



National Black Chamber of Commerce

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CONGRESSIONAL TESTIMONY

September 23, 2009

Presented To:

Committee on Oversight and Government Reform

Honorable Edolphus Towns, Chairman

Honorable Darrell E. Issa, Ranking Minority Member

Presented By:

Harry C. Alford

President/CEO

Honorable Chairman Towns, Ranking Minority Member Issa, the National Black Chamber of Commerce holds much gratitude that you have invited us to this hearing. As you know we are the largest Black business association in the world. We are nonpartisan, nonprofit with a mission to economically empower African American communities through entrepreneurship and good policy. The NBCC proudly represents the over 1 million small businesses that are Black owned. It is the fastest growing group per the US Census Bureau (45% growth over five years). We hope to begin making a significant milestone today.

In regards to unemployment there are a few serious things the federal government can do. It can cease supporting discrimination through non enforcement of some significant laws and it can prevent serious negative impact from some upcoming programs. Without doing this the recovery act and any other major initiative will have little if not negative impact on minority communities, in particular, Black communities.

Section 3 of the HUD Act (24 CFR part 135) became law in 1968 after the first Watts Riot. It was strengthened in 1992 after the Rodney King Riot. It is the Equal Opportunity Program involving HUD funds and is a great job creator and business developing tool. Under this law up to 30% of all new jobs created through HUD Funding are to go to people living in public housing facilities and others who live under the poverty level. They are considered Section 3 residents. Businesses who hire Section 3 residents are considered Section 3 businesses and are entitled to 10% of all contracts funded through HUD monies. This is a beautiful law and where we have applied it great results occurred. However, of the more than 5,000 HUD grantees less than 1 percent actually complies with the law. Less than a half of one percent actually even bother to send in their annual reports.

On the job training of minorities and women is anathema to construction unions and they have fought this fiercely. HUD does not enforce Section 3. They have never fined, banned nor held funds to any of the thousands of recalcitrant grantees. HUD has relented to the construction unions that discriminate freely against people of color and women. If Section 3 was enforced it would bring over 100,000 new jobs to African Americans alone each and every year. We need enforcement of Section 3.

Another big opportunity to ease the unemployment in minority communities is that of the Federal Highway Administration. The Disadvantaged Business Enterprise (DBE, 49 CFR part 26) is the enforcement mechanism for Title VI of the Civil Rights Act of 1964. It is to ensure against discrimination within the contract letting by divisions of USDOT. In the beginning, 1982, minority contractors were doing well in business development and volume increases. Now, despite significant growth by all ethnicities in construction capacity the volume of business done through our state departments of transportation via USDOT funding has been dropping since the middle of the Clinton Administration. Today it is almost nonexistent. Black contractors do no more than 1.1% of the volume while Hispanic contractors barely reach 1.6%. (A state by state breakdown of Black contracting is attached). That is 28% of the national population only

participating in 2.7% of a major federal program. This is clear disparate impact and it directly affects employment activity within the minority communities. This year with recovery dollars, the Federal Highway Administration will be funded by more than \$54 billion. It's too bad that Blacks and Hispanics will have very little participation in the relief. There might as well be a sign saying "No Coloreds Allowed" as I remember visiting Louisiana in my early years. But this time it is not local governments doing it but the federal government.

Construction union shops that monopolize these highway contracts do not adequately employ minorities or women. In fact, they do not even comply with Executive Order 11246 (John F. Kennedy). State departments of transportation do not comply with Executive Order 11246 nor enforce it with their prime and subcontractors. In fact, in February, 1999, the Federal Highway Administration canceled Executive Order 11246. A copy of that cancellation is attached. Since then state departments and local contractors have become basically white male organizations. Dr. Martin Luther King and all of those other greats who gave their lives for equal opportunity have been betrayed.

If Title VI of the Civil Rights Act and Executive Order 11246 which ensures Title VII of the Civil Rights Act were enforced it would amount to 500,000 new jobs for African Americans each and every year. That would certainly address the "double the national average" unemployment Blacks, Hispanics and other minorities suffer. The above two programs (Federal Highways and Section 3) if implemented and enforced via the intent of Congress would bring 600,000 new jobs to the Black community each year. Should Congress hold itself responsible for doing this?

