

**GAO**

Report to the Chairman, Subcommittee on  
Federal Workforce, Postal Service, and the  
District of Columbia, Committee on  
Oversight and Government Reform, House  
of Representatives

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September 2008

# DIVERSITY AT GAO

## Sustained Attention Needed to Build on Gains in SES and Managers





Highlights of [GAO-08-1098](#), a report to the Chairman, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, Committee on Oversight and Government Reform, House of Representatives

## Why IG Did This Study

GAO, like other federal agencies, faces challenges in increasing diversity in its workforce, including top leadership. Because of your interest in the effectiveness of diversity offices and the underrepresentation of women and minorities in legislative branch agencies, you asked GAO's Inspector General (IG) to (1) determine whether GAO's diversity efforts are achieving better representation of women and minorities in top leadership, (2) evaluate the accuracy and completeness of GAO's fiscal year 2007 complaint and discrimination data, and (3) assess the independence and reporting relationship of the head of GAO's Office of Opportunity and Inclusiveness (OOI).

In response, GAO's IG reviewed relevant orders, documents, and data and interviewed officials at GAO and GAO's Personnel Appeals Board (PAB)—the adjudicative body for GAO employees who appeal agency equal employment opportunity-related (EEO) decisions—and other parties.

## What IG Recommends

To improve diversity in SES and manager ranks, the IG recommends GAO establish a formal policy to annually produce a *Workforce Diversity Plan* to more effectively manage its diversity activities. To accurately report on complaint data, GAO should revise relevant orders, procedures, and internal controls. GAO generally agreed with the recommendations in our draft.

To view the full product, including the scope and methodology, click on [GAO-08-1098](#). For more information, contact Frances Garcia at (202) 512-5748 or [garciaf@gao.gov](mailto:garciaf@gao.gov).

## DIVERSITY AT GAO

### Sustained Attention Needed to Build on Gains in SES and Managers

#### What IG Found

Overall, GAO made gains in the representation of women and minorities in both its SES and manager (GS-15) ranks, and equivalent positions, between fiscal years 2002 and 2007. Furthermore, the agency's SES and managers in fiscal year 2007 were generally more diverse in comparison with executive branch agencies and the civilian labor force. Top management has made a commitment to increasing the diversity of its workforce and has implemented many leading diversity management practices. GAO has taken steps to identify, examine and address potential barriers to the hiring and advancement of women and minorities. Last year, the agency began work to examine disparities in the average ratings between African-American and Caucasian analysts, including those at the manager level. In June 2008, GAO issued its congressionally mandated *Workforce Diversity Plan*, which analyzed the demographic composition of the agency's entire workforce and identified potential barriers to the advancement and hiring of minorities. As a result, GAO has baseline data to assess its future diversity efforts and an action plan for the next year to address gaps in minority representation. The Acting Comptroller General intends for the agency to annually prepare this plan, which will provide critical information for diversity management.

GAO's fiscal year 2007 complaint and discrimination data in GAO's March 2008 report to Congress included errors. For example, the report showed one complaint and one complainant more than were found in GAO's files. Also, we could not verify the reported average annual number of days for processing complaints. Moreover, we found that, earlier this year, GAO did not include accurate fiscal year 2007 complaint data on its Web site, as required by law. Rather, GAO posted first quarter fiscal year 2008 complaint data as if it were the full year data for fiscal 2007. GAO has corrected the data and posted the updated data to both its Web site and intranet. These errors were primarily the result of how GAO tracks complaints and other insufficient internal controls over the compilation and reporting of data.

GAO voluntarily follows two of three Equal Employment Opportunity Commission requirements for executive branch agencies regarding the independence and reporting relationships of EEO office heads. At GAO, the head of OOI reports directly to GAO's chief executive—the Comptroller General—and conducts legal reviews of the agency's final decisions on complaints independent of GAO's in-house legal staff. Regarding the third requirement, GAO's PAB has raised concerns about the involvement of OOI's head in both complaint processing and diversity efforts. PAB is concerned this is a potential conflict of interest and has recommended that GAO create a separate unit solely to process complaints. GAO management has not adopted PAB's recommendation, saying it is not an efficient use of resources, given the low number of formal EEO complaints OOI processes and the outsourcing of its complaint investigations. The scope of this review did not include a detailed analysis of OOI to determine what effect, if any, the consolidation of these functions has had on complaint processing.

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## Abbreviations

EEO	equal employment opportunity
EEOC	Equal Employment Opportunity Commission
GC	Office of General Counsel
IG	Inspector General
NAPA	National Academy of Public Administration
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act
OOI	Office of Opportunity and Inclusiveness
OPM	Office of Personnel Management
PAB	Personnel Appeals Board
SES	Senior Executive Service

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United States Government Accountability Office  
Washington, DC 20548

September 10, 2008

The Honorable Danny K. Davis  
Chairman  
Subcommittee on Federal Workforce,  
Postal Service, and the District of Columbia  
Committee on Oversight and Government Reform  
House of Representatives

Dear Mr. Chairman:

In today's multicultural workforce, diversity can be an organizational strength that can bring a wide variety of perspectives and approaches to bear on policy development and implementation, strategic planning, problem solving, and decision making. Organizations that promote and achieve a diverse workplace can attract and retain high-quality employees. GAO, similar to other federal agencies, faces both opportunities and challenges in increasing the diversity of its top leadership and workforce.

Because of your interest in the effectiveness of diversity program offices and the underrepresentation of women and minorities in legislative branch agencies, you asked us to (1) determine whether GAO's diversity programs and initiatives are achieving better representation of women and minorities in the agency's Senior Executive Service (SES) and managerial ranks (GS-15), and their equivalents;<sup>1</sup> (2) evaluate the accuracy and completeness of the fiscal year 2007 complaint and discrimination data reported to Congress;<sup>2</sup> and (3) assess the independent authority and reporting relationships of the Managing Director of GAO's Office of Opportunity and Inclusiveness (OOI).

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<sup>1</sup>In GAO, SES positions and their equivalents are SES, Senior Level, and executive schedule positions. GAO has few actual GS-15 positions; their equivalents within GAO's pay systems are Band III analysts and specialists (Assistant Directors), Level II managerial and supervisory positions, Level-IV professional technical specialists, and Band III attorneys (equivalent to Band II Attorneys in 2002-2004).

<sup>2</sup>In accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174, GAO is required to (1) annually report information related to discrimination, harassment, and related matters and (2) post quarterly updates of these data on its Web site.

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To address the first objective, we identified and compared GAO's diversity management practices against those identified by the U.S. Equal Employment Opportunity Commission (EEOC) Management Directive 715 (MD-715) and nine expert-identified leading diversity management practices. In addition, we analyzed fiscal years 2002 through 2007 data on the number of women and minorities in SES and managerial positions, and their equivalents. To address the second objective, we reviewed relevant GAO orders and procedures, including those on processing discrimination complaints and internal controls regarding data quality. We also analyzed supporting documentation for the fiscal year 2007 data that GAO reported to Congress and interviewed key staff and managers. To address the third objective, we examined GAO's organizational structure, policies, and procedures; reviewed related reports; and interviewed officials in GAO's Personnel Appeals Board (PAB), OOI, and General Counsel. Appendix I further discusses our scope and methodology. We conducted our work from March 2008 to September 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Results in Brief

Between fiscal years 2002 and 2007, GAO increased the diversity of both its SES and managerial ranks. Moreover, GAO's SES and managers in fiscal year 2007 were generally more diverse in comparison with executive branch agencies and the civilian labor force. Our work shows that the agency uses a number of leading diversity management practices to recruit, hire, promote, and retain its employees. The agency's top management has made a commitment to diversity management. In addition, the agency has taken recent steps to identify and address potential barriers to the advancement and hiring of women and minorities. Last year, the agency contracted for a study to examine the disparity in average ratings for African-American and Caucasian analysts. This disparity can be a barrier for the advancement of African-Americans to the SES and manager ranks. In June 2008 GAO issued its congressionally mandated *Workforce Diversity Plan*, which assessed the representation of women, minorities, and people with disabilities throughout the agency. The agency used MD-715 as a guide in developing the plan. GAO found representational gaps in the SES, the manager level in certain job categories, and recent applicants for the SES candidate program. In response, the agency is planning to target efforts on the areas of greatest

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underrepresentation, such as Hispanics, at all levels in the agency. According to the Acting Comptroller General, GAO intends to annually prepare these plans, which will provide the agency with information on representational gaps, identify areas where barriers (agency policies, procedures, or practices) may operate to exclude certain groups, and the overall effectiveness of its diversity efforts.

