
Office of the Inspector General Inspection Report

***REPORT ON
FAA's Alleged Discrimination Against White Males***

***Report Number: E5-FA-7-004
Date: November 8, 1996***



ACTION: Report on FAA's Alleged Discrimination Against White Males

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Acting Inspector General

Director, Departmental Office of Civil Rights

The Office of Inspector General (OIG) received a complaint alleging the Federal Aviation Administration (FAA) discriminated against white males in its administration of the Department of Transportation (DOT) Fellows Program. Our review found the majority (82.5 percent) of FAA's Fellows Program nominees for Fiscal Years (FY) 1991 through 1995 were women and minorities. During this period, white males were the largest group of potential nominees, however, the number of DOT white males nominated decreased steadily from 52 to 32 percent. We also found that for 2 years (i.e., FYs 1992 and 1993) FAA did not nominate any white males. A copy of our report is attached.

Because issues of discrimination in DOT programs fall under the jurisdiction of the Departmental Office of Civil Rights, I am forwarding this case to you for determination.

If I can answer any questions or be of further assistance, please feel free to contact me on x61959 or my Associate Deputy, Raymond J. DeCarli, on x61964.

Attachment

#

cc: Human Resource Management Office, OST
Human Resource Management OfficeFAA
Technical Administrative Service Center, OST

CONCLUSION

This report responds to a complaint received by the Office of Inspector General (OIG), Department of Transportation (DOT), alleging the Federal Aviation Administration (FAA) discriminated against white males, wasted funds, and compromised safety. Specifically, the complainant alleges FAA:

- (1) discriminated against white males for the past 8 years by selecting virtually all women and minorities for General Schedule (GS) 15 level staff support positions and DOT Fellows Program nominees,
- (2) improperly used direct-hire authority from the Office of Personnel Management (OPM) to bypass registered air traffic control specialist (controller) applicants in order to hire women and minorities,
- (3) compromised safety when it changed the controller training program to increase the number of women and minorities, and
- (4) wasted money establishing unnecessary GS-15 positions for women under the System for Advancement and Recognition (SOAR) Program.

Our review did not find sufficient evidence that FAA discriminated against white males in selecting women and minorities for GS-15 positions. However, we did find FAA (as well as DOT) selections for the DOT Fellows Program, although not an Affirmative Action Program, were disproportionately women and minority candidates. Based on this finding, we recommend the Departmental Office of Civil Rights (DOCR) fully evaluate the DOT Fellows Program to determine whether the program fairly considers all applicants and is operating in accordance with departmental policy.

We did not substantiate the other allegations. We found FAA properly used its direct-hire authority to (1) obtain a sufficient number of controller trainees and (2) improve the representation of women and minorities. FAA did not compromise safety because FAA raised controller testing standards where possible and required all controller applicants to pass the same examinations and training. Finally, we found FAA properly established and reasonably funded the SOAR Program as an affirmative action outreach to women and minorities.

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SCOPE AND METHODOLOGY

As a part of this review, we interviewed the complainant and various DOT, FAA, and other officials listed in appendix A. We also examined documents including FAA vacancy announcements, selection certificates, a SOAR Program Evaluation Report, the Air Traffic Training Work Group Training Plan Overview, and other evaluative reports and documents concerning the FAA Training Program. This review was conducted in accordance with the President's Council on Integrity and Efficiency's Quality Standards for Inspections

ALLEGATION AND FINDING

Allegation 1: *FAA discriminated against white males for the past 8 years by selecting virtually all women and minorities for GS-15 level staff support positions and DOT Fellows Program nominees.*

OIG Finding: *Discrimination not determined but program concern identified.*

We did not find sufficient evidence that FAA discriminated against white males in selecting women and minorities for GS-15 positions. However, we did find that selections for the DOT Fellows Program, although not an Affirmative Action Program, were disproportionately women and minority candidates.

Majority of GS-15 Promotions Were White Males

Although FAA could not provide data on the specific number of the GS-15 support staff selections because of record keeping limitations, we found FAA selections for all GS-15 positions included a large number of white males. According to the FAA Consolidated Personnel Management Information System data, white males hired since 1987 for GS-15 positions ranged from a low of 59 percent at FAA Headquarters to a high of 72 percent in the field, for an average of 64 percent overall, as shown in Table 1.

