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JUN 20 1975

Memo from . . .

MINORITY OFFICE
HOUSE COMMITTEE ON EDUCATION & LABOR
2181-B Rayburn Building
Washington, D. C. 20515
(202) 225-3725

To Vern Loen

For your information

Per your request

Please review & comment



Date June 18, 1975 Signed Richard H. Mosse
Assistant Minority Counsel

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HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR

2181 RAYBURN HOUSE OFFICE BUILDING

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June 18, 1975

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Hon. John T. Dunlop
Secretary, Department of Labor
200 Constitution Avenue, NW
Washington, DC 20001

Dear Mr. Secretary:

On March 26, 1975, the Office of Federal Contract Compliance published proposed "Affected Class and Back Pay Guidelines" (41 CFR Part 60-60). Since that date interested parties from all sectors of private industry have been highly critical of the position which the Labor Department has taken in this matter. We have reviewed the aforesaid guidelines and wish to apprise you of our feelings regarding the back pay aspect.

We take strong issue with the Department's interpretation that Executive Order 11246, as amended, contemplates the imposition of back pay settlements. Section 202(6) provides that Federal contracts may be "cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts." There exists no dispute as to whether the Federal government has the power to cease doing business with Federal contractors who refuse to provide equal employment opportunity to all without regard to race, creed, color, national origin, or sex. However, we feel that debarment is, and should be, the ultimate sanction of the Department of Labor and that any further remedies should be sought through the judicial system.

Title VII of the Civil Rights Act of 1964 clearly permits the imposition of back pay as a remedy for its violation. Congress specifically provided that the Attorney General or the Equal Employment Opportunity Commission may seek such a remedy on behalf of aggrieved parties. Section 209(a)(2) and (3) of Executive Order 11246 provides that, when appropriate, the Secretary may recommend to the Department of Justice or the Equal Employment Opportunity Commission that proceedings be brought to enforce the



Hon. John T. Dunlop
June 18, 1975
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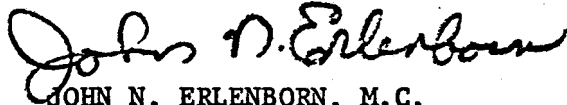
provisions of the Executive Order under Title VII of the Civil Rights Act of 1964. Clearly, the necessity for such a referral would substantiate our contention that the Department of Labor should not be in the business of extracting back pay, but rather should leave such procedures to the courts where the expertise for such determinations lies.

Further, the guidelines state that court decrees will be followed under Title VII "to the extent that such decisions are not inconsistent with the guidelines." We respectfully suggest that the courts take precedence in all such matters.

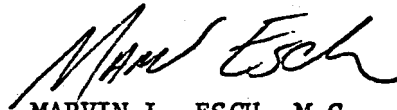
Sincerely,



ALBERT H. QUIE, M.C.
Ranking Minority Member



JOHN N. ERLBORN, M.C.
Subcommittee on Labor Standards



MARVIN L. ESCH, M.C.
Subcommittee on Manpower, Compensation,
and Health and Safety



JOHN M. ASHBROOK, M.C.
Subcommittee on Labor-Management
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