Those are the laws written decades ago. Now let's go to potentially lethal initiatives (job killers). It was a proud moment when President George W. Bush announced his executive order to ban Project Labor Agreements (PLA's) on federally funded projects. PLA's make a project basically union only or at least abide by union agreements. President Bush stated, "I cannot support Project Labor Agreements as they discriminate against small business and minorities." He was absolutely correct. 98% of Black owned contracting firms are not union. They are not welcomed nor would unions allow their employees into their trades. The only Black presence in union crafts is cement and general laborer. Everything else is practically exclusive to white males. If President Bush is correct then what is the rationale for President Barack Obama to cancel his executive order and reinstate Project Labor Agreements via his recent executive order.

Construction unions by nature of their employment roles cannot comply with Executive Order 11246. What is about to happen is Presidential endorsed discrimination. It is damaging, anti civil rights and human rights and definitely voids out the Civil Rights Act of 1964. I beg Congress to prevent this until construction unions integrate. They have had 45 years to integrate and still refuse. They should be banned rather than rewarded exclusivity for racist and sexist hiring patterns. They usually fool local officials with pre-apprentice training programs but they never lead to job placement – never.

The next potential negative initiative is the Waxman/Markey Bill which is headed for the Senate. Our study done by Charles River Associates has been accepted by many prestigious organizations. In that study, it clearly shows that certain geography will suffer the greatest impact from losing the estimated 3.3 million jobs as a result of this bill being enacted. Attached is a map showing a 700 mile radius around Nashville, Tennessee. This area accounts for 86% of the national Black population. As you will see the greatest job loss would land into this area. We pray that this bill is killed and we can start over with a responsible bill that doesn't target specific groups for pain.

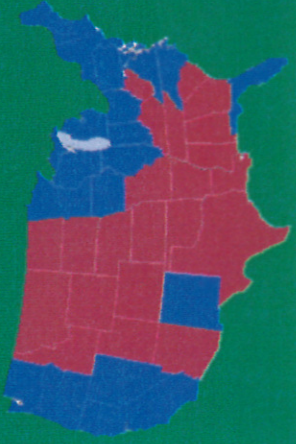
In essence, we are most concerned about activity that feeds unemployment and will sustain it and activity that will, in fact, increase unemployment in Black and other minority communities. It doesn't have to be that way. The "ball" is in your court. Let's enforce the goods laws and prevent the bad ones from exacting their dirty deeds.

In regards to foreclosures we can enhance employment by attending to the above. Increasing employment would directly affect peoples' ability to pay their mortgages. There isn't much we can actually do but let the market take its course. Hopefully, we won't go down that avarice road of sub-prime mortgages again and reign in renegade investors. Banks have been bailed out for the most part but the individual mortgage holders have to feel the pain and take their losses.

We are interested in the billions of dollars HUD has allotted under its Housing Stabilization Program. It is designed to provide technical assistance to citizens who have or are seeking mortgages. Where is this money going? Is it effective? We are having trouble identifying it at the street level. We are suspicious and ask for a thorough audit by Congress. Another question is: Why are many realtors and developers refusing FHA backed mortgages now? What can we do to make them more attractive to lenders?

Finally, we should manage the Community Reinvestment Act a lot better. We shouldn't let it be used to gentrify Black communities. Greed investors and institutions use the CRA credit process to quickly move and renovate a stable community. By doing so they drive up property values to the point that stable residents can no longer afford their homes and properties via increased property taxes, rent, etc. They are pushed out with the assistance of housing authorities who provide Section 8 rental vouchers to the residents provided that they move clearly out of their neighborhoods. Victims have been transplanted from Washington, DC to Hagerstown, MD; from Chicago to Danville, IL, etc. As opposed to empowering a community they transform it and orchestrate complete gentrification. The very people we are supposed to be helping become worse off than ever.

Once again, thank you for this great opportunity. We hope we have provided information that can be helpful in your leadership. Please don't hesitate to seek more information from us or to ask for more data.



