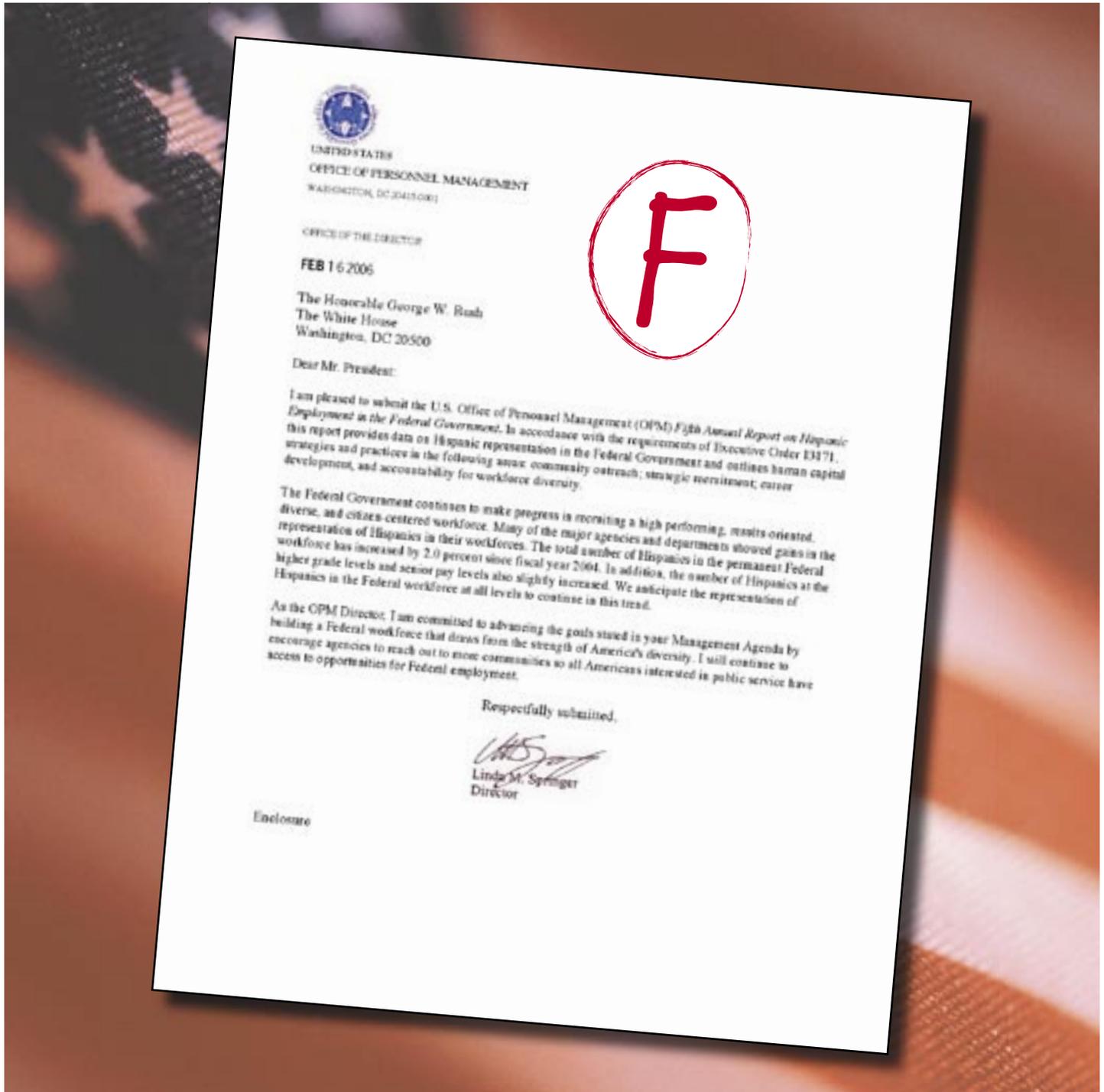




# An Evaluation of OPM's Efforts to Improve Hispanic Representation in the Federal Workforce



## Latino Leadership Report to Congress

## ACKNOWLEDGMENTS

The National Hispanic Leadership Agenda’s (NHLA) Latino Leadership Report to Congress on the Office of Personnel Management’s efforts to improve Hispanic representation in the federal workforce was prepared with the assistance of a broad and diverse group of Latino leaders and experts in the field of public policy, human resource development, executive recruitment, and federal government employment.

NHLA greatly appreciates the participation and assistance of the Hispanic federal employees who have been working with NHLA to address the historical problem of Hispanic underrepresentation. Although their participation in this report is a protected equal employment opportunity activity, many of them have requested that they not be identified due to concerns that it may negatively affect their careers. We thank them for contributing their time and valuable expertise to this report.

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## Latino Leadership Report to Congress

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## NATIONAL HISPANIC LEADERSHIP AGENDA

### An Evaluation of OPM’s Efforts to Improve Hispanic Representation in the Federal Workforce

Written by:

Manuel Mirabal, President National Puerto Rican Coalition  
Co-Chair NHLA Government Accountability Committee

#### FOREWORD

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*“If we truly believe in the social values and importance of having a representative government, we must do all that we can to ensure that all segments of our society are given the opportunity to participate in it.”*

*—Manuel Mirabal, President, National Puerto Rican Coalition*

NHLA has prepared this Latino leadership report to provide Congress with our assessment and perspective of the Office of Personnel Management’s (OPM) efforts to improve the representation of Hispanics in the federal workforce.

Although OPM’s Federal Equal Opportunity Recruitment Program (FEORP) reports to Congress and Hispanic employment reports to the President contain relevant data on the status of minority participation in the federal workforce, they provide no critical assessment of federal agency recruitment and diversity initiatives, nor identify solutions to resolve the decade’s long problem of underrepresentation of Hispanics in the federal workforce.

The U.S. Bureau of Labor Statistics reports that the number of Hispanics in the U.S. civilian labor force (CLF) has been increasing steadily and reached a level of 13.5 percent in 2005. This growing workforce has contributed greatly to the U.S. economy by providing industry, government, and business with the capacity to accomplish construction projects, perform farming and food processing, manufacture goods and products, and provide essential private and government services.

OPM’s FY 2005 FEORP report documents that the level of Hispanic representation in the federal workforce was 7.4 percent which was 6.1% percent below the Hispanic CLF level of 13.5 percent. At the current rate of growth of the Hispanic population, 25 percent of all Americans will be of Hispanic heritage by the year 2030. Yet if the advancement of Hispanics in the federal workforce continues at the current average annual rate of 0.15 percent per year, the level of Hispanic underrepresentation in the federal workforce will worsen dramatically.

The February 2006 FEORP report to Congress, places a spotlight on OPM’s failure to achieve measurable results in improving Hispanic representation, and recent reports issued by the Government Accountability Office, and the Merit Systems Protection Board, provide further evidence of OPM’s poor performance.

As the federal agency responsible for executing, administering, and enforcing civil service laws and regulations, and executive branch agency recruitment programs, OPM has been unable to resolve the historic problem of Hispanic underrepresentation.

Although Hispanics are the largest and fastest growing minority in the U.S., Hispanics are the only underrepresented minority group in the federal government. The underrepresentation of Hispanics in the federal

workforce has deleteriously impacted the advancement of a significant segment of the population, and has far reaching socio-economic implications for the nation.

NHLA's analysis of FEORP reports from FY2000 to FY2005 shows that all other ethnic minority groups are doing well or better in the federal workforce except for Hispanics, and that over the last five years underrepresentation for Hispanics has worsened. NHLA's analysis documents the existence of critical disparities in the level of representation, hiring, retention, and advancement of Hispanics as compared to all minorities in the federal workforce. The report also illustrates the critical underrepresentation that exists in the workforce of two key federal agencies that set policies and administer programs which are essential to the social and economic advancement of Hispanic Americans, the Department of Health and Human Services and the Department of Education.

OPM's failure to develop and implement effective hiring and employee retention programs; provide guidance and assistance to federal agencies; and hold agencies accountable for workforce diversity initiatives to improve Hispanic representation has contributed to Hispanic underrepresentation in the federal workforce.

NHLA believes that no better case exists for change than the growing disparity in Hispanic representation in the federal workforce, and we strongly urge Congress to take immediate action to implement results oriented systemic changes in the management of federal equal employment and workforce diversity programs at OPM.

To succeed in closing the widening disparities in Hispanic federal representation the federal government must engage in an aggressive initiative to increase the number of Hispanics that are hired annually, and must implement effective training and career advancement programs that will retain and provide opportunities for the advancement of Hispanics in the federal workforce. It must also hold federal agencies accountable for implementing programs designed to improve Hispanic representation. Without these measures the federal government will continue losing ground in its efforts to improve Hispanic representation.

With OPM projecting a major wave of retirements from federal employment over the next several years, the federal government has a unique opportunity to make significant gains in the representation of Hispanics. This important window of opportunity will be lost unless steps are taken to address OPM's benign neglect of Hispanic underrepresentation.

