

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

APR 28 1978

B-167015

Subject Core

The Honorable William V. Roth, Jr.
United States Senate

Dear Senator Roth:

We refer to the letter from _____
dated February 18, 1978, which you forwarded to our Office.
letter poses two questions:

- 1) Do American citizens have priority over minority aliens on jobs funded with federal money?
- 2) If illegal Mexican aliens are declared "legal," would they become a privileged class and have priority on jobs with "quotas" over American citizens.

_____ correctly identified the Office of Federal Contract Compliance Programs (OFCCP), Department of Labor, as the agency with jurisdiction over matters related to equal employment opportunity of persons employed or seeking employment with Government contractors or with contractors performing under federally-assisted construction contracts. See 41 C.F.R. Chapter 60 (1977). In response to the first question, we are not aware of any legal basis for restricting employment to American citizens on all projects funded with federal money. Cf. _____ v. _____, 426 U.S. 88 (1976).

The second question appears to relate, more precisely, to the so-called affirmative action program in which Government contractors commit themselves to establish goals and

B-167015

timetables to apply every good faith effort to achieve prompt and full utilization of minorities and women. Although we are not aware of any OFCCP regulation concerning the applicability of the affirmative action program to resident aliens, we have been informally advised by OFCCP of its policy to include minority and female resident aliens in that program.

In October 1977, the President submitted legislative proposals to the Congress in a draft bill entitled "Alien Adjustment and Employment Act of 1977". A major element of this proposal is to grant permanent or temporary resident status to many aliens who are currently in this country illegally. Should this legislative proposal be enacted into law, it would appear that any newly qualifying resident alien also could be affected by the affirmative action program.

We trust that the above information will serve the purpose of your inquiry.

Sincerely yours,

R.F.KELLER

Deputy, Comptroller General
of the United States