Federal Highway Administration: African American Business Participation (2008 Fiscal Year)

State	First Half of 2008 Fiscal Year		Second Half of 2008 Fiscal Year		Black Contracts	Total Contracts	Percentage of Black Participation
	Number of Contracts	Dollar Value	Number of Contracts	Dollar Value			
AL	18	\$1,580,413	27	\$3,607,291	\$5,187,704	\$390,456,454	%1.33
AK	0	\$0	0	\$0	\$0	\$200,582,736	0
AZ	0	\$0	0	\$0	\$0	\$515,487,918	0
AR	23	\$3,380,063	42	\$5,687,211	\$9,067,274	\$279,764,747	%3.2
CA	12	\$2,256,905	5	\$910,516	\$3,167,421	\$2,303,616,727	%0.1
CO	3	\$49,811	3	\$282,500	\$332,311	\$174,452,186	%0.2
CT	8	\$1,852,394	14	\$1,781,051	\$3,633,445	\$550,514,942	%0.7
DE	5	\$84,737	5	\$525,785	\$610,522	\$67,600,111	\$0.9
DC	6	\$3,441,955	10	\$8,254,448	\$11,696,403	\$78,058,538	\$14.98
FL	10	\$340,988	31	\$4,660,737	\$5,001,725	\$868,564,488	%0.6
GA	63	\$8,142,042	42	\$3,350,652	\$11,492,694	\$322,093,516	%3.6
HI	0	\$0	0	\$0	\$0	\$22,082,644	0
ID	0	\$0	0	\$0	\$0	\$224,961,344	0
IL	51	\$3,656,428	99	\$7,961,589	\$11,618,017	\$793,976,836	%1.5
IN	75	\$2,623,315	44	\$2,558,597	\$5,181,912	\$701,324,924	%0.7
IA	6	\$395,418	11	\$743,149	\$1,138,567	\$636,106,399	%0.2
KS	14	\$972,679	25	\$1,258,462	\$2,231,141	\$293,638,590	%0.8