Our government must: encourage the best and brightest to seek federal employment; embrace diversity and the benefits it brings to the workplace; inspire employees to be innovative and achieve excellence; and provide every federal employee the opportunity to develop and succeed. Unfortunately, the federal agency responsible for providing leadership to advance diversity in the federal workforce has done little to achieve these goals for Americans of Hispanic descent.

NHLA looks forward to working with members of Congress to ensure that our nation's federal workforce draws on the strengths of America's unique diversity.

## OVERVIEW

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NHLA has prepared this report to provide Congress with an assessment of the Office of Personnel Management's (OPM) efforts to advance the full inclusion and representation of Hispanics in the federal government. Achieving a representative government is an important national goal which cannot be accomplished while the largest and fastest growing segment of the population—Americans of Hispanic descent—are underrepresented in the federal government workforce.

The federal government has a responsibility to ensure that all Americans have access to housing, education, health, economic development and other social programs and services. However, the underrepresentation of Hispanics undermines the ability of the government to develop and implement policies that are responsive to the needs of the Hispanic community. It also impedes the effective participation of the Hispanic community in federally funded programs, services, grants, and procurement opportunities. The underrepresentation of Hispanics in the federal workforce deleteriously impacts the social and economic advancement of a significant segment of the population, decreases the quality of federal services, and has far reaching socio-economic implications for the nation.

In preparing this document, NHLA reviewed OPM federal workforce and minority recruitment program reports covering federal fiscal years from 2000 through 2005. NHLA also reviewed reports issued by the Government Accountability Office (GAO), the Office of Management and Budget (OMB), and Merit Systems Protection Board (MSPB), regarding OPM's efforts to implement recruitment, workforce diversity and affirmative employment programs and standards.

The reports reviewed include: OPM - *Statistical Information on Hispanic Employment in Federal Agencies*, OPM - *Annual Federal Equal Opportunity Recruitment Program (FEORP)*, OPM - *The Fact Book of Federal Employment Statistics*, OPM – *February 2006 Annual Report to the President on Hispanic Employment in the Federal Government*, GAO - June 2006 report, *Improved Coordination Needed between EEOC and OPM in Leading Federal Workplace EEO*, OMB's Scorecards on the federal agency implementation of human capital and workforce diversity goals pursuant to the President's Management Agenda (PMA), and the Merit Systems Protection Board's September 2005 report on the Federal Career Intern Program.

## SUMMARY OF FINDINGS

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Despite OPM's pronouncements extolling an increase in Hispanic representation, the reality is that Hispanic underrepresentation is getting worse. Hispanics have been and continue to be the only underrepresented minority group in the federal government. The underrepresentation of the largest and fastest growing segment of the population in our government's workforce is contrary to federal equal opportunity mandates, impairs the delivery of government services, and hurts the U.S. economy.

While FEORP reports provide statistical workforce data, they do not provide an evaluation of federal agency recruitment, retention, and career advancement programs. Furthermore, FEORP reports do not provide Congress with information or solutions to the underlying barriers that are at the root of the current critical level of Hispanic underrepresentation in the federal workforce.

When FEORP reports are considered with other federal reports addressing Hispanic underrepresentation including OPM's *Fifth Annual Report on Hispanic Employment in the Federal Government*, and recent GAO, OMB, and MSPB reports which provide reviews of OPM's role in providing leadership and guidance on affirmative employment and workforce diversity, two critical conclusions are evident:

- OPM has failed to carry out its mandate to address the underrepresentation of Hispanics in the federal workforce, and
- OPM's poor performance has contributed to Hispanic underrepresentation.

NHLA's analysis of OPM data shows that all other ethnic minority groups are doing well or better in the federal workforce except for Hispanics and that over the last five years Hispanic underrepresentation in the federal workforce has worsened. Specifically, NHLA's analysis documents four major disparities which exist between Hispanics and other minorities in federal workforce participation.

- Hispanic underrepresentation in the federal workforce is growing.
- Hiring of Hispanics by the federal government has been decreasing.
- Hispanic retention rates are low and are not improving.
- Hispanics are severely underrepresented in senior executive positions.

NHLA's report to Congress describes the growing disparities which exist in Hispanic representation in the federal government, and provides specific information on Hispanic underrepresentation for two federal agencies which administer programs of critical importance to the advancement of Hispanic Americans—the Department of Health and Human Services and the Department of Education. NHLA believes that Hispanic underrepresentation has affected the capacity of these federal agencies to develop and implement policies and programs to address the health, education and human services necessities of the Hispanic community.

OPM has made little progress in the single minority representation challenge on which it has focused for over three decades—Hispanic underrepresentation—and has failed to implement Presidential Executive Order 13171, which requires OPM to develop, implement and monitor programs to eliminate Hispanic underrepresentation.

OPM's February 2006 report to the President on Hispanic employment contains a number of inaccuracies and misrepresentations of the current status of Hispanic Employment. While the OPM report covers each of the requirements stated in the Executive Order, it provides little information on government-wide efforts to promote and implement recruitment, outreach, career development, and accountability.

OPM has projected a major wave of retirements from federal employment<sup>1</sup> which will provide the federal government a unique opportunity to make significant gains in the representation of Hispanics in the workforce. However, OPM's February 2006 report to the President does not provide any indication that OPM is working to implement measures to increase Hispanic hiring in response to the need to fill the vacancies in federal positions that are expected.

Further evidence of OPM's poor performance in carrying out its responsibilities is provided by the GAO's June 2006 report to the Ranking Member of the Senate Committee on Homeland Security, *Equal Employment Opportunity – Improved Coordination Needed between EEOC and OPM in Leading Federal Workforce EEO*. The GAO's report, which was based on a survey of 45 executive branch agencies contains documentation and provides valuable insight on OPM's performance. In their responses to the GAO's survey, a majority of EEO and human capital officials stated that guidance and feedback from OPM on programs that address Hispanic underrepresentation were not useful.

To the extent that leading by example plays an important role in accomplishing federal recruitment and diversity goals, OPM's neglect of its responsibilities to improve Hispanic representation shows that it lacks the resolve and capacity to lead this important effort. Not surprisingly, OPM's own poor performance on Hispanic representation earned it the third from the bottom position on the 2005 list of Hispanic representation levels in federal agencies.

Based on NHLA's review of government documents and reports regarding minority representation in the federal workforce, NHLA believes that the growing level of Hispanic underrepresentation in the federal workforce is a direct result of OPM's poor performance in its management of programs to improve Hispanic representation in the federal workforce.

No better case exists for congressional action than OPM's poor performance in addressing the growing disparity in Hispanic representation in the federal workforce.

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<sup>1</sup> U.S. Office of Personnel Management, "Retirement Projections – FY 2004 through FY2013," April 30, 2004. OPM estimates the some 500,000 federal employees will retire by 2013.

## MAJOR DISPARITIES IN HISPANIC REPRESENTATION

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NHLA's analysis of OPM federal employment reports for the last five years documents four major disparities between Hispanic representation and overall minority representation in the federal workforce.

- Hispanic underrepresentation in the federal workforce is growing.
- Hiring of Hispanics by the federal government has been decreasing.
- Hispanic retention rates are low and are not improving.
- Hispanics are severely underrepresented in senior executive positions.

OPM's FEORP reports for fiscal years 2000 to 2005 show that all other ethnic minority groups are doing well or better in the federal workforce except for Hispanics, and that over the last five years representation levels for Hispanics have worsened. Furthermore, the low level of Hispanic new hires and poor retention rates over this period have significantly contributed to Hispanic underrepresentation.

NHLA's analysis also documents the existence of major disparities in the level of participation of Hispanics in the workforce of two key federal agencies that are responsible for programs which are critical to the Hispanic community, the Department of Health and Human Services and the Department of Education. Ironically, HHS and Education share a place with OPM at the bottom of the list of federal agency Hispanic representation levels in OPM's annual report to the President on Hispanic employment.<sup>2</sup>

### HISPANIC UNDERREPRESENTATION IN THE FEDERAL WORKFORCE IS GROWING.

OPM's measurement of progress in Hispanic representation is based on the total number of Hispanics employed in the federal workforce as a percentage of the total federal workforce. However, using only this measure for determining progress does not show Hispanic representation levels compared to overall minority representation in the federal workforce. This is an important comparison to make. One of OPM's central mission responsibilities since the enactment of the Civil Service Reform Act of 1974<sup>3</sup> (CSRA), has been the implementation of programs for the recruitment of underrepresented groups—minorities and women—and the development of equal opportunity recruitment plans. The CSRA also requires federal agencies to conduct a continuing recruitment program to address minority underrepresentation.

Because OPM's FEORP reports do not show the disparity which exists between the overall representation of minorities in the federal workforce compared to the representation of Hispanics, these reports do not fully illustrate the level of Hispanic underrepresentation.

An analysis of OPM's FEORP reports over the last five years demonstrates that minority representation in the federal workforce has exceeded and grown consistently over the level of representation of minorities in the Civilian Labor Force, (CLF). In FY 2005 OPM reported that overall representation of minorities in the federal workforce exceeded the level of representation of minorities in the CLF, *overrepresented*, by 4.4 percent.