Table 1: FAA Promotions to GS-15 Since 1987

FAA Location	Total Promotions	White Male Promotions	Percent White Male
Headquarters	447	265	59%
Region	283	179	63%
Field	283	203	72%
Total	1,013	647	64%

In FY 1995, FAA had a total of 14,053 GS-14s, of which 10,967 (78 percent) were white males. Although the overall promotion rate is somewhat less than the percentage of white males in the work force (i.e., 64 percent versus 78 percent), the statistics do not clearly substantiate FAA discrimination against white males in its promotions to GS-15 positions. Nevertheless, we will provide this data to DOOCR, the Secretary of Transportation's principal advisor on civil rights and equal opportunity matters, for consideration.

FAA Nominations to the DOT Fellows Program Were Disproportionately Women and Minorities

Although the majority of GS-15 promotions in FAA were white males, we found the majority (82.5 percent) of FAA DOT Fellows Program nominees were women and minorities. As displayed in Table 2, white males accounted for only 17.5 percent of FAA nominees from FY 1991¹ through 1995. In addition, although 3 of the 8 nominees in FY 1995 were white males, all 20 of the nominees for FYs 1993 and 1994 were women and minorities. Chart 1 graphically displays FAA white male and women and minority nominations based on the data in Table 2.

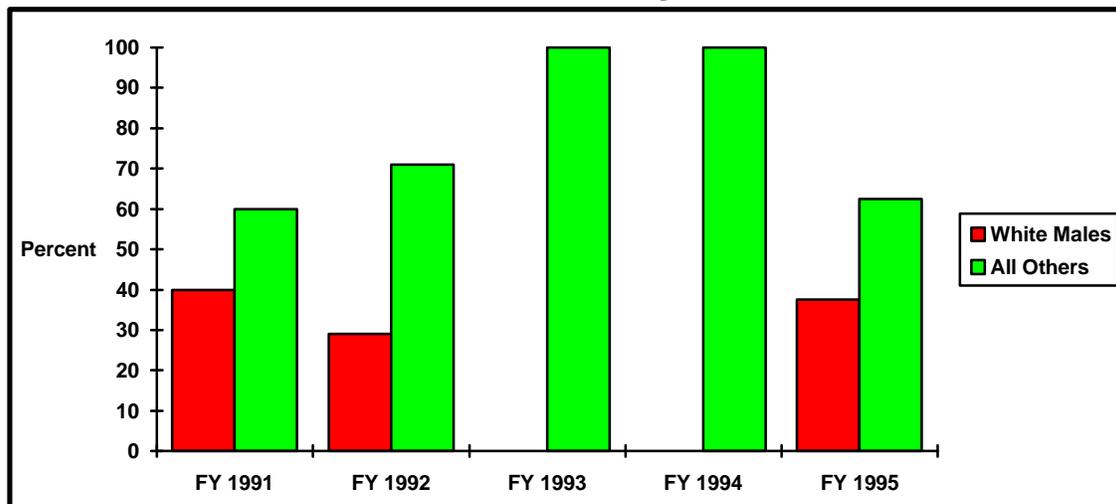
Table 2: FAA Nominations For DOT Fellows Program

FY	MALE				FEMALE					TOTAL
	Hispanic	Black	White	#	Indian	Asian	Black	White	#	
1991	-	-	2	2	-	-	1	2	3	5
1992	1	-	2	3	-	-	2	2	4	7
1993	-	2	-	2	1 ²	-	3	3	7	9
1994	1	-	-	1	-	1 ³	1	8	10	11
1995	1	1	3	5	-	-	-	3	3	8
Total	3	3	7	13	1	1	7	18	27	40
%	7.5	7.5	17.5	32.5	2.5	2.5	17.5	45	67.5	100

¹ DOT began participating in the Fellows Program in FY 1991.

² American Indian/Alaskan Native.

³ Asian/Pacific Islander.

Chart 1: FAA Fellows Program Selections

The above table and chart illustrate that a significant majority (and all for 2 years) of FAA nominees to the DOT Fellows Program were women and minorities. In comparison, Departmentwide selections for the DOT Fellows Program increased from 48 percent women and minorities in 1991 to 68 percent in 1995.