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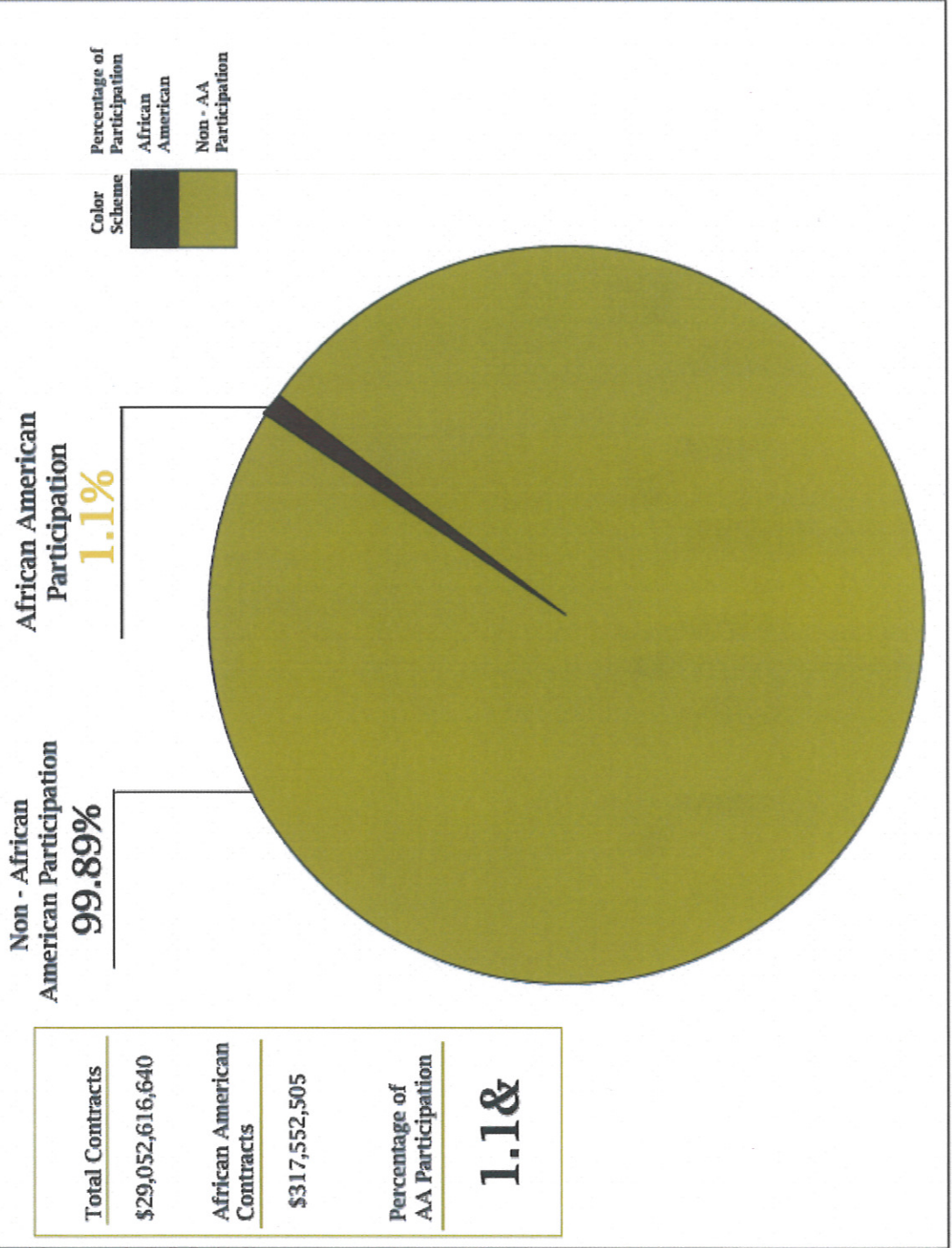
State	First Half of 2008 Fiscal Year		Second Half of 2008 Fiscal Year		Black Contracts		Total Contracts		Percentage of Black Participation
	Number of Contracts	Dollar Value	Number of Contracts	Dollar Value	Total Dollar Value	Total Dollar Value	Total Dollar Value		
KY	2	82,503	10	\$3,448,243	\$3,530,746	\$502,568,300	%0.7		
LA	42	\$4,886,175	76	\$8,732,717	\$13,618,892	\$485,674,287	%2.8		
ME	0	\$0	1	\$1,000	\$1,000	\$173,601,541	0		
MD	46	\$5,004,888	70	\$9,673,803	\$14,678,691	\$444,230,492	%3.3		
MA	13	\$2,074,984	15	\$3,419,124	\$5,494,108	\$519,556,933	%1.1		
MI	125	\$7,715,832	182	\$11,618,026	\$19,333,858	\$1,840,730,378	%1.1		
MN	2	\$112,910	5	\$544,078	\$656,988	\$290,801,443	%0.2		
MS	5	\$610,499	4	\$671,633	\$1,282,132	\$418,478,250	%0.3		
MO	58	\$9,093,969	19	\$9,559,253	\$18,653,222	\$2,379,557,734	%0.8		
MT		\$0	0	\$0	\$0	\$273,647,429	0		
NE	21	\$1,435,692	40	\$1,696,656	\$3,132,348	\$188,231,557	%1.7		
NV	0	\$0	0	\$0	\$0	\$188,938,520	0		
NH	0	\$0	1	\$4,590	\$4,590	\$82,562,529	0		
NJ	4	\$564,231	6	\$18,300,401	\$18,864,632	\$462,860,033	%4.1		
NM	0	\$0	0	\$0	\$0	\$303,555,539	0		
NY	12	\$2,157,498	21	\$3,252,055	\$5,409,553	\$1,126,205,810	%0.5		
NC	50	\$2,400,572	100	\$5,758,109	\$8,158,681	\$979,538,701	%0.8		



Federal Highway Administration: African American Business Participation (2008 Fiscal Year)