We found errors in GAO's March 2008 annual report to Congress and its Web posting of complaint and discrimination data reported for fiscal year 2007. For example, although agency documents show that six employees filed complaints, GAO reported seven in its annual report. In addition, we could not verify the reported average number of days that GAO spent processing complaints. We also found problems with fiscal year 2007 complaint data that GAO posted on its Web sites. Specifically, GAO inadvertently posted the wrong data as fiscal year 2007 data. In general, the errors were the result of inadequate procedures for compiling and reporting all complaints and the agency not making full use of its electronic complaint software. As a result of our review, OOI has revised the fiscal year 2007 data posted to its Web site and plans to take steps to address other problems we identified.

Although GAO is not required to comply with EEOC management directives to executive branch agencies, it has followed two of the three requirements related to independent authority and reporting relationships for the head of the agency's equal employment opportunity (EEO) office. We did identify a concern about the third requirement—the consolidation of personnel-related and discrimination complaint functions in one office. GAO's OOI Managing Director is responsible for processing discrimination complaints and taking an active role in diversity programs, which could be the subject of a discrimination complaint. GAO's PAB, which oversees the agency's EEO activities, believes this situation potentially leaves the managing director open to charges of conflict of interest. PAB has recommended that GAO separate these two administrative functions and create a unit exclusively for processing discrimination complaints—a position consistent with an EEOC management directive.<sup>3</sup> GAO management has not agreed to implement this recommendation, in part because the agency believes it would result in an inefficient use of resources given the small number of formal discrimination complaints

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<sup>3</sup>EEOC, Equal Employment Opportunity Management Directive 110, *Federal Sector Complaints Processing Manual* (Nov. 9, 1999).



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filed each year. However, the annual number of formal complaints only partially reflects the office's workload. For example, in fiscal year 2007, while GAO employees filed 15 formal discrimination complaints, about 130 GAO employees informally contacted OOI about their concerns of unfair treatment. The scope of this review did not include a detailed analysis of OOI to determine what, if any, effect the consolidation of these functions has had on complaint processing.

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## Background

GAO, a legislative branch agency, performs a wide range of evaluative and related work. It conducts audits and evaluations of executive branch agencies, resolves disputes over awards of government contracts, and sets auditing and accounting standards for the federal government. The agency has a highly educated, multidisciplinary workforce of around 3,100 employees who work in Washington, D.C., and 11 field offices. It employs analysts, auditors, economists, lawyers, and other professionals, and more than half of the workforce has master's or doctoral degrees.

The GAO Personnel Act of 1980 gave the agency its own personnel system, separate from that of the executive branch, and it increased the agency's flexibility in hiring, paying, and managing its workforce. As a result, GAO was one of the first federal agencies to establish "broad banding," or "pay banding." The act also created PAB, a body independent from GAO management, to hear GAO employee issues related to discrimination and prohibited personnel actions and to conduct oversight of EEO programs. (See app. II for a list of selected PAB oversight reports.) Prior to the act, GAO employees alleging either employment discrimination or violations of the merit systems principles filed suits with the EEOC or the Merit Systems Protection Board, respectively.

In the past decade, GAO has taken steps toward diversity management, which aims to create and maintain a positive work environment where the similarities and differences of individuals are valued, so that all can reach their potential and maximize their contributions to an organization's strategic goals and objectives. In 2001, GAO created OOI and gave the office responsibility for helping to create a fair and inclusive work environment by incorporating diversity principles in GAO's strategic plan and throughout its human capital policies and programs, as well as handling discrimination complaints. OOI manages the agency's EEO program, including informal precomplaint counseling and the formal discrimination complaint process. In addition, it monitors the implementation of GAO's disability policy and oversees the management of GAO's interpreting service for deaf and hard-of-hearing employees.

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GAO also has adopted strategic planning and has a 5-year strategic plan for the agency as a tool to meet its long-term goals and objectives.<sup>4</sup> One of the agency's four strategic goals is to maximize the value of GAO by being a model federal agency and a world-class professional services organization, in part by leading strategically to achieve results and being an employer of choice with an environment that is fair and unbiased and that values opportunity and inclusiveness.

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## GAO Has Improved Diversity, and Information from Annual Diversity Plans Will Help to Manage Future Progress

GAO has made progress in building a more diverse profile of its SES and managerial ranks. Moreover, as shown in figure 1, GAO's leadership is generally more diverse in comparison with executive branch agencies and the civilian labor force.<sup>5</sup> At the same time, gaps remain in the representation of women and minorities in the agency's leadership. GAO's June 2008 *Workforce Diversity Plan* has identified low representation of African-American women, Asian-Americans,<sup>6</sup> Hispanics, and the disabled among its SES and managers. The agency has a variety of leading diversity management practices to help reshape its workforce. The challenge facing GAO is to strategically manage its efforts to efficiently and effectively achieve greater diversity in its leadership. The Acting CG has stated that the agency intends to annually prepare a diversity plan in the spirit of EEOC's MD-715 guidance, which will provide the agency with information essential to effectively and efficiently managing its diversity efforts.