In the same FEORP report OPM data showed that Hispanic underrepresentation in the federal workforce was 6.1 percent below the 2005 Hispanic CLF level as reported by the Bureau of Labor Statistics.

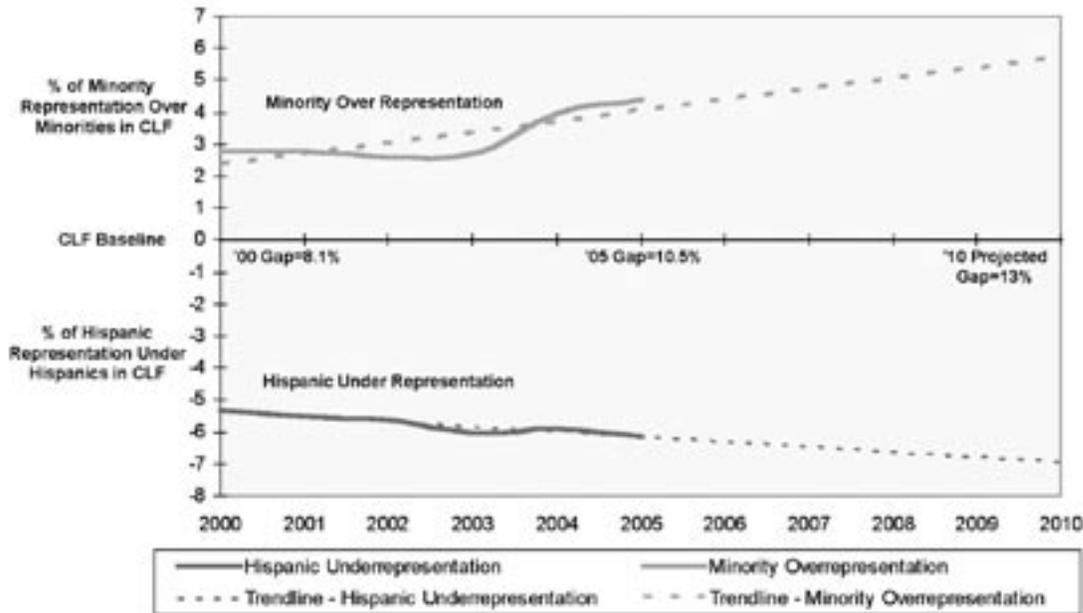
OPM reports document minority overrepresentation and Hispanic underrepresentation for the five year period reviewed by NHLA. The resulting disparity in Hispanic representation compared to overall minority representation in the federal workforce is illustrated in this report as the "*Hispanic Representation Gap*" in Chart 1.

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<sup>2</sup> OPM 5<sup>th</sup> Annual Report on Hispanic Employment in the Federal Government, Table 1. "Hispanic Representation in the Permanent Federal Workforce (as of June 30, 2005)" lists HHS, Education and OPM at the bottom of the table.

<sup>3</sup> CSRA, Public Law No. 95-454, 92 Stat. 1111 (October 13, 1978).

**Chart 1: The Hispanic Representation Gap has grown by 29% since FY 2000.**



Source: OPM: Federal Equal Opportunity Recruitment Program Report  
 CLF: Bureau of Labor Statistics: Labor Force Statistics from the Current Population Survey

Chart 1 illustrates that in 2005 the Hispanic Representation Gap was 10.5 percent. Since 2000, the Hispanic Representation Gap has widened by 29 percent. If this growing disparity continues at the current rate, the Hispanic Representation Gap will increase to 13.0 percent by 2010.

This measure of representation clearly demonstrates OPM’s failure to make progress in the single minority representation challenge which it has been focusing on for three decades—Hispanic underrepresentation.

**HIRING OF HISPANICS BY THE FEDERAL GOVERNMENT HAS BEEN DECREASING.**

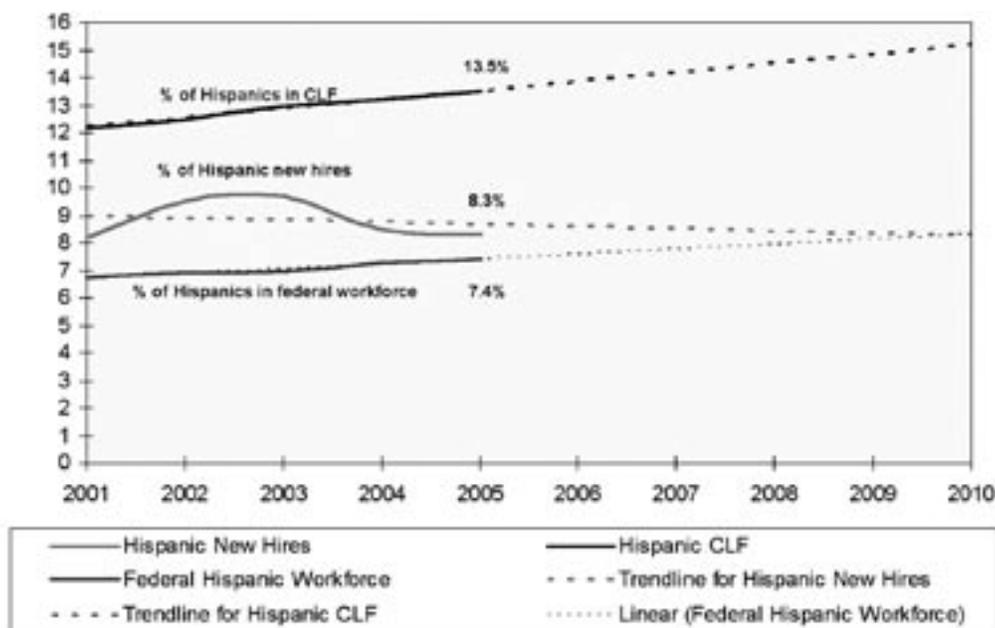
Over the last five years the percentage of Hispanic new hires has lagged behind the percentage of Hispanics in the CLF. As a result, new Hispanic hires have had very little impact on the total percentage of Hispanics in the federal workforce.

From FY2001 to FY2005 the percentage of Hispanics in the federal workforce grew from 6.7 percent to 7.4 percent, while the percentage of Hispanic in the CLF as reported by the Bureau of Labor Statistics for the same period grew from 12.1 percent to 13.5 percent.<sup>4</sup> With Hispanic underrepresentation in FY2005 at minus 6.1 percent, and average yearly increases in Hispanic representation during the past five years improving at an average of only .15 percent per year, Hispanic representation will never reach parity with the Hispanic CLF level.

Achieving parity in federal representation for Hispanics will also be made more difficult due to the fact that Hispanic new hires having been steadily decreasing each year over the last three years. The significant disparity in the rate of hiring of Hispanics compared to the Hispanic CLF level is shown in Chart 2.

<sup>4</sup> U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey.

**Chart 2: Hispanic new hires have been decreasing and lagging behind the Hispanic CLF level.**



Source: Hispanic CLF – Bureau of Labor Statistics: Labor Force Statistics from the Current Population Survey  
 Hispanic New Hires – OPM: Statistical Information on Hispanic Employment in Federal Agencies

Chart 2 illustrates that although Hispanic Americans comprise an increasingly larger segment of the CLF each year Hispanic new hires have consistently lagged behind the rising level of Hispanics in the CLF, and have decreased over the last few years.

Although OPM data demonstrates that for fiscal years 2001 to 2005, the level of Hispanic new hires has been above the level of Hispanic representation in the federal workforce, the data also shows that during the last three years the annual percentage of Hispanic new hires in the federal workforce has been decreasing. In FY2005 only 8.3 percent of all new federal hires were Hispanic, down from 9.5 percent in 2002. Unless effective measures are implemented to increase Hispanic hiring to a level which nears the CLF level of Hispanics, underrepresentation of Hispanics will continue to grow.

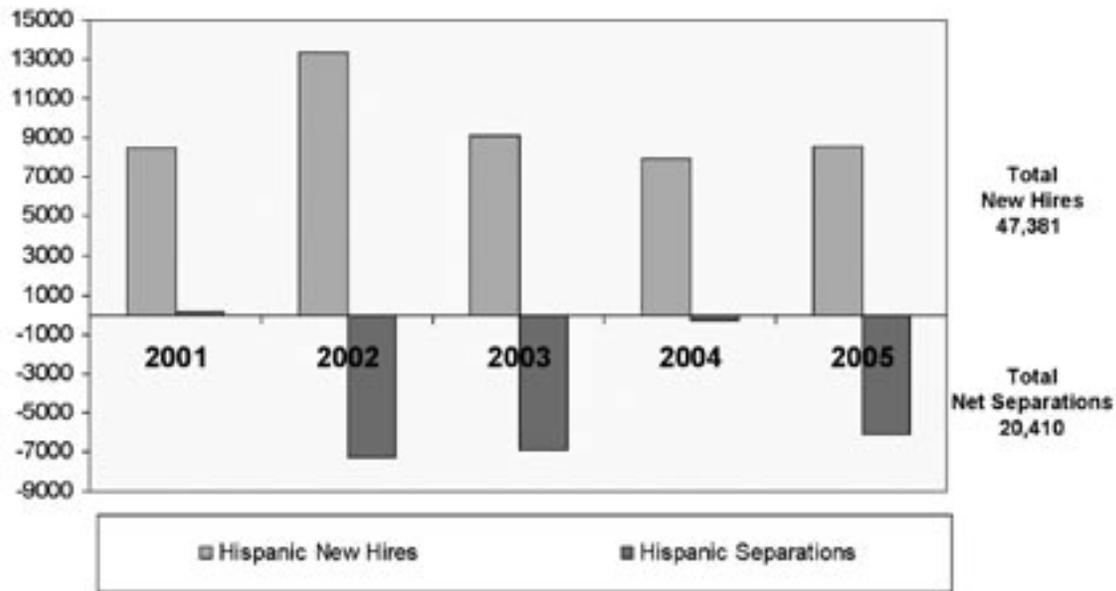
### HISPANIC RETENTION RATES ARE LOW

The retention of employees is a critical element of addressing Hispanic underrepresentation in the federal workforce. However, during the last five years, the high number of Hispanic separations from federal employment has greatly reduced potential gains in the level of Hispanic representation.