Although Not Affirmative Action, the DOT Fellows Program Emphasized Diversity

The DOT Fellows Program eligibility requirements are defined by the Council for Excellence in Government (CEG). Since DOT began participating in the program in FY 1991, CEG has always accepted the DOT nominees. Nominees must (1) be GS-14 or equivalent, (2) be committed to a career in public service, and (3) have demonstrated high achievement and leadership potential. In addition to these requirements, DOT has tended to emphasize diversity in the nomination process. For example, the OST memorandum announcing the FY 1993 DOT Fellows Program instructs Department of Human Resources officials to ". . . encourage all eligible women, minorities, and persons with disabilities to apply. Nominations should be reflective of a representative work force." Likewise, for FY 1994, OST requested the Department of Human Resources officials to "Keep in mind that the participants should represent the Department's interest in developing a work force reflective of the diversity in the general population. . . ."

Because of the low number of white male nominees, we asked the former manager of the DOT Fellows Program to clarify the intent of the program and to verify the selection criteria. According to the manager, the DOT Fellows Program is not an Affirmative Action Program.⁴ The DOT Fellows Program selections were based on merit via an impartial document process using published eligibility criteria. However, an early program goal was to increase work force diversity at higher organizational levels. The manager also explained that, within DOT Operating Administrations, there may be an "apparent imbalance" in representation because of male and female work force composition; but overall, the DOT Fellows Program nominees are "representative" of the DOT work force.

⁴ Executive Order 11478 established Federal agency affirmative employment programs in 1969. Title 5 Code of Federal Regulations (CFR) 720, Affirmative Action Programs, requires each executive agency to conduct a continuing program for recruitment of minorities and women, have an up-to-date equal employment recruitment plan, and submit an annual report to the Office of Personnel Management (OPM).

Our review of FAA and DOT statistical data does not support the manager's statement. Instead, we found a trend of decreasing white male selections Departmentwide for the DOT Fellows Program, dropping from 52 percent in FY 1991 to 32 percent in FY 1995. Yet, throughout the period of DOT participation in the program, white males have been the largest group of eligible candidates (i.e., 78 percent of FAA GS-14's and 76.9 percent of DOT GS-14s in FY 1995 were white males). Such disproportionate statistics can be an indication of discrimination. In addition to the decreasing number of white male nominees, we found that FAA did not nominate any white males in FYs 1992 and 1993. Such exclusion is contrary to the Secretary of Transportation's policy on diversity which states: "Diversity means inclusion—hiring, developing, promoting and retaining employees of all races, ethnic groups, sexual orientations, and cultural backgrounds. . . .". Because issues of discrimination in DOT programs fall under the jurisdiction of DOCR, we are forwarding this case to DOCR for determination.

Recommendation: DOCR conduct an in-depth review of the DOT Fellows Program to determine *whether the program fairly considers all applicants and is operating in accordance with departmental policy.*

Appendix A

UNSUBSTANTIATED ALLEGATIONS

Allegation 2: ***FAA improperly used direct-hire authority from OPM to bypass registered air traffic control specialist applicants in order to hire women and minorities.***

OIG Finding: ***Not substantiated.***

The complainant alleges FAA used direct-hire authority, in violation of merit principles, to select women and minority controllers. We found FAA properly used its direct-hire authority to hire controller applicants. Although OPM granted FAA direct-hire authority because traditional testing methods were inadequate to meet FAA hiring needs, OPM maintained oversight of FAA direct-hire authority. During the period of direct-hire authority, FAA increased applicant testing in order to attract large numbers of controller applicants, including women and minorities. In this process, FAA did not bypass qualified applicants on the register.

FAA Used Direct-Hire Authority With OPM Oversight

Following the controller strike in 1981 and the subsequent firing of the approximately 11,500 striking controllers, FAA had to quickly hire and train replacement controllers. On May 1, 1988, OPM granted FAA direct-hire authority to meet FAA hiring needs.⁵ OPM granted this authority because the existing applicant certification process was inadequate to test a sufficient number of qualified controller applicants. According to a Personnel Management Specialist, Office of the Secretary of Transportation (OST), FAA was hiring approximately 2,000 controllers a year during the direct-hire period. Since approximately half of the applicants failed to pass the screening test, and more applicants did not complete FAA Academy training, FAA had to test large numbers of applicants (i.e., approximately three times as many applicants as positions to fill) in order to obtain the number of applicants needed to fill controller vacancies.