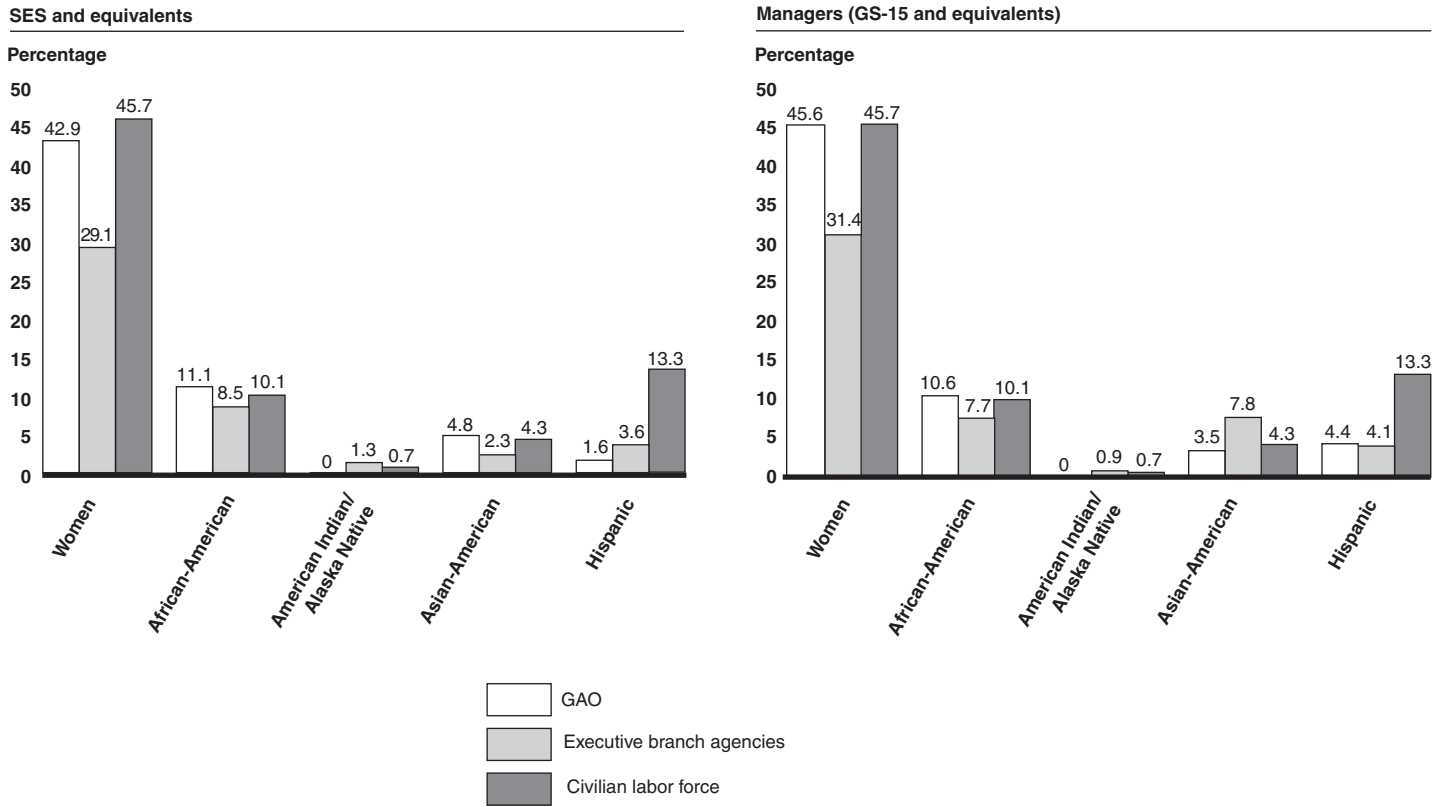
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<sup>4</sup>GAO, *GAO Strategic Plan 2007-2012*, [GAO-07-1SP](#) (Washington, D.C.: March 2007).

<sup>5</sup>The civilian labor force is defined as those 16 and older (including the federal workforce), regardless of citizenship, who are employed or looking for work and are not in the military or institutionalized. A minimum age of 18 is required for most federal employment.

<sup>6</sup>For purposes of this report, we are using the term Asian-American to include employees who identify their ethnicity and race as Asian, Native Hawaiian, or other Pacific islander.

**Figure 1: Comparison of Percentage of Women and Minorities in GAO's Senior Executive Service and at Manager Level with Executive Branch Agencies and Civilian Labor Force, Fiscal Year 2007**

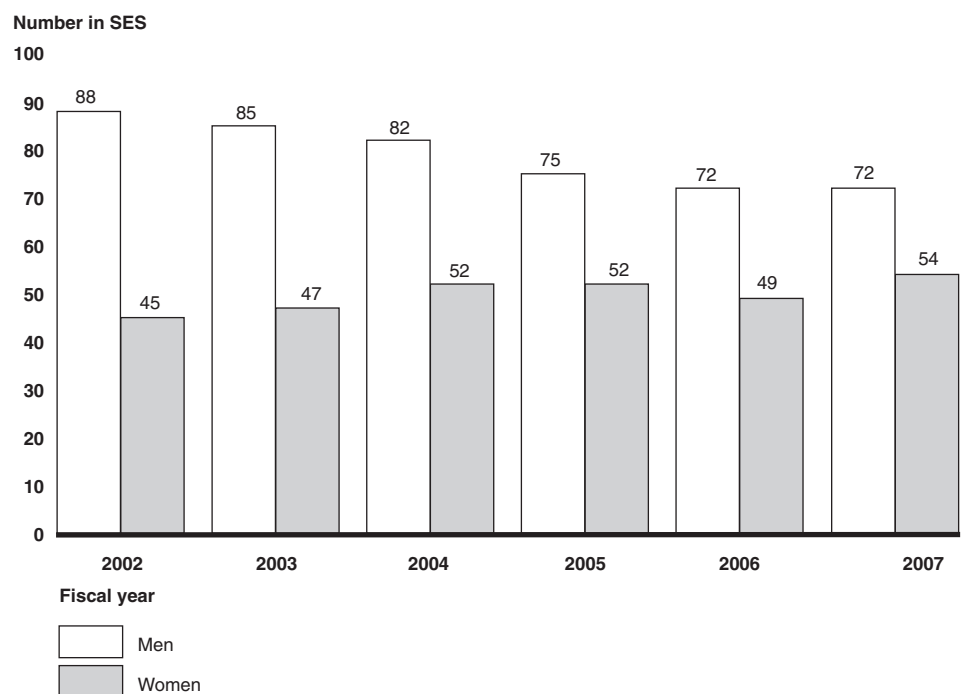


Source: IG analysis of GAO and OPM data.

## GAO Has Made Gains in Overall Diversity and Faces Future Challenges

Between fiscal years 2002 and 2007, GAO increased the number of women in its SES from 45 to 54, or 20 percent, as figure 2 shows. As a proportion of the SES, women went from 34 percent to 43 percent.

**Figure 2: Number of Men and Women in GAO's SES, Fiscal Years 2002-2007**



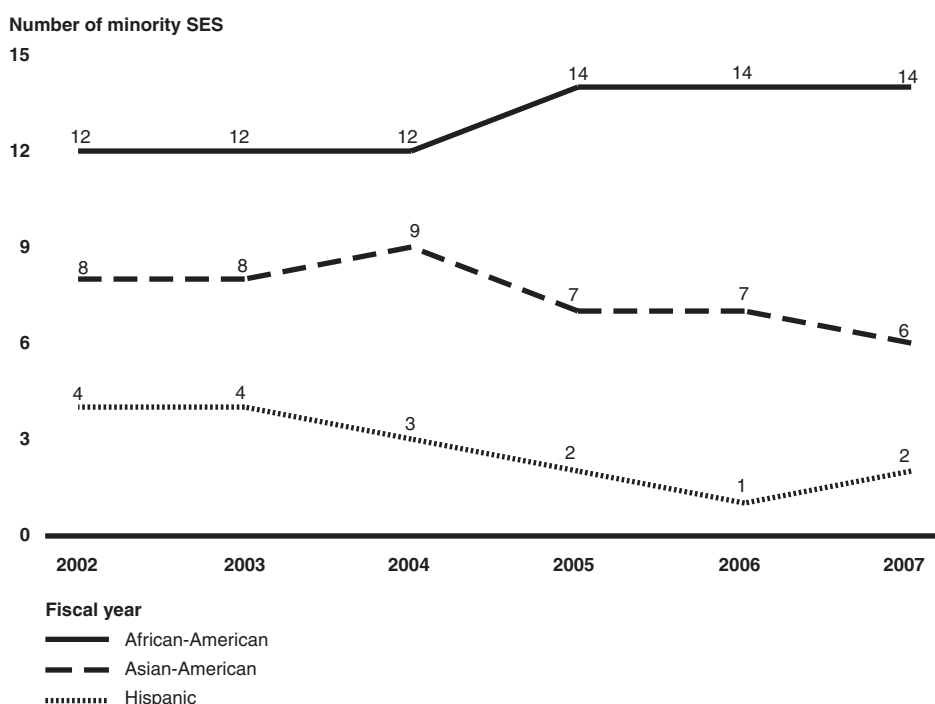
Source: IG analysis of GAO data.