While overall minority representation levels have climbed steadily above the overall minority CLF level over the last five years, Hispanic representation has not significantly improved due in large part to separations. Although the percentage of Hispanic new hires over the last five years has been two percentage points above the percentage of Hispanics in the federal workforce, Hispanic separations over the same period have reduced gains resulting from new hires by 45 percent.

The total number of Hispanic new hires in the federal workforce since FY2001 was 47,381, or 9 percent of all federal hires for this period. The cumulative number of separations of Hispanic employees from the federal workforce since FY2001 numbered 20,410, comprising 45 percent of the total new Hispanic federal hires. Due to separations the net cumulative growth of the number of Hispanic federal employees was 26,971. The impact of the separations which have occurred since FY2001 is shown in “Chart 3”.

**Chart 3: Since 2001, Hispanic separations have reduced employment gains by 45%**



Source: OPM Statistical Information on Hispanic Employment in Federal Agencies

Chart 3 illustrates how separations have significantly eroded gains in Hispanic representation levels which would have resulted from new hires over the last five years.

The failure to develop, implement and monitor government-wide retention and career development programs for Hispanic federal employees has seriously hindered efforts to address Hispanic underrepresentation in many federal agencies.

**HISPANIC UNDERREPRESENTATION AT SENIOR EXECUTIVE LEVELS IS SEVERE**

Hispanics have been severely underrepresented at the senior executive level of the federal workforce for many years, and government agency reports indicate that this trend will continue if nothing is done to address this disparate situation.

Hispanic representation at the Senior Pay Level (SPL)<sup>5</sup> which includes career SES and other categories has increased from 3 percent to 3.5 percent during the last five years—or at the rate of one tenth of one percent (0.1%) per year. While Hispanics are severely underrepresented in SPL positions, the level of Hispanic underrepresentation is even more severe in career SES ranks.

In recent reports, both the Merit Systems Protection Board and the Government Accountability Office have reported that large losses of federal employees will occur over the next several years due to retirements.<sup>6</sup> The impact of these retirements on the ranks of the most senior and experienced segments of the workforce represents a substantial challenge, and an opportunity to improve Hispanic representation in the Senior Executive Service (SES) ranks.

<sup>5</sup> SPL includes career SES, Senior Foreign Service, Executive Schedule, and others above Grade 15.

<sup>6</sup> U.S. Merit Systems Protection Board, Building a High-Quality Workforce: The Federal Career Intern Program, September 2005, and GAO-06-214, Improved Coordination Needed Between EEOC and OPM in Leading Federal Workforce EEO, June 2006.

In October 2003 the GAO reported that over half of all career senior executives would leave federal employment by 2007, and that a significant level of attrition would also occur in the GS-14 and GS-15 grade workforce—the main source for SES appointments.<sup>7</sup> The GAO also estimated that if past appointment trends continue through FY2007, representation levels for Hispanics in career Senior Executive Service (SES) positions would remain virtually unchanged.

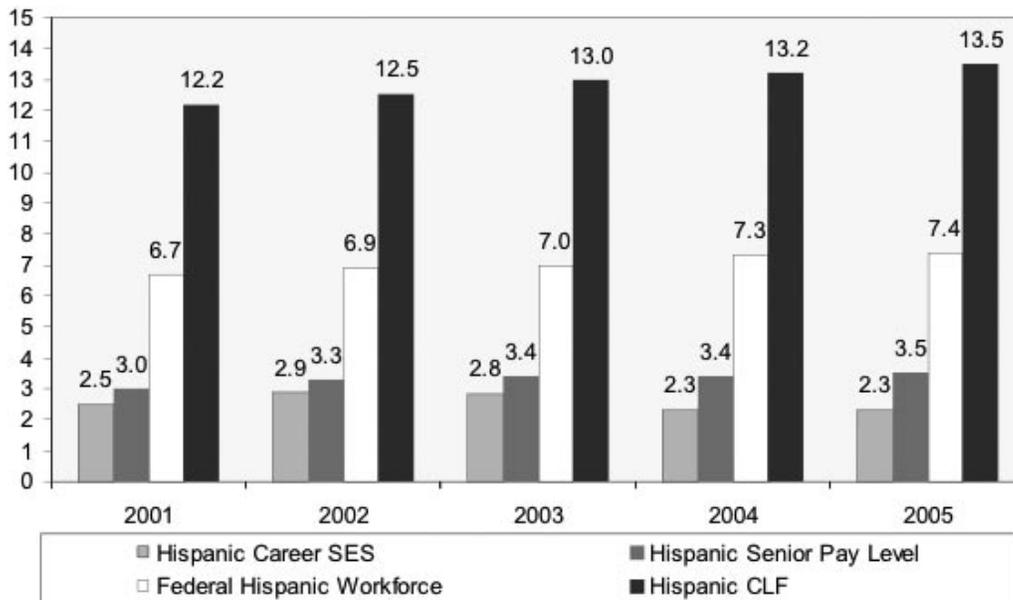
Based on past trends and career SES data, the GAO estimated that Hispanic career SES representation would increase by only 0.2 percent from FY2000 to 2.7 percent by October 2007. At the same time, the representation of minorities in the SES ranks overall would grow by an estimated 4.7 percent to 37.6 percent in FY2007.

For GS-14 and GS-15 grade levels, which are the key leadership feeder ranks, GAO estimates of Hispanic representation levels over the same period are not encouraging. Hispanic representation levels for GS-14 and GS-15 would increase to 4.1 percent and 3.8 percent respectively by October 2007. Current OPM data indicates that the GAO estimates are on target as Hispanic representation levels were 4.2 percent for GS-14s, and 3.7 percent for GS-15s in FY 2005.

However, OPM data for Hispanic representation in career SES positions paints a dimmer future than GAO estimates. OPM data for fiscal years 2000 to 2005 documents that Hispanic career SES representation has declined during the last five years, from 2.5 percent in FY2001, to 2.3 percent in FY2005.<sup>8</sup>

The severe underrepresentation that exists for Hispanics at the Senior Pay Level is shown in Chart 4.

**Chart 4: Hispanics are severely underrepresented in Senior Pay Level Positions.**



Source: Hispanic CLF – Bureau of Labor Statistics  
 OPM: FEORP Reports, and Senior Executive Service Demographics

<sup>7</sup> GAO-04-123T, Senior Executive Service: Enhanced Agency Efforts Needed to Improve Diversity as the Senior Corps Turns Over, October 15, 2003.

<sup>8</sup> OPM - Senior Executive Service Demographics Data

Chart 4 illustrates that:

- The level of Hispanic representation in SPL positions improved by only one half of one percent (0.5%) in five years
- Hispanic representation In SPL positions is far below the Hispanic CLF level
- Hispanic representation in Career SES positions has declined.

One of the most important goals of Hispanic federal employment policy is to ensure that the composition of the federal workforce reflects all segments of society. Ensuring that senior management reflects the diversity of the population is critically important to achieving a representative government, and the development and implementation of sound policies and effective programs. Senior managers provide leadership, identify priorities, and ensure accountability. Ensuring that Hispanics are adequately represented at the senior executive level is also important to providing the federal government with the capacity to serve the needs of the growing Hispanic population.

If past government-wide appointment trends continue the number Hispanics in career SES positions will be reduced to less than 140 employees over the next few years. Because the majority of SES appointments come from the GS-15 ranks, it is imperative that strong diversity and accountability measures be implemented for employment and career development programs at the GS 14 and 15 grade levels in order to have a sufficient number of Hispanic candidates for future appointment to SES positions.

#### A CRITICAL LEVEL OF DISPARITY IN HISPANIC REPRESENTATION EXISTS AT HHS AND EDUCATION

One of the most important responsibilities of government to its citizens is to respond to the needs of the most vulnerable and least capable of helping themselves. Yet there is ample government and independent documentation that shows that the critical needs of many members of the Hispanic community have not been adequately served by federal agencies which have a mandate to address social and economic necessities. Two of the most critical areas which affect the quality of life and advancement of the Hispanic community are education and health. Yet in the two federal agencies that address these important national responsibilities, Hispanic representation is critically low.