FAA used direct-hire authority under OPM oversight from May 1988 to February 1992. According to an OST Personnel Management Specialist, the OPM delegation agreement authorized FAA to recruit and examine applicants for controller positions, to establish competitive registers, and to issue eligibility certificates. OPM took steps to ensure FAA appropriately executed the direct-hire authority. For example, in January 1989, representatives of DOT, FAA, and the FAA Special Examining Unit (SEU) met with OPM specialists to ensure FAA understood the conditions and operating procedures for using the direct-hire authority. OPM also reviewed FAA's quarterly reports on applications processed and selections made, audited the eligibility certificates, and confirmed that veterans' preference was properly applied.

FAA Increased Applicant Testing and Diversity

We found FAA used its direct-hire authority to increase applicant testing and diversity. Under the direct-hire authority, FAA regional offices were allowed to select applicants who were tested and

⁵ OPM granted FAA direct-hire authority under the provisions of Title 5 United States Code, Chapter 11, §1104.

certified by the FAA SEU. Using its SEU testing, FAA expanded the testing program into communities (i.e., local high schools instead of Federal buildings), increasing the total number of applicants, including women and minorities, taking the test. Based on FAA measurements before (October 1986 to February 1989) and during the direct-hire authority period (March 1989 to January 1992), women and minority applicants for controller positions increased from 12 to 16 percent of the total number of applicants screened. As before, all applicants were required to compete using the same testing instruments and cut-off and pass scores⁶.

FAA did not bypass qualified OPM-registered applicants in implementing the direct-hire process. In those cases where qualified applicants were not selected and/or placed, the applicants: (1) failed to respond to FAA communications, (2) met the passing score (70) but did not meet the cutoff score (85 and above), (3) declined positions, or (4) were notified by SEU that their appointments were delayed because of FAA hiring needs (e.g., vacancies were not available in locations selected by the applicant). FAA direct-hire authority was discontinued in 1992, after FAA had an adequate number of controller trainees and the FAA applicant register was large enough for projected needs.

⁶ The passing score for a controller test is 70; however, FAA test results link the successful completion of controller training to applicant test scores. As a result, FAA establishes a cutoff score above the passing score and will not offer applicants FAA Academy training unless they meet the higher cutoff score.

Allegation 3: FAA compromised safety when it changed its training program and lowered its standards in order to increase the number of women and minorities.

OIG Finding: Not substantiated.

The complainant alleges FAA changed its training program and lowered its standards in order to pass women and minority controller candidates. We found FAA changed its Controller Training Program for valid reasons, including a legal requirement to increase controller diversity. We also found FAA raised, not lowered, its controller standards and systematically selected candidates with the highest possible test scores in order to improve the passing rate at the FAA Academy.

FAA Changed its Controller Training Program for Valid Reasons

FAA had several valid reasons for revising its Controller Training Program. These reasons included: (1) reducing training program costs, (2) improving the negative training environment in order to increase trainee success, and (3) increasing women and minority representation in the controller occupation.

Reduce training program costs. Under the former training program,⁷ FAA failed to produce a sufficient number of controllers for the cost of the program. Because of failure rates, FAA had to test approximately three times as many applicants as needed in order to obtain the desired number. According to an FAA study,⁸ the selection process cost FAA between \$20 and \$25 million annually to obtain approximately 1,400 trainee controllers. Between 1984 and 1992, FAA administered over 200,000 written aptitude tests at a cost of approximately \$20 per examinee. Of these, FAA selected 12,869 applicants to attend FAA Academy training. FAA estimated training costs at between \$10,000 and \$12,000 per trainee. Of the 12,869 trainees sent to the FAA Academy, only 7,091 trainees successfully graduated and entered on-the-job field

⁷ Formerly, the FAA Academy both screened and trained applicants. The selection process consisted of two major tests: (1) a 4-hour written aptitude examination administered by OPM and (2) a 9-week initial training program taught by FAA. At the end of this time, unsuccessful trainees were released.