During this same time, GAO had mixed success in increasing the number of minorities in the SES, as shown in figure 3. The agency had a slight increase in the number of African-Americans (from 12 to 14) but a decrease in the number of Asian-Americans (from 8 to 6) and Hispanics (from 4 to 2).<sup>7</sup> In GAO's June 2008 *Workforce Diversity Plan*, the agency reported that the percentages of African-American and Asian-American females in the SES have not increased at the same rate as their respective percentages in the agency's overall workforce. Moreover, the agency reported no representation of individuals with targeted disabilities or

<sup>7</sup>Hispanics are underrepresented throughout the federal government when compared with the U.S. civilian labor force, according to OPM.

American Indians/Alaska Natives in its SES.<sup>8</sup> EEOC considers a low representational rate to be a benchmark or indicator of potential barriers to equal participation at all levels in a federal agency that requires further study.<sup>9</sup>

**Figure 3: Number of Minority SES Members at GAO, Fiscal Years 2002-2007**



Source: IG analysis of GAO data.

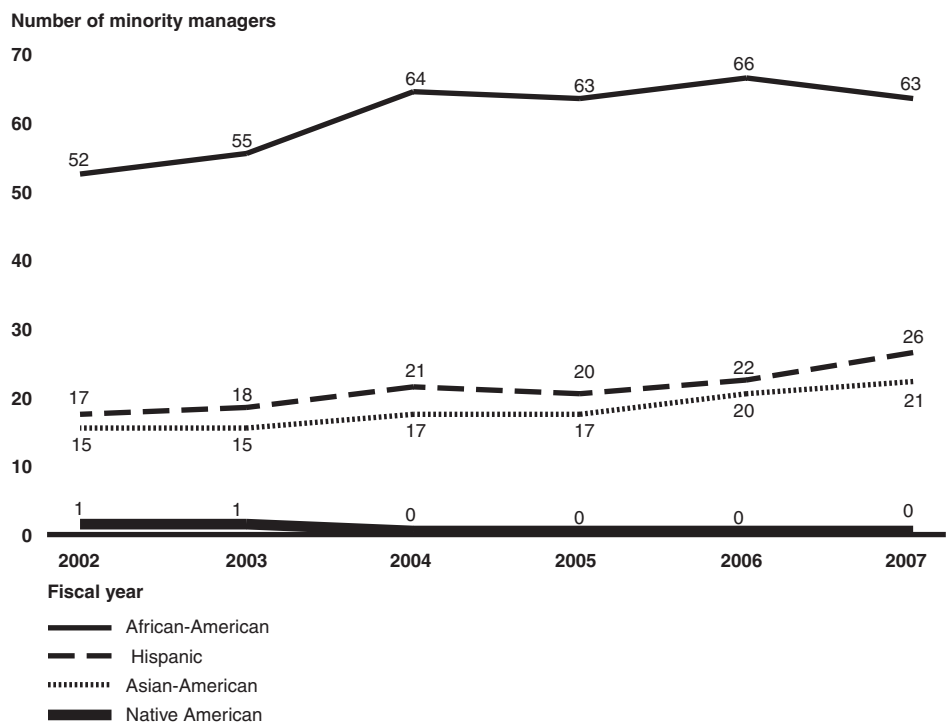
At the manager level during this same time, GAO increased the numbers of women and minorities. The manager level is the developmental or “feeder” pool for the SES. As with the SES, women made the largest gains, increasing their representation from 39 percent of the managers to 46

<sup>8</sup>Targeted disabilities are deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb or spine.

<sup>9</sup>EEOC defines barrier as an agency policy, principle, or practice that limits or tends to limit employment opportunities for a particular sex, race, or ethnic background or because of an individual’s disability status.

percent. The increases in minority representation were smaller but generally steady, as figure 4 shows.

**Figure 4: Number of Minority Managers at GAO, Fiscal Years 2002-2007**



Source: IG analysis of GAO data.

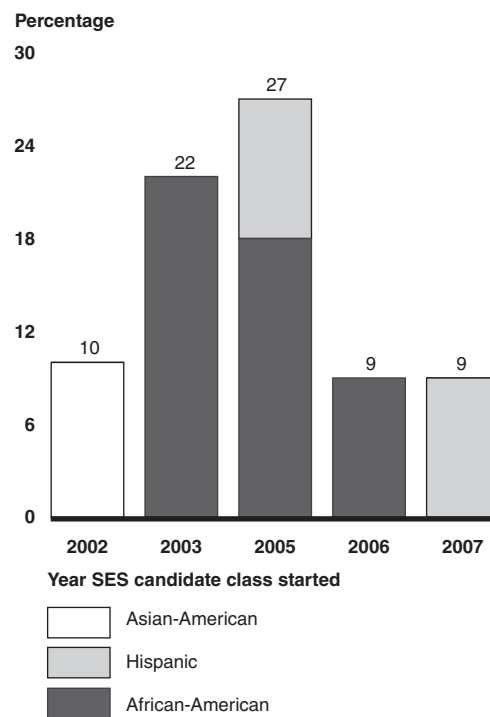
At the manager level, GAO recently reported low percentages for Hispanic females, African-American males, and Asian-American females among Band III analysts. The agency also reported having no African-Americans, Asian-Americans, or Hispanics in certain manager-level administrative and professional-manager job categories.<sup>10</sup>

GAO's SES candidate program has a significant effect on the diversity of the SES because the agency uses it to promote many managers into the SES ranks. For entry into the program, the agency uses a competitive selection process that is open to both internal and external candidates at the manager level. Participation in the program lasts about 18 months and

<sup>10</sup>GAO, *Workforce Diversity Plan* (Washington, D.C.: June 2008).

includes special training and different work experiences to develop executive competencies. Upon successful completion of the program, candidates can gain an SES position without further competition. Since October 2002, women have composed 22 (or 42 percent) of the 52 total program participants. Minorities have composed 8 (or 15 percent) of all of the participants, although there were no American Indians/Alaska Natives. In addition, as figure 5 shows, the percentage of minorities in the classes has fluctuated—from a high of 27 percent in 1 year to a low of 9 percent in the September 2007 class.

**Figure 5: Percentage of Minorities in GAO's SES Candidate Program Since October 2002**



Source: IG analysis of GAO data.

In June 2008, GAO reported that no Asian-Americans, Hispanic males, or African-American females applied for the September 2007 class of the SES candidate program. The Managing Director of OOI said that the low representation of minorities among recent applicants demonstrates that without constant vigilance, progress could be lost, even though the agency has generally been successful at attracting minorities to its SES candidate program.

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In the short term, this program has the potential to help GAO obtain a larger pool of diverse candidates for the SES because it accepts applicants from both inside and outside the agency. In recent years, the agency has hired two external applicants for this program. According to agency officials we interviewed, past experience has shown that external candidates often face an additional challenge of assimilating into GAO's SES culture, which is steeped in audit methodology and practices, while at the same time they must lead staff who are knowledgeable about these practices and procedures.

GAO also directly hires employees at the SES and manager level. Direct hiring has an effect on diversity, and in the short term, the hiring of women and minorities could help improve diversity at these levels. Between October 2002 and May 2008, GAO hired a total of 67 individuals at the SES and manager level. Of these, 10 (15 percent) were minority men and women and 21 (31 percent) were Caucasian females.