The departments of Health and Human Services (HHS) and Education are examples of the failure of government initiatives to achieve adequate representation of Hispanics in the federal workforce. Two noteworthy similarities should be considered in assessing the impact of Hispanic underrepresentation at HHS and Education. Ironically and detrimentally, both agencies are responsible for critical areas of policy and public programs serving the needs of the Hispanic community, and both agencies share the distinction of being the two worst performing agencies in the areas of Hispanic representation and hiring.<sup>9</sup>

HHS is responsible for a vast array of programs to address the health and social service needs of Americans. However, HHS has made little progress in implementing programs that are responsive to the needs of the growing Hispanic population. Access to culturally competent health care is still a barrier to a major segment of the Hispanic community. At the same time, Hispanics have the lowest rate of health care coverage and experience the highest level of chronic disease disparities. Services to address the needs of the most vulnerable, the elderly, and children are also areas of critical concern for the Hispanic community. While comprehensive policies and programs to address these issues are urgently required, not enough has been done by HHS to adequately respond to these needs.

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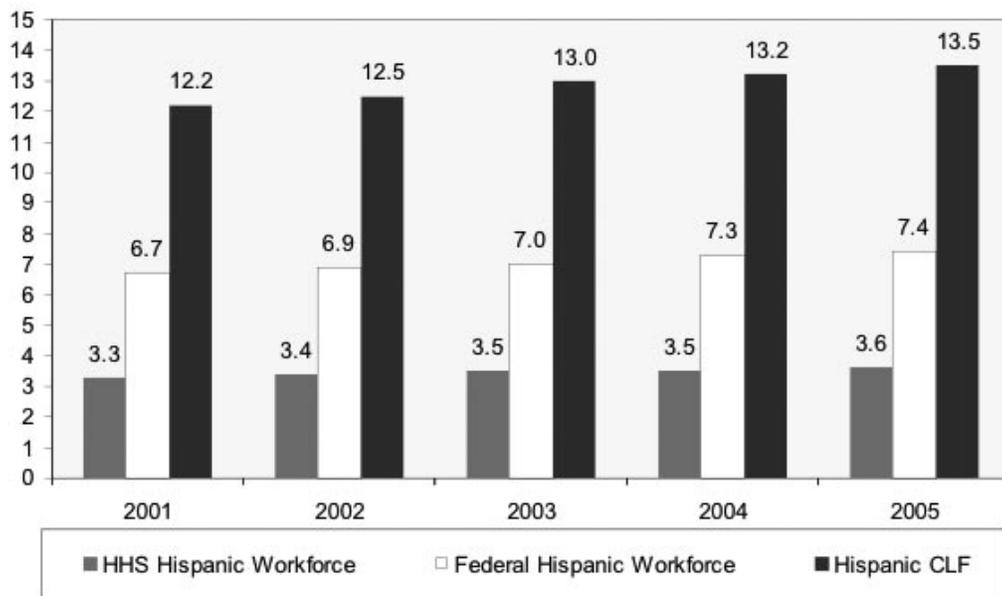
<sup>9</sup> OPM 5<sup>th</sup> Annual Report on Hispanic Employment in the Federal Government, Table 1. “Hispanic Representation in the Permanent Federal Workforce (as of June 30, 2005)”, and Table 3. “Hispanic Permanent New Hires by Number and Percentages in Major Agencies” both list HHS and Education at the bottom of the table.

The Department of Education has a responsibility to ensure that the nation’s students receive an education that prepares them to be productive members of society. Without this, America will fall behind as a global leader in business, science and human services. However, the Department of Education continues to be “behind the curve” in ensuring that all children in this nation receive a quality education particularly Hispanic youth who have the highest drop-out rate. As a result the United States is failing to prepare a significant portion of its workforce to meet the employment needs of business and industry, which have been relegated to using foreign skilled employees to meet their workforce demands.

The Hispanic community has worked vigorously to address education issues which affect the ability of its students to achieve educational excellence, often without the full participation of the federal government. Due to the unique challenges facing Hispanic students, there is an overwhelming need for federal involvement in creating programs to address education issues which impact the Hispanic community. The failure to ensure that a growing segment of the future workforce—Hispanic Americans—is fully prepared to participate and contribute has serious implications for the nation’s economy and prosperity.

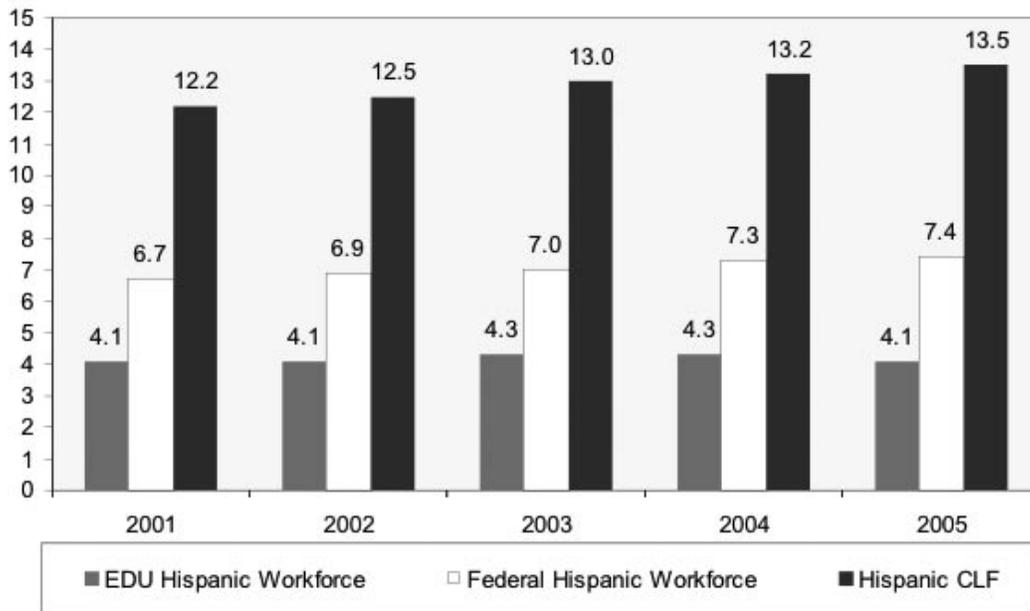
The poor performance of HHS and Education in the area of Hispanic representation over the last five years is shown in Charts 5 through 8.

**Chart 5: Hispanic Underrepresentation at HHS**



Source: CLF - Bureau of Labor Statistics  
OPM: FEORP Reports

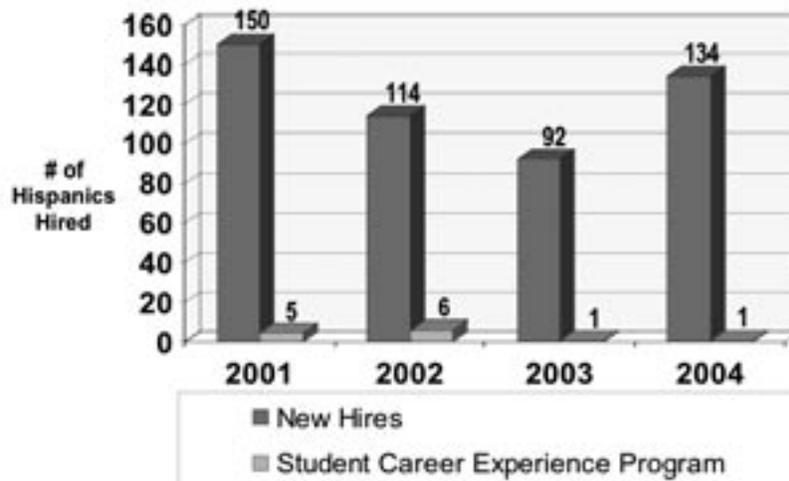
**Chart 6: Hispanic Underrepresentation at the Department of Education**



Source: Hispanic CLF – Bureau of Labor Statistics  
 OPM: FEORP Reports

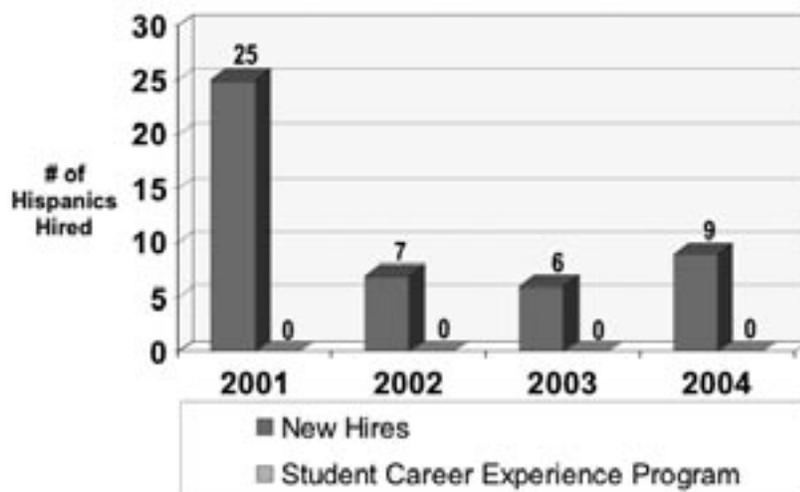
Charts 5 and 6 illustrate that Hispanic representation is more severe and not improving at HHS and Education. At HHS and Education, Hispanic representation was only 3.6 percent and 4.1 percent respectively, and representation levels have not improved during the last five years.