State	First Half of 2008 Fiscal Year		Second Half of 2008 Fiscal Year		Black Contracts	Total Contracts	Percentage of Black Participation
	Number of Contracts	Dollar Value	Number of Contracts	Dollar Value			
ND	0	0	0	0	0	336,225,800	0
OH	80	8,612,987	90	13,515,024	22,128,011	1,013,409,541	2.2
OK	1	10,400	3	303,412	313,812	829,274,079	0.04
OR	0	0	0	0	0	196,538,276	0
PA	53	3,695,960	0	0	3,695,960	785,969,030	0.5
PR	0	0	0	0	0	113,662,391	0
RI	7	3,822,925	11	3,890,486	7,713,411	111,130,177	6.9
SC	36	2,653,411	35	2,200,029	4,853,440	279,418,134	1.7
SD	3	40,691	4	53,170	93,861	344,410,866	0.03
TN	26	5,163,370	26	39,744,459	44,907,829	995,290,878	4.5
TX	76	12,351,512	59	8,928,131	21,279,643	1,984,081,620	1
UT	1	246,409	2	996,931	1,243,340	290,604,877	0.4
VT	0	0	0	0	0	149,857,008	0
VA	13	4,548,063	15	2,315,636	6,863,699	507,768,963	1.4
WA	8	457,255	19	984,451	1,441,706	539,438,642	0.3
WV	8	1,368,422	12	3,803,444	5,171,866	525,674,026	1
WI	99	4,746,588	155	9,920,762	14,667,350	566,180,165	2.6
WY	0	0	0	0	0	399,659,591	0

Federal Highway Administration: African American Business Participation (2008 Fiscal Year)





U.S. Department
 of Transportation
**Federal Highway
 Administration**

Order

Subject

**CLARIFICATION OF FEDERAL HIGHWAY ADMINISTRATION (FHWA)
 AND STATE RESPONSIBILITIES UNDER EXECUTIVE ORDER 11246
 AND DEPARTMENT OF LABOR (DOL) REGULATIONS IN 41 CFR
 CHAPTER 60**

Classification Code
4710.8

Date
February 1, 1999

Par.1. Purpose

2. Background
3. Applicability
4. Authority and Responsibilities
5. Cancellation

1. **PURPOSE.** To define FHWA's authority and responsibility concerning [Executive Order \(EO\) 11246](#), as amended, and DOL regulations, set forth in 41 CFR Chapter 60.
2. **BACKGROUND.** Under EO 11246, "Equal Employment Opportunity," the FHWA is required to include certain nondiscrimination and equal employment opportunity provisions in direct Federal contracts and federally assisted construction contracts. The provisions have been established by the DOL, Office of Federal Contract Compliance Programs (OFCCP) and are set forth in 41 CFR Part 60-1, "Obligations of Contractors and Subcontractors," and 41 CFR Part 60-4, "Construction Contractors Affirmative Action Requirements."
3. **APPLICABILITY.** This Order applies to all direct Federal contracts and federally assisted construction contracts and subcontracts.
4. **AUTHORITY AND RESPONSIBILITIES**
 - a. Department of Labor: Under Section 303 of EO 11246, only the DOL has the authority to determine compliance with EO 11246 and its implementing regulations. The FHWA and the State highway agency do not have independent authority to determine compliance with EO 11246, 41 CFR Chapter 60, or the minority and female participation goals established by OFCCP, pursuant to 41 CFR Chapter 60.
 - b. State highway agencies and FHWA:
 - (1) The State highway agency and FHWA have responsibility to ensure that recipients of Federal-aid funds include the required contractual language relating to equal employment opportunity, as set forth in 41 CFR Parts 60-1 and 60-4, either explicitly or by reference.
 - (2) The State highway agency and the FHWA have the authority and the responsibility to ensure compliance with 23 USC Section 140 and Title VI of the Civil Rights Act of 1964, as amended, and related regulations, including 49 CFR Parts 21 and 23, and 23 CFR Parts 200, 230, and 633. Pursuant to this authority, the State highway agency and the FHWA may conduct compliance reviews of contractors on federally funded highway projects to determine compliance with these laws and related regulations. State highway agencies shall prepare complete, written reports of findings of the compliance reviews. These reports, and the evidence on which they are based, shall be available for FHWA analysis.

(3) If the State highway agency or the FHWA becomes aware of any possible violations of EO 11246 or 41 CFR Chapter 60, each has the authority and the responsibility to notify the OFCCP.

(4) The FHWA and the State highway agency shall not make any determinations regarding compliance with EO 11246 or 41 CFR Chapter 60.