In its EEO oversight role, PAB has recommended that GAO review its SES selection process, including the SES candidate program, to determine whether any barriers may be having a negative effect on representation. In response, the agency has stated that it regularly reviews the SES selection processes and discusses how it can attract a greater diversity of applications, including recruitment sources and advertising with special interest groups.

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## GAO Uses Leading Practices, and Annual Diversity Plans Can Provide Essential Information for Effective Management

GAO has in place many of the leading diversity management practices identified in EEOC's MD-715 guidance for a model EEO program<sup>11</sup> and in a GAO study of expert-identified leading diversity management practices.<sup>12</sup> (See app. III for a table showing the status of GAO's implementation of the nine expert-identified practices.) For example, GAO's top executives, including the current Acting Comptroller General and former Comptroller General, have made a commitment to diversity management—a best practice identified by both the EEOC and diversity management experts. Diversity management is a regular item on the agenda at periodic meetings of GAO's SES. Furthermore, GAO has taken recent action that will identify

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<sup>11</sup>EEOC, MD-715 Section I: *The Model EEO Program*.

<sup>12</sup>GAO, *Diversity Management: Expert-Identified Leading Practices and Agency Examples*, GAO-05-90 (Washington, D.C.: Jan. 14, 2005).



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representational gaps and eliminate unnecessary barriers to hiring and advancement of women, minorities, and people with disabilities.

In accordance with a leading practice, GAO has made diversity part of its 5-year strategic plan, which sets out the agency's long-term goals and objectives.<sup>13</sup> One of the agency's four strategic goals is to maximize the value of GAO by being a model federal agency and world-class professional services organization. One objective for this goal is to be an employer of choice with an environment that is fair and unbiased and that values opportunity and inclusiveness. In addition, GAO has incorporated diversity management in the performance appraisal systems for its SES and other supervisors, as well as adopted mediation to voluntarily resolve complaints of discrimination. Moreover, as part of an ongoing effort to involve employees in its diversity management, the agency recently created a Diversity Committee with representatives from all employee groups, such as Blacks In Government, the Advisory Council for Persons with Disabilities, the Asian American Liaison Group, the Gay and Lesbian Employees Association, the Hispanic Liaison Group, and the International Federation of Professional and Technical Engineers. The committee's purpose is to foster opportunities for dialogue between GAO management and staff by seeking and conveying the views and concerns of individual diversity groups. The committee's members will comment on new or revised GAO policies, procedures, plans, and practices pertaining to diversity issues.

While GAO has improved the diversity of its SES and managerial ranks and uses many leading diversity management practices, the agency has not had a process for developing essential information on a regular basis to effectively manage its diversity efforts. However, in June 2008 GAO issued its *Workforce Diversity Plan*, as requested in the committee report for the legislative branch appropriations bill for fiscal year 2008.<sup>14</sup> Executive branch agencies are required to do this plan annually. In developing its plan, GAO used EEOC's MD-715—the same guidance executive branch agencies are required to use—although GAO is not required to follow it. In accordance with EEOC MD-715, GAO analyzed workforce data to assess demographic trends and to determine whether there were differences in

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<sup>13</sup>[GAO-07-ISP](#).

<sup>14</sup>U.S. House of Representatives, Subcommittee on Legislative Branch, Committee on Appropriations, *Legislative Branch Appropriations Bill, 2008*, H.R. 110-198, 110th Cong., 1st sess. (June 19, 2007). The subcommittee report requested an affirmative action plan.

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the representation of minorities in the agency's workforce when compared with the appropriate benchmarks.<sup>15</sup> As a result, the agency now has baseline data on the diversity of its workforce. In addition, it has identified a number of potential barriers that may impede fair and open competition in the workplace. The plan also includes the GAO's 2008-2009 Workforce Diversity Action Plan, which lists three broad goals: (1) recruit more Hispanics, African-Americans, and staff with disabilities; (2) enhance staff-development opportunities that prepare staff for upper-level positions; and (3) create a more inclusive environment. While the action items are short-term activities, such as developing a diversity recruitment and hiring plan by April 2009, some could lead to long term changes that affect diversity.

In addition, the agency awarded last year a contract to assess the factors that may explain statistically significant differences in rating averages between African-American and Caucasian analysts from 2002 to 2006. A final report was issued on April 25, 2008, and it included more than 25 recommendations. Within a week, the Acting Comptroller General issued a memorandum to employees expressing his commitment to address the report's recommendations. GAO has already undertaken steps to implement some of the recommendations and to establish a plan to implement other recommendations.

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## Fiscal Year 2007 Complaints and Discrimination Data Contained Errors

The Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) of 2002 requires GAO to provide data on its complaints and discrimination cases annually in a report to Congress and to post updates of current fiscal year data on its Web site. In the annual report, we found errors in the fiscal year 2007 data for the number of complaints, the number of GAO employees who filed complaints, and the basis of the complaints (such as race, gender, and religion). We also could not verify the fiscal year 2007 data reported for complaint processing times. In addition, when GAO posted complaint data earlier this year on its intranet and Web site, it inadvertently published the wrong data for fiscal year 2007.<sup>16</sup> We determined that these and other errors largely resulted from insufficient controls over the compilation and reporting of the data, including not making full use of its electronic complaint software.

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<sup>15</sup>EEOC, MD-715 Section II: *Barrier Identification and Elimination*.

<sup>16</sup>In addition to posting No FEAR Act data to its Web site, GAO also publishes the quarterly data on its intranet for employee access.

In its March 2008 annual report, GAO had errors in fiscal year 2007 complaints and discrimination data. Table 1 shows a comparison of correct data to data included in GAO’s annual report regarding the number of complainants, complaints, and repeat filers—those who have previously filed a complaint.

**Table 1: Comparison of Correct and Reported Complaint Data for Fiscal Year 2007**

Type of data	Correct data	Data in GAO annual report
Complainants	6	7
Complaints	15	16
Repeat filers	2	2

Source: IG analysis of GAO information.

The annual report also contains errors related to the basis, or nature, of the complaint, as shown in table 2. For example, the annual report overstates by two the number of complaints based on religion, while it understates by eight the number of complaints based on reprisals.

**Table 2: Comparison of Fiscal Year 2007 Basis of Complaints, by Source of Data**

Basis of complaint	Correct data	Data in GAO annual report	Difference
Race	2	1	1
Color	1	1	0
Religion	10	12	-2
Reprisal	14	6	8
Sex	2	2	0
National origin	1	1	0
Equal Pay Act	0	0	0
Age	4	4	0
Disability	2	2	0
Non-EEO	0	0	0

Source: IG analysis of GAO information.

We traced the reasons for the errors in the annual report back to insufficient internal controls to ensure the accuracy and completeness of the data. For example, in developing the data, the responsible person did not include all of the complaints or all of the information about the

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complaints processed. Part of the problem involved complaints that OOI did not process because they were filed against a person within OOI.<sup>17</sup> We found that OOI did not have procedures on how to track complaints processed outside of OOI or how to report on such complaints for purposes of the No FEAR Act. In addition, the agency had no written procedures regarding the development and verification of the data to ensure completeness and accuracy, and we did not find any indication in the records we reviewed that the person's work had been verified or reviewed by a supervisor.