⁸ Air Traffic Training Work Group Training Plan, September 4, 1991, and DOT/FAA/AM-94/4, "Validation of the Federal Aviation Administration Air Traffic Control Specialist Pre-Training Screen," February 1994.

training (approximately 1,400 per year). Under the current Train-To-Succeed Program, approximately 50 percent of the applicants still fail OPM screening; however, no applicants have failed FAA Academy training.

Improve the negative training environment in order to increase trainee success. According to the FAA "Air Traffic Training Work Group Plan," the FAA Academy's old curriculum was focused on screening rather than training applicants. In addition, the FAA's "pass-fail" philosophy did not promote an environment where trainees could succeed. Virtually everyone we interviewed at FAA agreed the former training program had an adversarial "boot camp" mentality that focused more on "weeding out" trainees than on producing successful controllers. As a result, the curriculum did not prepare a trainee sufficiently to complete FAA's Academy training and enter into on-the-job field training. Under the old training curriculum, applicants were screened by OPM, and passing applicants were then trained for 9 weeks at the FAA Academy and trainees failing at the Academy were terminated. Under the new curriculum, applicants are screened by OPM, then trained at the Academy for 12 weeks. After the Academy training, trainee performance is assessed and additional training is given if needed. After completion of secondary training, the trainee's performance is assessed and the trainee either passes on to field training or is terminated.

Increase women and minority representation in the controller occupation. FAA also needed to eliminate, or at least reduce, the disparity in the success rates between minorities and nonminorities in the FAA Academy's screening program. According to an FAA personnel research psychologist, FAA had determined that women and minorities were significantly underrepresented in the controller work force, with nonminorities accounting for over 80 percent of all controllers. Under Parts 1607 and 1608 of 29 CFR,⁹ FAA needed to remedy this imbalance. Accordingly, FAA improved its training environment and increased the numbers of women and minorities participating in testing by publicizing controller opportunities and testing in various community locations.

9 According to Part 1607, the low selection rate for women and minority controllers is evidence of an adverse impact and constitutes discrimination unless the FAA selection procedure is justified by OPM. Part 1608 of the CFR recommends agencies act voluntarily to remedy the adverse impact. Remedies include using alternate selection procedures to eliminate an adverse impact and a recruitment program designed to attract qualified members of the group with the low selection rate.

FAA Raised its Controller Training Standards When Possible

FAA raised, not lowered, its controller training standards and systematically selected candidates with the highest possible test scores in order to improve the passing rate at the FAA Academy. FAA increased controller screen test score requirements based on research by the FAA Civil Aeromedical Institute (CAMI). CAMI found that an applicant's aptitude test score was indicative of the applicant's ability to pass the FAA Academy's training. By restricting applicant scores to 90 and above, FAA could select the applicants most likely to successfully complete controller training. As a result, FAA instituted a cutoff score of 90, versus the 85 cutoff score previously in effect, during the first year of the FAA direct-hire authority. This change meant that applicants who took the test had to score 90, or better, in order to pass the test and continue on to controller training at the FAA Academy.

Although FAA wanted the highest possible screen test score to increase the likelihood of success, FAA found too few test scores in some geographical areas above the 90 cutoff score. When it was necessary to obtain adequate numbers of applicants in those areas, FAA adjusted the cutoff score to 85. However, when selecting applicants with test scores below 90, FAA had to select applicants by rank order of test scores, as required by the FAA direct-hire authority agreement with OPM. Thus, standards were not lowered, since cut-off scores used by FAA were equal to, or higher than, prior levels. In addition, safety was not compromised because all controller trainees had to successfully complete the same FAA Academy training and field training before becoming full performance level controllers.

Allegation 4: FAA wasted money establishing unnecessary GS-15 positions for women under the SOAR Program.

OIG Finding: Not substantiated.

The complainant alleges FAA officials established 10 SOAR positions solely for the purpose of placing women, wasted funds on briefings, and expended \$600,000 annually for the program. We found FAA properly established 15 SOAR Program positions as a voluntary affirmative action to increase the representation of women in FAA's System Engineering and Development Organization. We also found FAA's one-time SOAR Program costs were reasonable.