**Chart 7: Hispanic Hiring at HHS, 2001-2004**



Source: OPM: The Fact Book of Federal Employment Statistics  
 Note: 2005 data not available

**Chart 8: Hispanic Hiring at the Department of Education, 2001-2004**



Source: OPM: The Fact Book of Federal Employment Statistics  
 Note: 2005 data not available

Charts 7 and 8 illustrate total Hispanic hiring at HHS and Education from 2001 to 2004, and demonstrate how for one program—the Student Career Experience Program—Hispanic new hires were non-existent.

While OPM’s February 2006 report on Hispanic employment stated that “the SCEP was one of the most popular noncompetitive appointing authorities that federal agencies are using to recruit professionals”,<sup>10</sup> this program was evidently not very popular at HHS or Education. During the last four years only 13 Hispanics were hired at HHS under SCEP, and not a single Hispanic was hired under the SCEP authority at the Department of Education.

Surprisingly, during the last three years neither of these poorly performing agencies have been given a grade of “Red” (unsatisfactory) on OMB’s President’s Management Agenda (PMA) Scorecard in the area of Human Capital Management<sup>11</sup>. The PMA contains five government-wide goals, including strategic management of human capital; the human capital goal contains among its standards for success one relating to agencies’ addressing underrepresentation and implementing programs to sustain diversity. OPM’s evaluations of agency performance on PMA human capital goals are also factored into OMB’s rating process. This raises serious questions about the accuracy of OMB’s Program Assessment Rating Tool (PART),<sup>12</sup> and the relevance of OPM’s evaluation process in assessing progress in addressing Human Capital goals.

If government agencies that perform as poorly as HHS and Education in the area of Hispanic representation can look forward to receiving a passing PMA Scorecard grade, they have little incentive to improve their performance.

#### FEDERAL CAREER INTERN PROGRAM (FCIP) USE AT HHS AND EDUCATION

Another program identified in OPM’s Fifth Annual Report on Hispanic Employment as having potential to improve Hispanic representation is the Federal Career Intern Program (FCIP). However, no OPM reports that

<sup>10</sup> U.S. Office of Personnel Management, Fifth Annual Report on Hispanic Employment in the Federal Government, February 2006, Pg.19.

<sup>11</sup> OMB issues quarterly “Scorecard” ratings on agency performance in implementing the goals of the President’s Management Agenda (PMA), a strategy for improving the management and performance of the federal government. The PMA Scorecard rating levels are, Green (success), Yellow (mixed results), and Red (unsatisfactory).

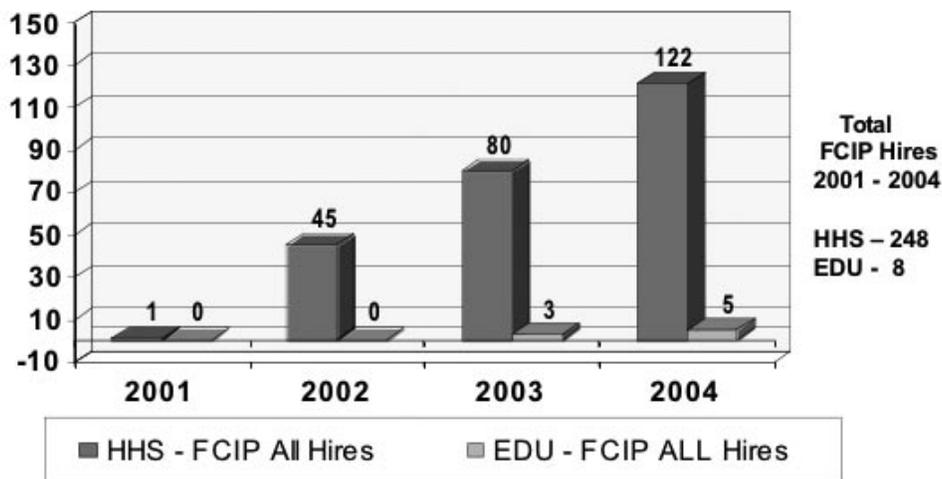
<sup>12</sup> PART is a diagnostic tool used by OMB to evaluate the performance of federal programs. It is used as a tool in determining how well federal agencies are executing the goals of the President’s Management Agenda.

provided agency specific information on Hispanic hiring under this program were available to NHLA. While this program has been used successfully by some federal agencies to improve hiring, there is no data to document that Hispanic representation has improved as a result of the FCIP hiring authority.

The Merit Systems Protection Board’s (MSPB), September 2005 report on the FCIP<sup>13</sup> documents that 9 percent of all new hires from 2001 to 2004 (excluding the Social Security Administration) under the FCIP program were Hispanic, well below the Hispanic CLF levels for this period. While the FCIP provides federal agencies more flexibility in recruitment and hiring, MSPB’s September 2005 report clearly indicates that this program could be more effectively used to improve Hispanic representation at HHS and Education and government-wide.

MSPB data for the total number of FCIP new hires for the four year period between 2001 and 2004 does not provide data for the number of Hispanic new hires at HHS and Education. However if past Hispanic hiring trends at HHS and Education during fiscal years 2001 to 2004 were to be used to project new Hispanic hires under the FCIP, most likely only a small percentage of FCIP hires would be Hispanic. Chart 9 shows the total number of new hires pursuant to the FCIP for HHS and Education.

**Chart 9: Total FCIP Hires at HHS and Education, 2001-2004**



Source: MSPB: Building a High-Quality Workforce report, September 2005  
 Note: 2005 data not available.

Chart 9 illustrates that the total number of FCIP hires from 2001 to 2004 for HHS was 248, and for Education it was 8. While HHS has steadily increased the use of FCIP, Education has done little to use this hiring authority.

The FCIP provides federal agencies with a flexible hiring authority which would help agencies improve Hispanic representation and diversity in their workforces. However, its impact on Hispanic employment cannot be determined because agency demographic statistical data for the FCIP has not been reported by OPM.

<sup>13</sup> U.S. Merit Systems Protection Board, Building a High-Quality Workforce: The Federal Career Intern Program, September 2005.

## ASSESSMENT OF OPM’S EFFORTS TO IMPROVE HISPANIC REPRESENTATION IN THE FEDERAL WORKFORCE

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OPM’s main mission is to build a high-quality and diverse federal workforce that will improve overall efficiency in the delivery of government services and programs to the public. OPM has a central responsibility to develop and implement: equal opportunity recruitment programs for underrepresented groups; ongoing programs for the career development of minorities in federal employment; procedures to eliminate underrepresentation in accordance with the Executive Order 13171; and advance human capital standards within the federal government.

However, recent oversight agency reports and current statistical data on Hispanic representation reveal OPM’s failure to affirmatively plan, train, monitor and assist federal agencies in implementing the requirements of federal equal opportunity regulations, Executive Orders, and other government initiatives to address Hispanic underrepresentation.

### EXECUTIVE ORDER 13171

Executive Order 13171 requires each executive department and agency to establish and maintain a program for the recruitment and career development of Hispanics in federal employment, and requires OPM to develop long-term comprehensive strategies and implement a government-wide minority recruitment effort. Pursuant to Executive Order 13171, OPM is required to:

- Provide federal human resources management policy guidance to address Hispanic underrepresentation.
- Take the lead in promoting diversity to executive agencies to promote equal employment opportunity.
- Prescribe regulations to carry out the purposes of the Executive Order.
- Establish an Interagency Task Force to:
  - (1) review best practices in strategic human resources management planning,
  - (2) assess overall executive branch progress in complying with the order;
  - (3) provide advice on ways to increase Hispanic community involvement; and
  - (4) recommend any further actions that are appropriate to eliminate the underrepresentation of Hispanics in the Federal workforce.

OPM’s Fifth Annual Report to the President pursuant to Executive Order 13171 indicates that progress is being made in addressing Hispanic underrepresentation. However, upon reviewing OPM’s workforce reports, the GAO’s June 2006 report on OPM’s coordination of overlapping responsibilities with the Equal Employment Opportunity Commission (EEOC), and the MSPB’s report on the FCIP, NHLA finds a much different and alarming picture of OPM’s efforts to improve Hispanic representation.