Furthermore, we could not verify the processing times for fiscal year 2007 complaints in the annual report. We found that OOI, the unit responsible for developing complaint data, does not have written procedures for calculating and verifying the average number of days that complaints were in the investigation stage and awaiting final action by the agency. To compute these processing times, OOI staff used an informal process and manually did the calculations. However, we could not verify the calculations because the person who made the calculations had little experience in this area, and the records of their calculations were incomplete. In addition, OOI did not make full use of its electronic complaint tracking software, which has the capabilities to track and determine complaint processing times, because of past difficulties in using the software. GAO specifically purchased this software 5 years ago to improve the accuracy of its complaint data. In response to these findings, the agency is planning to revise its procedures to improve the accuracy of processing times, including making full use of this software.

We also found that GAO inadvertently posted on its intranet and Web site the wrong data for fiscal year 2007. The posted data—which were for the first quarter of fiscal year 2008—were different from the correct data. As shown in table 3, the posted data understated the number of complainants by 4, the number of complaints by 13, and the number of multiple filers by 2. The posted data also included errors regarding the basis of complaints and the complaint processing times.

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<sup>17</sup>As set forth in GAO's discrimination complaint resolution process order, generally GAO employees are to file discrimination complaints with OOI, which processes them. For complaints filed against OOI staff or management, the order provides for a GAO top executive to assign such complaints to other GAO managers, so that they may process the complaints instead of OOI, as occurred in fiscal year 2007.

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**Table 3: Comparison of Correct Data with Data Inaccurately Posted to GAO’s Web Sites for Fiscal Year 2007**

Type of data	Correct data	Inaccurate Web-posted data
Complainants	6	2
Complaints	15	2
Multiple filers	2	0

Source: IG analysis of GAO information.

The errors in the quarterly postings resulted from a combination of factors. First, internal controls were not adequate to ensure that posted data were accurate. Second, the responsible staff who had little experience with the No FEAR Act data said that they were confused by the act’s language and reporting format, which the EEOC developed for use by executive branch agencies, and made errors because of their confusion. Third, OOI has continued to rely on a manual paper-based process for tracking and reporting all complaints and have made limited use of its electronic complaints tracking software. The manual process made it harder to accurately track the number of complaints and to determine processing times. As a result of our work, OOI has posted to its intranet and Web site the correct data for fiscal year 2007 and plans to revise its procedures for other problems we have identified.

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## Concerns Continue about Integration of Discrimination Complaint Processing and Diversity Efforts

To ensure the fair and impartial processing of discrimination complaints, EEOC’s guidance on the federal sector EEO process for executive branch agencies has three requirements regarding the reporting relationship and independence of the heads of agency EEO offices.<sup>18</sup> Although GAO is not required to follow EEOC’s guidance, it adheres to two of the three requirements. Concerns have been expressed about the agency not following the third recommendation—keeping the EEO functions separate from the personnel function. PAB, in its EEO oversight capacity of GAO, has recommended that the agency create a separate unit solely to process discrimination complaints.

EEOC’s Management Directive 110, among other things, has three requirements for the head of agency EEO offices regarding reporting relationships and independence. First, to underscore the importance of equal employment opportunity to an agency’s mission and to ensure that the EEO Director is able to act with the greatest degree of independence,

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<sup>18</sup>EEOC, Management Directive 110.

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it requires that the EEO Director report directly to the head of the agency. Second, to enhance the credibility of the EEO office and the integrity of the EEO complaints process, it requires that the EEO fact-finding function in general, and the legal sufficiency reviews of final agency decisions for discrimination complaints in particular, not be done by attorneys in a unit that represents or defends the agency in such disputes. Third, to maintain the integrity of the EEO investigative and decision-making processes, the guidance requires that the EEO functions, especially investigations and decision making, must be kept separate from the personnel function to avoid conflicts of position or conflicts of interest, as well as the appearance of such conflicts.

We found no problems with two requirements. The OOI Managing Director reports directly to the Comptroller General, the head of GAO. In addition, the OOI Managing Director, who is an attorney, does legal sufficiency reviews of final agency decisions and arranges for independent investigations. For the small number of complaints that OOI staff have not directly processed, GAO's Chief Administrative Officer assigns a manager to act on OOI's behalf, while General Counsel assigns an attorney who is not in GAO's Legal Services unit to assist the manager. Legal Services is part of GAO's Office of General Counsel and serves as the agency's in-house legal counsel and represents the agency in legal disputes.

PAB has reported about the potential for a real or apparent conflict of interest because the OOI Managing Director is responsible for overseeing discrimination complaints while having a substantial role in GAO's human capital activities, including diversity programs—which is a personnel function. PAB has pointed out that this situation does not conform to the EEOC directive, which states, “. . . the same agency official responsible for executing and advising on personnel actions may not also be responsible for managing, advising, or overseeing the EEO pre-complaint or complaint processes.” An illustrative example of a potential area of conflict is the OOI Managing Director's role in reviewing employee performance ratings. He reviews selected ratings before they are final to identify any potential EEO concerns, and he then discusses his concerns with the appropriate SES official. Therefore, if an employee were to file a discrimination complaint because of a rating, the OOI Managing Director would have been involved in a review for potential EEO concerns and still would be responsible for the fair and impartial processing of the complaint.

PAB has recommended that GAO create a separate complaint unit to process discrimination complaints exclusively and with no responsibility for personnel, or human capital, issues. GAO has stated that it does not

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believe that creation of a separate unit is warranted due to the small number of discrimination complaints filed each year and that the appearance of any conflict of interest is mitigated by GAO contracting out its complaint investigations. PAB continues to believe that a structural separation between the two administrative functions is warranted. The scope of our review did not include a detailed analysis of OOI to determine what effect, if any, the consolidation of these functions has had on complaint processing.

Moreover, the small number of formal complaints does not reflect the office's workload, the majority of which involve informal contacts with the office and its efforts to resolve issues raised by GAO employees without the filing of a formal complaint. For example, in fiscal year 2007, GAO employees filed 15 discrimination complaints, while about 130 employees made informal contacts to OOI. These contacts concerned a range of issues, including appraisals, promotion, work assignments, harassment, work environment, feedback, communication, and training.

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## Conclusions

While the agency has made progress, the task ahead—further increasing the diversity of its leadership and workforce—is challenging. It will require a concerted effort that must be sustained over time. The small gains in minority representation in recent years will not be sufficient for achieving a more diverse leadership. To move forward, GAO needs to establish as part of its long-term approach a written policy that requires the agency to produce an annual plan that evaluates its workforce data and helps identify and remove unnecessary barriers to the advancement and hiring of women, minorities, and people with disabilities. The agency has taken a key step toward this end with its June 2008 *Workforce Diversity Plan* and the Acting Comptroller General's stated intention to producing a diversity plan annually. Because of GAO's transitional state with an Acting Comptroller General, we believe the agency needs to incorporate its intention into the order governing OOI's responsibilities. By formally adopting the MD-715 annual review and evaluation process, GAO will be better able to evaluate the effects of its initiatives, use the evaluations as a basis for any strategic improvements, and hold agency leadership accountable.

In addition, GAO needs to improve its internal complaint processing procedures and the procedures related to compiling and reporting on those complaints. This will help to avoid recent problems and ensure that complaint data provided to others are accurate and reliable.

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GAO may want to monitor the situation related to its decision not to create a separate unit for processing discrimination complaints. Some of the factors that the agency considered in its original decisions seem to have changed, and the agency does face some risk of real or apparent conflicts of position or conflicts of interest. Further, the number of employees making informal contacts to OOI is substantial compared with the number of discrimination complaints.

