. The figures in table 1 are as corrected. According to Commission records, the Commission obligated $5.68 million in fiscal year 1989, or 99.6 percent of its $5.7 million appropriation.

The Commission's fiscal year 1991 appropriation, Public Law 101-515, places no restrictions on the hiring of temporary employees. Therefore, the Commission will no longer have to monitor these costs. However, the appropriation continues to include the restrictions for regional offices and civil rights monitoring.

Agency Comments

We have discussed this report with Commission officials, who agreed with the facts and conclusions. Commission officials told us they have begun using the actual employment and salary figures in computing costs for regional offices and civil rights monitoring.

We are sending copies of this report to the Commission and other interested parties and are making copies available to others upon request.

The major contributors to this report included Donald Z. Forcier, Assistant Director; Ronald J. Cormier, Assignment Manager; and Robert A. Korinchak, Evaluator-in-Charge. If you have any questions, please call me on 275-5074.

Bernard L. Ungar

Bernard L. Ungar
Director, Federal Human Resource
Management Issues

Objective, Scope, and Methodology

As required by Public Law 100-459, our objective was to assess the Commission's compliance with the line item appropriations and other limitations for fiscal year 1989.

We examined the Commission's internal Status of Earmarks Reports for fiscal year 1989 and the supporting documentation, including the details of amounts reported for individuals and activities that made up each individual line item appropriation and limitation, to determine the amounts the Commission had obligated for each provision. We also interviewed Commission personnel and finance officials to determine how the figures were compiled. We obtained and reviewed records from the Department of Agriculture's National Finance Center in New Orleans, which pays the Commission's payroll and bills, to determine whether the Commission had accounted for all obligations made in each of the provisions. We did not independently verify the accuracy of the Center's records.

We examined the Commission's personnel records, official personnel folders, and personnel staffing charts for consultants, temporary appointees, Schedule Cs, and the Commissioners' special assistants as a further check on the completeness and accuracy of the number of individuals employed in each category and the time periods in which they worked. We also examined the Chairman's, Commissioners', and special assistants' billing records to determine the number of days they had billed the Commission for fiscal year 1989.

To determine whether the Commission had contracted for any mission-related services, we reviewed the Commission's purchase order file and the monthly transaction registers compiled by the National Finance Center that show all obligations incurred by the Commission for contractual services. We also reviewed the specialized reports compiled by the National Finance Center to verify costs attributable to regional offices and civil rights monitoring.

To ensure that the Commission's methodology for complying with the line item appropriations and other limitations was consistent with that used in fiscal year 1988, we compared the methodology used by the Commission in fiscal year 1988 to the methodology used in fiscal year 1989.

Our audit work was done between July and November 1990 at the Commission's headquarters in Washington, D.C. It was done in accordance with generally accepted government auditing standards. We discussed the report with Commission officials and incorporated their comments where appropriate.

The Commission Incorrectly Applied Its Methodology in Determining Costs for Three of the Appropriation Provisions

Although the Commission has complied with all nine line item appropriations and other limitations, its use of planned rather than actual employment and salary figures in determining the portion of indirect costs to be applied resulted in overstating regional office costs by \$47,950 and understating civil rights monitoring costs by \$150,178. And, because the Commission included two temporary employees in its count of special assistants, it understated temporary employee costs by \$8,881.

Planned Instead of Actual Figures Used in Determining Regional Office and Civil Rights Monitoring Costs

The line item appropriation for regional offices was \$2 million; however, the Commission was not precluded from spending more. Although the Commission had complied with the line item appropriation for regional offices, it obligated \$47,950 less than it showed in its Status of Earmarks Reports. The Commission's report showed that \$2,067,000 had been obligated while our computations showed \$2,019,050—a difference of \$47,950. The difference is attributable to the Commission's continued use of planned employment levels as opposed to actual levels at year's end in allocating the indirect costs.

To determine total regional office costs, the Commission added the actual costs that could be directly attributable to regional operations (\$1,548,000) and a percentage (29.5 percent) of indirect actual costs that could not be associated with any particular operation but were incurred to support all operations. These indirect costs totaled \$1,760,000. The Commission determined the percentage (29.5 percent) at the beginning of the fiscal year by dividing the planned number of regional office employees (18) by the planned total number of Commission employees (61).

On the basis of an average of actual employees, we found the percentage to be 26.7 (17.3 divided by 64.7). The difference, 2.8 percentage points, resulted in \$47,950 less in indirect costs attributable to regional offices. In our prior review, a Commission official advised us that the computations would be adjusted at the end of the year to reflect any major differences in planned and actual employment levels. We believe that 2.8 percentage points is enough of a difference that actual employment costs should have been used in determining regional office costs.

The line item appropriation for civil rights monitoring was \$700,000; however, the Commission was not precluded from spending more.

Although the Commission had complied with the line item appropriation, it understated the obligations. We found that the Commission obligated $857,178 for civil rights monitoring, but the Commission showed $707,000 had been obligated. The difference of $150,178 was attributable to the Commission using planned rather than actual salaries in allocating indirect costs.

To determine total civil rights monitoring costs, the Commission added the actual costs that could be directly attributable to civil rights monitoring ($599,000) and a percentage (6.1 percent) of indirect actual costs that could not be associated with any particular operation but had been incurred to support all operations. These indirect costs totaled $1,760,000. The method is similar to the one used for determining regional office costs.

The Commission determined the percentage (6.1 percent) for allocating indirect costs to civil rights monitoring at the beginning of the fiscal year by dividing the planned salaries directly associated with monitoring ($176,000) by the Commission's total planned salaries ($2,868,000). Based on actual salaries at the end of the year, the percentage should have been 14.6 percent—salaries attributed to monitoring ($462,191) divided by total agency salaries ($3,158,217). The difference, 8.5 percentage points, accounted for $150,178 more in indirect costs attributed to civil rights monitoring. A Commission official told us in our prior review that civil rights monitoring costs, similar to regional office costs, would be adjusted at the end of the year to reflect actual salaries.

Costs for Two Temporary Employees Included Under Another Limitation

In determining obligations for temporary employees, the Commission did not include two temporary employees who were secretaries to Commissioners. Rather, the Commission included the two temporaries' salaries with the special assistants to the Commissioners, another limitation under the law. Thus, the Commission understated its obligations for temporary employees by $8,881. However, even with the added costs, obligations of $173,538 for temporary employees were still within the limitation of $185,000.

The Commission included the cost of the two secretaries in the salary ceiling for the special assistants to the Commissioners. According to Public Law 100-459, each of the Commissioners, including the Chairman, is allowed one special assistant and each special assistant cannot be paid more than the equivalent of 150 billable days at the daily rate of a GS-11 salary. Including these two temporary employees under the ceiling for the special assistants was an administrative decision by the Commission and not required by law. Since the law allows only one special assistant per Commissioner and the two secretaries were classified as temporary employees by the Commission, these two secretaries' salaries and benefits should have been included in the temporary employee limitation.

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