OPM’s February 2006 report to the President on Hispanic employment misrepresents the state of Hispanic representation in the federal workforce. While OPM’s Director states in her cover letter to the President that there has been a 2.0 percent increase in Hispanic representation from 2004 to 2005<sup>14</sup>, the actual increase was insignificant. Hispanic representation increased by a mere one-tenth of one percent (0.1%), going from 7.3 percent in 2004 to 7.4 percent in 2005. OPM has also used Census data to report the Hispanic Civilian Labor Force (CLF) participation levels instead of the figures published by the U.S. Bureau of Labor Statistics. The use of Census data by OPM for this statistical purpose misrepresents the gravity of Hispanic underrepresentation because it shows that the CLF percentage for Hispanics dropped from 2003 to 2004, and then remained at the same level for 2005—a downward trend that is inconsistent with the growth of the Hispanic population. Based on these misrepresentations, OPM press releases have extolled progress in Hispanic representation. The reality is that Hispanic underrepresentation is getting worse.

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<sup>14</sup> OPM, 5<sup>th</sup> Annual Report on Hispanic Employment in the Federal Government, February, 2006 Report Cover Letter from Linda M. Springer, OPM Director

Although OPM's report to the President covers each of the requirements stated in the Executive Order, it provides little information on government-wide efforts to promote and implement recruitment, outreach, career development, and accountability.

In its report on Outreach, Recruitment, Career Development, and Accountability initiatives, OPM provides a list of individual agency initiatives to address Hispanic employment but does not provide an assessment of agency performance, nor offers recommendations for institutionalizing government-wide measures to improve Hispanic representation and address poorly performing agencies.

One of the most critical strategic elements of improving Hispanic representation is effective outreach and recruitment, but no assessment of individual agency recruitment efforts is provided in OPM's report. Similarly, FEORP reports do not provide information on applicants to federal positions. Although FEORP reports provide data on the total number of Hispanics employed, and the total number and percentage of Hispanics hired annually, this data alone cannot be used to determine the extent to which agency outreach and recruitment programs have succeeded or failed to produce results in increasing job applications by Hispanics. Without tracking data on applicants, there is no basis upon which to make an assessment of the effectiveness and performance of agency efforts to attract and employ Hispanic applicants.

The GAO's June 2006 report reviewed this area of concern, reporting that OPM has resisted providing data on job applicants stating that this would be cumbersome and may involve legal risks.<sup>15</sup> In a meeting in February of 2006, with Antonio San Martin, Special Counselor with OPM's Office of the General Council, members of the League of United American Citizens (LULAC), raised concerns regarding the absence of data on job applicants.<sup>16</sup> During the meeting OPM advised LULAC that due to recent court rulings on discrimination cases, and other pending court cases, OPM had limitations in the programs and procedures it could promulgate to address Hispanic underrepresentation.

However, the EEOC has taken the position that the collection and reporting of applicant data is required and authorized pursuant to the Uniform Guidelines on Employee Selection Procedures -1978 (UGESP), which is a federal rule issued jointly by the EEOC, Civil Service Commission (OPM's predecessor) and the Departments of Justice and Labor. UGSEP requires employers to request racial and ethnic data from applicants. These requirements were included in EEOC's Management Directive 715,<sup>17</sup> which requires agencies to analyze data on race, national origin, gender, and disabilities voluntarily provided by job applicants.

Collecting and analyzing applicant-flow statistics are an important tool in determining program effectiveness and can be used to determine the existence of barriers to employment and advancement which may be excluding Hispanics. The data can also be used to determine the impact of agency programs to enhance diversity in federal recruitment efforts, and therefore, this data should be included in FEORP reports, and OPM's annual report on Hispanic employment.

In the Career Development section of the report OPM makes no reference to the challenge of addressing the large loss of senior executives due to the projected wave of retirements. While Hispanic Senior Executive Service (SES), representation is below 3 percent, and not projected to improve significantly, no specific reference is made in the report to the severe underrepresentation of Hispanics in the SES ranks. There is also no mention of government-wide programs or initiatives to develop succession and new appointments strategies that could be used to improve Hispanic representation in the SES ranks in connection with this expected attrition.

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<sup>15</sup> GAO-06-214, Improved Coordination Needed Between EEOC and OPM in Leading Federal EEO, Pg. 19.

<sup>16</sup> January 2006 LULAC meeting at OPM's Washington, DC offices with Antonio San Martin.

<sup>17</sup> EEOC Management Directive 715. Supersedes MD 713 and MD 714. Provides policy guidance and standards for establishing and maintaining effective affirmative programs of EEO under Section 717 of Title VII of the Civil Rights Act, and affirmative action programs under Section 501 of the Rehabilitation Act; issued October 2003.

In their October 2003 report on Senior Executive Service,<sup>18</sup> the GAO recommended that federal agencies should develop succession plans that incorporate new appointments that will improve diversity in the SES ranks. With Hispanic career SES representation decreasing over the last five years, federal agencies should be actively seeking to institute career development programs at the GS14 and GS15 levels - which serve as the primary source of career SES appointments. Yet OPM has all but ignored this critical area in their February 2006 report on Hispanic employment. The only reference to SES representation was in the Director's cover letter which stated:

“In addition, the number of Hispanics at the higher grade levels and senior pay levels also slightly increased.”

While this statement is accurate for the Senior Pay Level category, it is not accurate for Hispanic career SES representation, which has declined since FY2000, and was a paltry 2.3 percent in FY2004.

The need to fill a large number of positions and replace retiring senior executive service vacancies provides federal agencies with an opportunity to implement recruitment and succession strategies that will help achieve a more diverse senior level workforce. OPM has a critical responsibility to assist agencies in creating diverse candidate pools, which can be used in making appointments to GS14 and GS15 feeder ranks for executive positions, yet this is also not discussed in the February 2006 report on Hispanic employment. The failure by OPM to develop and provide leadership in implementing succession programs to improve Hispanic representation for senior level positions—to address the projected wave of separations from federal service—shows a significant lack of forward planning and management capacity.

In the Accountability section OPM reports on the work of the Interagency Task Force on Hispanic Employment in the Federal Government, which OPM reported met only once. In reviewing the work of the Interagency Task Force the only activity reported was the following:

“In some agencies, senior-level officials and managers have identified barriers affecting diversity and are developing strategies for addressing those challenges.”<sup>19</sup>

This indicates that some agencies have only now—five years after the issuance of Executive Order 13171—started to develop their strategies to address Hispanic underrepresentation. Furthermore the reference regarding barriers that affect diversity does not appear to specifically focus on strategies for resolving Hispanic underrepresentation.

The fact that OPM called only one meeting of the Interagency Task Force during a period when Hispanic representation is worsening, demonstrates how little attention and importance OPM has given to the goal of eliminating Hispanic underrepresentation pursuant to Executive Order 13171. Furthermore, it is contrary to the directive in the Executive Order which requires OPM to hold two meetings of the Interagency Task Force each year.<sup>20</sup>

*“In some agencies, senior-level officials and managers have identified barriers affecting diversity and are developing strategies for addressing those challenges.”<sup>19</sup>*

This indicates that some agencies have only now—five years after the issuance of Executive Order 13171—started to develop their strategies to address underrepresentation. Furthermore the reference regarding barriers that affect diversity does not appear to specifically focus on strategies for resolving Hispanic underrepresentation. The fact that OPM called only one meeting of the Interagency Task Force during a period when Hispanic representation is worsening, demonstrates how little attention and importance OPM has given to the goal of eliminating Hispanic

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<sup>18</sup> GAO: Senior Executive Service - Enhanced Agency Efforts Needed to Improve Diversity as the Senior Corps Turns Over (October 2003)

<sup>19</sup> Ibid, Pg.19

<sup>20</sup> Executive Order No. 13171, 65 Federal Register 61,251 (October 12, 2000), Sec 4. Sub. Paragraph (d)

underrepresentation pursuant to Executive Order 13171. Furthermore, it is contrary to the directive in the Executive Order which requires OPM to hold two meetings of the Interagency Task Force each year.<sup>20</sup>

The Interagency Task Force has an important role in addressing Hispanic underrepresentation. The Executive Order charges it with reviewing best practices, assessing overall progress, providing advice, and recommending further action to eliminate underrepresentation of Hispanics. Yet there are no recommendations whatsoever attributable to the Interagency Task Force in OPM's annual report on Hispanic employment.

As the federal agency responsible for implementation and oversight of affirmative employment and workforce diversity initiatives for executive branch agencies, OPM has been unable to resolve the historic problem of Hispanic underrepresentation, and has made little progress in achieving government-wide improvements pursuant to federal Hispanic employment initiatives dating back to 1968 including the White House 16 Point Plan, OPM's 9 Point Plan, and Presidential Executive Order 13171.

#### GOVERNMENT ACCOUNTABILITY OFFICE REPORT

Further evidence of OPM's failure to carry out its responsibilities is provided by the GAO's June 2006 report "Improved Coordination Needed between EEOC and OPM in Leading Federal Workforce EEO". This report focuses on the lack of coordination between OPM and EEOC in developing policy, providing guidance, and exercising oversight of overlapping Equal Employment Opportunity (EEO) responsibilities. The GAO report was based on a survey of EEO/civil rights directors and human capital officers/directors from 45 executive branch agencies with 500 or more employees. It contains documentation and provides valuable insight on how OPM has failed to accomplish its responsibilities to eliminate Hispanic underrepresentation.