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## Recommendations for Executive Action

To acquire the information needed to make decisions for managing GAO's diversity efforts and to achieve the intended results in the most timely and efficient manner, we recommend that the Acting Comptroller General take the following two actions:

- Establish as agency policy the development of an annual diversity plan that includes the evaluation of the agency's workforce, identifies and removes unnecessary barriers to advancement and hiring, and is comparable to the requirements outlined in EEOC's MD-715.
- Use information from its annual diversity plan to hold agency leadership accountable for the overall results of the agency's diversity efforts.

To improve the accuracy and completeness of the complaint and discrimination data reported to Congress and others, we recommend that the Acting Comptroller General take the following two actions:

- Revise GAO's complaint processing procedures order to clarify responsibility for tracking and reporting on the processing of complaints against a person within OOI.

Strengthen internal controls for tracking, reviewing, and reporting on complaints.

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## Agency Comments and the IG's Evaluation

The Inspector General provided GAO with a draft of this report for review and comment. GAO generally agreed with our recommendations. Regarding the report's four recommendations on GAO's diversity planning efforts, the agency did not believe the report had given sufficient credit to the agency's foundation for long-term diversity planning and management. Based on further discussion of these comments and the clarification that management intends to continue producing an annual workforce diversity plan in the spirit of EEOC's MD-715 guidance, we believe that such an annual plan would address the intent of the draft report's



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recommendations. As a result, we revised the final report to contain two agency planning recommendations to ensure that workforce diversity plans are developed at least annually and that they are used to help increase management accountability. Regarding the IG's two recommendations on discrimination complaint data and reporting, the agency agreed to take steps to improve data quality and reporting and acknowledged taking steps to implement them. GAO also provided technical corrections that we have incorporated, as appropriate. GAO's written comments appear in appendix IV.

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As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 7 days from the report date. At that time, we will send copies to other interested congressional committees and GAO's Acting Comptroller General. We will also make copies available to others on request.

If you or your staff have any questions about this report, please contact me at (202) 512-5748 or [garciaf@gao.gov](mailto:garciaf@gao.gov). Contact points for GAO's Offices of Congressional Relations and Public Affairs may be found on the last page of this report. IG staff who made major contributions to this report are listed in appendix IV.

Sincerely yours,



Frances Garcia  
Inspector General  
GAO

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# Appendix I: Objectives, Scope, and Methodology

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GAO's Inspector General reviewed GAO's efforts to promote fair representation of women and minorities in its Senior Executive Service and other senior-level positions. Our objectives were to

- determine whether GAO's diversity programs and initiatives are achieving better representation of women and minorities in top leadership positions (i.e., Senior Level Executive and GS-15 positions, or their equivalent),
- evaluate the accuracy and completeness of the fiscal year 2007 complaint and discrimination data reported to Congress, and
- assess the independent authority and reporting relationships of the Managing Director of GAO's Office of Opportunity and Inclusiveness (OOI).

To determine whether the GAO diversity-related programs and initiatives are achieving better representation of women and minorities in the Senior Executive Service (SES) and managerial ranks (GS-15) and their equivalent positions, we primarily used (1) the U.S. Equal Employment Opportunity Commission Management Directive 715 (MD-715) checklist, which we modified to eliminate questions applicable only to executive branch agencies; and (2) nine leading diversity management practices identified by experts in the field and discussed in GAO's report *Diversity Management: Expert-Identified Leading Practices and Agency Examples*. Executive branch agencies are to use the MD-715 checklist annually to internally evaluate their performance for establishing and maintaining effective diversity programs, such as the essential elements of a model equal employment opportunity program. We used MD-715 and the GAO report on leading practices as criteria for our assessment because they provide policy guidance and standards for establishing and maintaining effective diversity programs. In addition, we obtained and analyzed data from GAO's Chief Administrative Officer on women and minorities in the SES and manager and equivalent ranks for fiscal years 2002 through 2007, data on GAO's SES candidate program for fiscal year 2002 through May 2008, and GAO's hiring of SES and managers for fiscal year 2003 through May 2008. We also interviewed agency officials, such as the Chief Human Capital Officer and the OOI Managing Director, as well as representatives from the firm that conducted the study on ratings disparities between African-American and Caucasian analysts and an employee group to obtain insight on the agency's diversity management programs and initiatives. The scope of our audit was limited to GAO's diversity programs in effect as of January 1, 2008.

To evaluate the accuracy and completeness of the agency's fiscal year 2007 complaint and discrimination data and the information systems that produce that data, we reviewed GAO's order and procedures on processing discrimination complaints and reviewed relevant files. Our assessment also included reviewing supporting documentation for the data reported in GAO's annual report to Congress and posted on its intranet and Web site. In addition, we interviewed staff and managers in OOI and the Office of General Counsel (GC) to ascertain how complaint and discrimination data are collected, recorded, and reported. We further assessed the internal control systems GAO uses to process complaints, determine processing times, and develop the annual report and Web postings to ensure the quality of data.

To assess the independent authority and reporting relationships for GAO's OOI Managing Director, we examined the agency's organizational structure, policies, and procedures and reviewed GAO's Personnel Appeals Board's (PAB) reports on equal employment opportunity oversight. We also compared how GAO is currently organized to process discrimination complaints against how executive agencies are required to process such complaints, as described in EEOC Management Directive 110. In addition, we interviewed the officials in PAB, OOI, and GC to discuss areas of concern for potential conflicts of interest.

We conducted our work from March 2008 to September 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: Selected PAB EEO Oversight Reports

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*The Employment of Hispanics at GAO.* Washington, D.C.: January 29, 2007.<sup>1</sup>

*The State of Equal Employment Opportunity at GAO in the 21st Century.* Washington, D.C.: October 14, 2005.

*Study of GAO's Office of Opportunity and Inclusiveness.* Washington, D.C.: February 20, 2004.

*Minority Recruitment at GAO.* Washington, D.C.: September 27, 2002.

*Selection Into the Senior Executive Service at GAO (1992-1997).* Washington, D.C.: September 30, 1998.

*Follow-Up Report to GAO's Discrimination Complaint Process and Mediation Program.* Washington, D.C.: August 31, 1998.

*GAO's Discrimination Complaint Process and Mediation Program.* Washington, D.C.: September 29, 1995.

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<sup>1</sup>PAB reports can be located on its Web site, <http://www.pab.gao.gov/oversight.php>.

# Appendix III: Status of Nine Expert-Identified Best Leading Diversity Practices at GAO

Expert-identified leading diversity management practices	Not yet adopted					Level of adoption	
	Do not anticipate adopting	No decision made, not in use	Will adopt	Plan under development	Written plan complete	Partially adopted	Fully adopted
Top leadership commitment							<input checked="" type="checkbox"/>
Diversity as part of an organization's strategic plan						<input checked="" type="checkbox"/>	
Diversity linked to performance						<input checked="" type="checkbox"/>	
Measurement						<input checked="" type="checkbox"/>	
Accountability						<input checked="" type="checkbox"/>	
Succession planning						<input checked="" type="checkbox"/>	
Recruitment				<input checked="" type="checkbox"/>			
Employee involvement						<input checked="" type="checkbox"/>	
Diversity training						<input checked="" type="checkbox"/>	

Source: IG analysis of GAO information.

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# Appendix IV: Comments from the Office of the Comptroller General of the United States

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United States Government Accountability Office  
Washington, DC 20548

Office of the Comptroller General  
of the United States

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September 4, 2008

Ms. Frances Garcia  
Inspector General

Dear Ms. Garcia:

On behalf of the Executive Committee, thank you for the opportunity to comment on the draft report on GAO's diversity efforts. First, we appreciate the reports' recognition of the gains GAO has made in the number of women, African Americans, Asian Americans and Hispanics in our collective SES and manager ranks. While GAO has a very diverse profile, gaps exist in certain categories, however, especially Hispanics. We are committed to addressing these issues and continuing to improve the diversity of our leadership as well as our workforce overall.