5. **CANCELLATION.** The FHWA Form 86, Compliance Data Report, is hereby canceled.

Original signed by:
Kenneth R. Wykle
Federal Highway Administrator

Related Sites:

[Leadership Conference on Civil Rights - The Executive Order on Affirmative Action \(E.O. 11246\): One of Our Nation's Most Successful Civil Rights Programs](#)

[FHWA Home](#) | [Directives](#) | [Orders](#) | [Feedback](#)



United States Department of Transportation - **Federal Highway Administration**

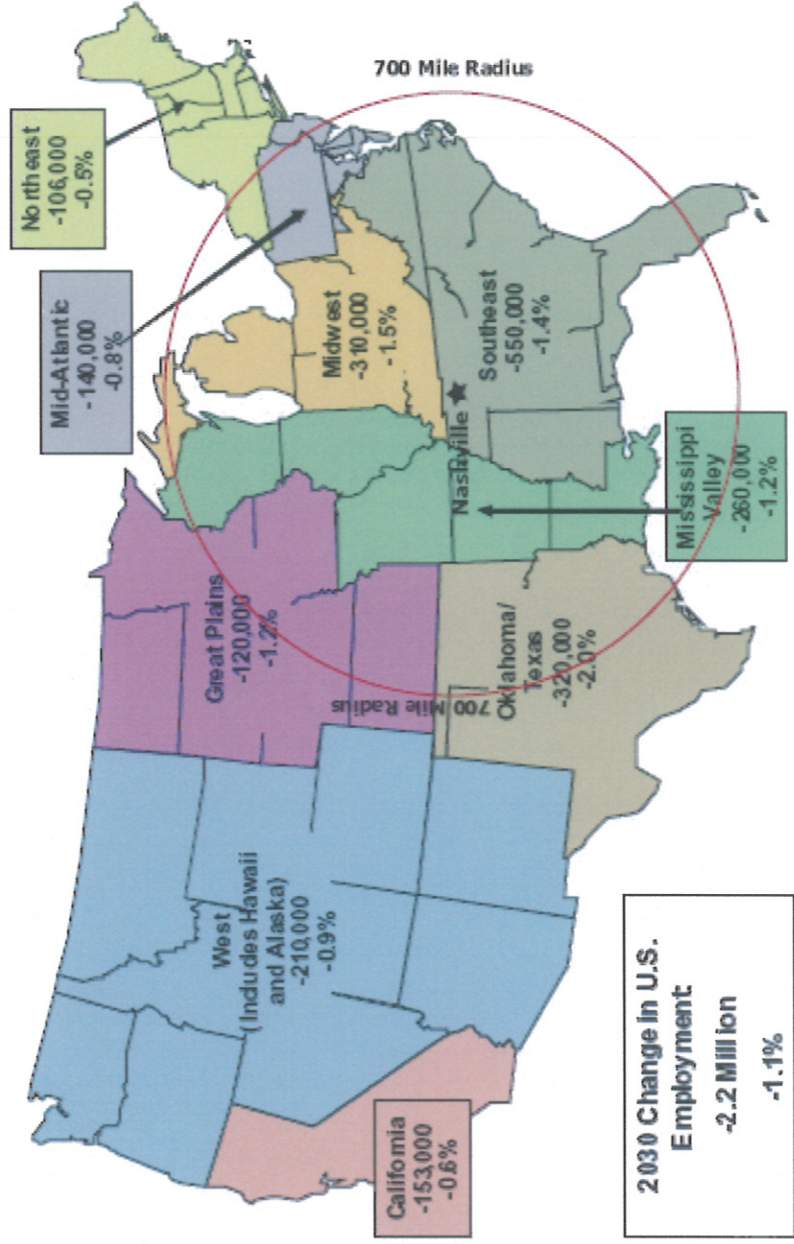


United States of America African American Population:

86% of Population lives within 700 mile
Radius of Nashville, Tennessee

How does this effect African American Communities?: Due to their Geographic proximity, AA Communities will lose jobs at a much higher rate than the National Average.

Figure 3.9: Projected regional distribution of changes to employment in 2030 due to ACESA



Source: CRA Model Results, 2009