FAA Established SOAR Positions to Increase the Representation of Women

The FAA SOAR Program was an affirmative action outreach effort to women at the GS-14 level to improve the representation of women in the FAA Engineering and Development Organization (AXD)¹⁰. A work force analysis of GS-15 positions in AXD revealed that only 7 of 143 positions were held by women and there were no females among the Senior Executive Service staff. Because women were significantly under represented in higher-level management positions, FAA developed the SOAR Program to provide an opportunity for women to advance. As a result, AXD established 15 first-level supervisory/managerial positions. Ten of the positions were in FAA AXD and five positions were in the FAA Technical Center. To ensure the hiring process was appropriate and consistent with Federal laws and regulations, FAA coordinated the SOAR initiative with the FAA Office of Legal Counsel prior to implementing the program.

Our review of SOAR Program documentation and position descriptions, and our interviews with FAA personnel specialists, found that these positions were to perform significant managerial and technical functions within the hiring organizations. Published vacancy announcements indicated the positions were open to all FAA employees. According to selection documents provided by FAA, 12 women and 3 men were hired for these positions.

FAA SOAR Program Costs Were Reasonable

We found SOAR Program costs were reasonable. There are no annual SOAR Program costs for this one-time program. In advertising the opportunities, two FAA Technical Center employees conducted workshops at a total cost of approximately \$30,000. According to an FAA customer service representative, over 600 men and women attended the workshops held at 20 locations throughout FAA during the summer of 1991. The workshops provided information on the FAA organizational structure with emphasis on system development, the SOAR Program, and other career enhancement tools.

¹⁰ The AXD organization was reorganized in 1993 into integrated product teams.

Appendix B

REVIEW CONTACTS

DEPARTMENT OF TRANSPORTATION

Office of the Secretary, Washington, D.C.

Office of Human Resource Management

- Supervisory Human Resource Management Specialist
- Senior Employee Development Specialist
- Human Resource Management Specialist

Office of Civil Rights

- Equal Employment Opportunity Specialist, Compliance Operations Division

Technical Administrative Service Center, Human Resource Services

- Chief, Learning and Development
- Program Manager, DOT Fellows Program
- Human Resource Management Specialists

FEDERAL AVIATION ADMINISTRATION

Headquarters, Washington, D.C.

- Audit Liaison, External Relations Branch, Office of Financial Services
- Operations Resource Specialist, Operations Resource Program, Office of Air Traffic Operations
- Human Resource Management Research Psychologist, Civil Aeromedical Institute, Office of Aviation Medicine

Office of Human Resource Management

- Manager, Executive Staff
- Acting Director for Human Resource Management
- Functional Team Leader for Employee Development
- Human Resource Management Specialists
- Human Resource Management Psychologist, Recruiting and Staffing Functional Team
- Customer Service Representative, Air Traffic Services

FAA Academy, Oklahoma City, Oklahoma

- Manager, Air Traffic Division
- Instructor, En route Training Team, Enroute Branch

FAA Technical Center, Atlantic City, New Jersey

- Attorney, Office of the Assistant Chief Counsel
- Manager, Human Resource Branch

Southwest Region Headquarters

- Manager, General Litigation and Rulemaking, Office of Assistant Chief Counsel

COUNCIL FOR EXCELLENCE IN GOVERNMENT

- Director of Communications

NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION

- President

Appendix C

ACRONYMS

AXD	System Engineering and Development Organization
CAMI	Civil Aeromedical Institute
CFR	Code of Federal Regulations
Controller	Air Traffic Control Specialist
CEG	Council for Excellence in Government
DOCR	Departmental Office of Civil Rights
DOT	Department of Transportation
EEO	Equal Employment Opportunity
FAA	Federal Aviation Administration
FY	Fiscal Year
GS	General Schedule
OA	Operating Administrations
OIG	Office of Inspector General
OPM	Office of Personnel Management
OST	Office of the Secretary of Transportation
SEU	Special Examining Unit
SOAR	System for Advancement and Recognition

Appendix D

INSPECTION TEAM MEMBERS

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Regional Inspections Manager

Catherine P. Pyles

Senior Technical Analyst