To this end, this year we built upon the vision for diversity spelled out in our strategic plan for serving the Congress by producing a very detailed Workforce Diversity Plan. This plan includes steps that will lead to significant long term changes to our human capital processes that are at the heart of diversity issues confronting GAO. The plan is based on a careful analysis of appropriate workforce data, measures our performance against benchmarks recommended by the Equal Employment Opportunity Commission (EEOC), and recommends changes that can be accomplished over the next 12 months in order to hold ourselves accountable for achieving the plan's goals. As stated in the Workforce Diversity Plan, we intend to conduct another review next year and report on the progress made to implement this year's action steps. This will be an annual management review.

With regard to your two recommendations focused on data and reporting, we agree to take steps to improve the accuracy and completeness of the complaint and discrimination data and have taken steps to implement them. Concerning the recommendations on our planning efforts, we certainly agree that continuing to improve our planning and accountability processes are important, and to that end, we will incorporate your recommendations, as appropriate, into our ongoing efforts to refine our related approaches; however, we believe that our planning efforts to date lay more of a foundation for the long term than your report implies. Our response to several of your recommendations in this area follows.

**IG Recommendations and Our Responses**

- **Conduct a detailed analysis of its work force comparable to those outlined in EEOC's MD-715 on annual or biennial basis.**

Response: Our Workforce Diversity Plan, which we issued in June 2008, is a detailed analysis of GAO's workforce based on EEOC's guidance in its Management Directive 715 (MD-715) (see page one of the plan). Please note that we state on the bottom of page 3 of the Workforce Diversity Plan that, "We plan to conduct another review next year and report on the progress made to implement this year's action plan." It is our intention to update the workforce diversity plan annually.

- **Establish specific, measurable, and time-based goals and performance measures related to these goals.**

Response: We are very committed to maintaining and increasing the diversity of GAO's workforce. While our Workforce Diversity Plan has established performance goals and timeframes for taking certain actions, we also need to be cognizant of applicable legal standards requiring that any methods used for affirmative action purposes be narrowly tailored in scope and appropriately targeted to address the nature and circumstances surrounding the disparities at issue.

In line with Supreme Court case law, the thrust of diversity or affirmative action efforts has moved from the use of strict goals and timetables for hiring or promotion of women and minorities to a focus on barrier analysis. The EEOC made this clear in its 2004 issuance of MD-715. It directs agencies to emphasize the identification and elimination of workplace barriers through a series of steps, including examination of the composition of staff, determination of any meaningful disparities, and the implementation of approaches to identify potential barriers to hiring or advancement. As discussed above, GAO follows the spirit of MD-715. We conduct an examination of the composition of the staff on an annual basis and have developed approaches in our Workforce Diversity Plan to foster diversity among the SES and management ranks, as well as the rest of the staff. Consistent with Supreme Court holdings, these measures include the enhancement of staff development opportunities and outreach and recruitment efforts to increase the pool of qualified applicants, such as attending job fairs or posting vacancies at schools with substantial minority enrollment.

In conclusion, while we need to be cognizant of applicable legal standards, we support your recommendation to use performance measures and goals tied to removing barriers for women and minorities and believe that our Workforce Plan encompasses that approach. We also are confident that the agency is able to assess the effectiveness of our hiring and promotion efforts through the various means set forth in the Workforce Diversity Plan.

- **Use Performance measures and information to hold agency leadership accountable for the overall results of the agency's diversity efforts.**

Response: We agree with the recommendation, in general, that performance measures should be used to hold leadership accountable for results. Our agency performance management systems have been designed to focus on results and ensure accountability as agency goals are cascaded down to the unit and then individuals. Further, we have established performance standards for promoting inclusiveness and accomplishing agency goals (under the competencies developing people and leading others, respectively) in our SES and managers' (Band III equivalent) appraisal systems. Nonetheless, we recognize that improvements can be made. We are currently reassessing our performance appraisal systems for the analysts, attorney and administrative/technical populations—including the manager levels—and we plan to reassess the SES appraisal system in the near future. In making revisions to the systems for our leaders we are committed to looking for opportunities to further incorporate accountability for the agency's diversity efforts.

While not a specific recommendation, your report also suggests that we reconsider the need to create a separate complaint unit to process discrimination complaints exclusively and with no responsibility for personnel or human capital issues. While we understand the basis for this proposal, there are real benefits to having all Office of Opportunity and Inclusiveness (O&I) staff available to handle daily staff concerns. Our experience has been that the more quickly you can address concerns raised by staff, the more likely you are to resolve the issues without resorting to formal complaints, and the more likely you are to get a more satisfactory result. EEOC's MD-715 supports our approach. This directive identifies several essential elements of model EEO programs and several steps agencies must take. The directive states, among other things, that agencies must "Ensure EEO professionals are involved with and consulted on, the management and deployment of human resources. The EEO Director should be a regular participant in senior staff meetings and regularly consulted on human resources issues." Again, notwithstanding these and other resource concerns, we will keep this suggestion in mind as we monitor the number of complaints we receive.

In closing, I want to reiterate my steadfast and personal commitment to developing and maintaining a diverse workforce at GAO. GAO's strategic plan, our detailed June 2008 Workforce Diversity Plan, and our concerted efforts to implement the over 25 recommendations we received in late April from the Ivy Planning Group in its African American Performance Assessment Study provide a comprehensive approach to achieving these goals and translate this commitment into concrete actions. To help continue this momentum, I will soon be providing an update on our efforts to implement Ivy's recommendations.



We have also provided some technical comments for your consideration in finalizing your report. I appreciate your contributions to helping GAO strengthen its diversity efforts.

Sincerely yours,



Gene L. Dodaro  
Acting Comptroller General  
of the United States

Enclosure

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# Appendix V: IG Contact and Staff Acknowledgments

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## IG Contact

Frances Garcia, (202) 512-5748 or [garciaf@gao.gov](mailto:garciaf@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Cathy L. Helm (Assistant Director) and Keith Steck made significant contributions to this report.

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# Related GAO Products

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*Human Capital: Workforce Diversity Governmentwide and at the Department of Homeland Security.* [GAO-08-815T](#). Washington, D.C.: May 21, 2008.

*U.S. Department of Agriculture: Management of Civil Rights Efforts Continues to Be Deficient Despite Years of Attention.* [GAO-08-755T](#). Washington, D.C.: May 14, 2008.

*Human Capital: Workforce Diversity Governmentwide and at the Small Business Administration.* [GAO-08-725T](#). Washington, D.C.: April 23, 2008.

*NASA: Progress Made on Strategic Human Capital Management, but Future Program Challenges Remain.* [GAO-07-1004](#). Washington, D.C.: August 8, 2007.

*Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making.* [GAO-05-927](#). Washington, D.C.: September 9, 2005.

*Human Capital: Key Principles for Effective Strategic Workforce Planning.* [GAO-04-39](#). Washington, D.C.: December 11, 2003.

*Human Capital Management: FAA's Reform Effort Requires a More Strategic Approach.* [GAO-03-156](#). Washington, D.C.: February 3, 2003.

*Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces.* [GAO-03-2](#). Washington, D.C.: December 6, 2002.

*A Model of Strategic Human Capital Management.* [GAO-02-373SP](#). Washington, D.C.: March 15, 2002.

*Management Reform: Elements of Successful Improvement Initiatives.* [T-GGD-00-26](#). Washington, D.C.: October 15, 1999.

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