In their responses to the GAO's survey, the majority of EEO and human capital officials stated that guidance and feedback from OPM were not useful. For respondents that had some interaction with OPM, less than 34 percent said that feedback from OPM was useful. For three program reporting areas which have a direct impact on Hispanic representation—FEORP reports, PMA reports, and reports on the implementation of Executive order 13171—most EEO and human capital officials gave little value to OPM's efforts in helping to advance these federal programs.<sup>21</sup>

The GAO's report also documents that OPM has failed to consult with the EEOC in preparing annual FEORP reports to Congress, in apparent violation of the Civil Service Reform Act (CSRA) and EEOC guidelines which require OPM to do so.<sup>22</sup>

The failure to coordinate inter-agency EEO responsibilities and its impact on government operations compelled the GAO to recommend that Congress require OPM and the EEOC to coordinate their activities and submit annual reports to Congress. The GAO report also referenced a similar recommendation concerning coordination of responsibilities between OPM and EEOC which was made by OMB in a 2005 assessment report of OPM's Merit System Compliance activities.<sup>23</sup>

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<sup>21</sup> GAO-06-214, Improved Coordination Needed Between EEOC and OPM in Leading Federal Workforce EEO, June 2006, Pg. 23, Figure 6, "Survey of Respondents' Perceptions of the Usefulness of EEOC and OPM Guidance."

<sup>22</sup> Ibid, Pg. 30, cites the Appendix to CSRA, Public Law No. 95-454, 92 Stat. 1111 (October 13, 1978), "Guidelines for the Development of a Federal Recruitment Program to Implement 5 U.S.C. Section 7201, as Amended", which state: "In preparing its annual report to Congress pursuant to the Act, OPM should do so in consultation with the Commission." [EEOC]

<sup>23</sup> U.S. Office of Management and Budget, Merit System Compliance Assessment, FY 2005.

## MERIT SYSTEMS PROTECTION BOARD REPORT

The Merit Systems Protection Board (MSPB) issued a report in September 2005<sup>24</sup> which reviewed the implementation, process, and effectiveness of the Federal Career Intern Program (FCIP) in providing federal agencies with more flexible hiring authority to meet their workforce needs during the FCIP's first four years of the program, 2001 -2004. The FCIP was established pursuant to Executive Order 13162,<sup>25</sup> to help federal agencies attract exceptional individuals to the federal workforce and generate a pipeline of candidates for permanent federal service.

## MERIT SYSTEMS PROTECTION BOARD REPORT

The Merit Systems Protection Board (MSPB) issued a report in September 2005<sup>24</sup> which reviewed the implementation, process, and effectiveness of the Federal Career Intern Program (FCIP) in providing federal agencies with more flexible hiring authority to meet their workforce needs during the FCIP's first four years of the program, (2001-2004). The FCIP was established pursuant to Executive Order 13162,<sup>25</sup> to help federal agencies attract exceptional individuals to the federal workforce and generate a pipeline of candidates for permanent federal service.

The MSPB report provides another perspective on OPM's poor performance in carrying out its responsibilities to provide leadership in the oversight, implementation, and monitoring of the FCIP by federal agencies.

While MSPB's study of the FCIP showed that it had an auspicious beginning and that FCIP hires have dramatically increased since it was created, the MSPB report also showed that federal agencies were relying on limited recruitment techniques, used weak assessment tools, and did not always provide training and development for participants of the FCIP.

The MSPB report recommended that OPM needed to provide more leadership, guidance and oversight to federal agencies over the FCIP to address the issues that their review identified. Specifically, the MSPB report found that OPM needed to:

- Exercise its oversight role more fully over the FCIP.
- Provide clearer guidance to agencies.
- Hold agencies accountable.
- Develop and promote better assessment tools.

Although OPM has a major responsibility to ensure that the FCIP program is developed and implemented effectively, the MSPB study found that OPM had not conducted an overall program review since the FCIP was implemented in FY2000.

The MSPB recommendations echo the GAO's program management recommendations for program areas where OPM is the principle federal agency responsible for developing policy and procedures for recruiting, screening, selecting, placing, and continuing training and development for federal employees.

The MSPB's September 2005 report on the FCIP also made specific reference to the significant opportunity that FCIP provided in responding to the challenge of federal retirements.<sup>26</sup> One of the substantial challenges that the government will face in the near future is the need to fill a large number of projected vacancies with high-

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<sup>24</sup> MSPB Report, September 2005, "Building a High-Quality Workforce: The Federal Career Intern Program."

<sup>25</sup> Executive Order 13162, Issued September 21, 2000.

<sup>26</sup> MSPB, Building a High Quality Workforce: The Federal Career Intern Program, September 2005, Pg. 1, "Introduction".

quality candidates that are prepared to assume the roles of those who will be leaving federal service. In 2004 OPM estimated that some 500,000 federal employees will retire by 2013.<sup>27</sup> This has enormous implications for the government's ability to carry out its current and future responsibilities, and achieve a fully representative diverse workforce.

With OPM projecting a major wave of retirements from federal employment, the federal government has a unique opportunity to make significant gains in the representation of Hispanics in the workforce. The FCIP provides federal agencies with a flexible hiring authority which would allow agencies to address these vacancies efficiently and at the same time improve Hispanic representation and diversity in their workforces. However, without strong leadership and oversight the hiring authority that FCIP provides and the goals it was established to help achieve will not be realized and the government will lose this important window of opportunity to increase Hispanic employment.

### OMB-PMA SCORECARD REPORTS

NHLA reviewed PMA Scorecard grades in the area of Human Capital Management issued by OMB for HHS and Education, and found that neither HHS or Education had received a grade of "Red" (unsatisfactory) since September 2003. Although Education has not received a "Green", (success) grade, it has received a Yellow (mixed results) grade since March 2003, and HHS received a Green (success) grade starting in September 2004.

While NHLA has shown that both agencies are two of the worst performing agencies in the area of Hispanic representation and hiring, the OMB PMA Scorecard for "Human Capital Management" gives other factors more weight in the rating process. This appears to minimize the importance of the goals of Executive Order 13171, which is a Presidential directive and should be given equal importance in rating agency performance.

This situation raises concerns that the goals of the PMA may be conflicting with the goals of Executive Order 13171, and causing agencies to focus more on achieving a good PMA Scorecard grade than the goals of Executive Order 13171. One of the factors that must be considered in this regard is that many agency officials regard the PMA Scorecard ratings as having an impact on their agency budget, while requirements pursuant to Executive Order 13171 do not.<sup>28</sup>

Another factor which may be influencing efforts to address Hispanic underrepresentation may be the level of importance which OPM has given the implementation of the PMA over the Executive Order. This is reflected in the OPM Director's February 16, 2006 Hispanic employment report transmittal letter to the President, wherein the OPM Director gives emphasis to the PMA over the Executive Order by stating in the closing paragraph of the cover letter, "I am committed to advancing the goals of your Management Agenda", instead of stating that she was committed to the goals of the Executive Order.

OPM's failure to recognize and ensure that the goals of the PMA do not create institutional impediments to the implementation of the goals of the Executive Order 13171 is another example of OPM's lack of leadership and commitment to improve Hispanic representation.

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<sup>27</sup> OPM, Retirement Projections – FY 2004 through FY 2013, April 30, 2004.

<sup>28</sup> GAO-06-214, Improved Coordination Needed Between EEOC and OPM in Leading Federal Workplace EEO, Pg. 11

## CONCLUSION

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The concept of a representative government is an important public policy goal because it affects the government's ability to meet the needs of its citizens. In this regard the federal government has failed the Hispanic community because OPM has not effectively carried out its mandate to ensure their full inclusion in the federal workforce.

The federal government has a responsibility to ensure that all Americans have access to social and economic programs and services. The underrepresentation of Hispanics impacts the development and implementation of policies and programs and impedes the effective participation of the Hispanic community in federally funded programs, services, and procurement opportunities.

OPM data demonstrates that Hispanic representation is worsening. Furthermore government oversight agencies including the GAO and MSPB have identified major failings in OPM's management of minority and Hispanic employment programs designed to improve the diversity of the federal government workforce.

NHLA's analysis of OPM's annual federal employment reports, and GAO, and MSPB oversight reports provides ample evidence that the underrepresentation of Hispanics in the federal workforce is not being effectively addressed by OPM, and that OPM's poor performance has contributed to Hispanic underrepresentation.

After reviewing numerous documents and reports related to the government's efforts to address Hispanic and minority underrepresentation, and considering the evidence they provide of OPM's failure to implement effective programs to address Hispanic underrepresentation, NHLA has determined that:

- OPM's reports on minority representation and Hispanic employment show a widening gap in Hispanic representation and an even wider level of underrepresentation in federal agencies which have critical importance to the advancement of the Hispanic community.
- OPM's *Fifth Annual Report to the President on Hispanic Employment in the Federal Government* misrepresents the current status of Hispanic federal representation. It also demonstrates that OPM is not providing leadership in developing long-term comprehensive strategies and accountability measures to ensure that federal agencies implement programs and procedures to improve Hispanic representation in accordance with the requirements of Executive Order 13171.
- OPM's annual report on Hispanic employment provides no indication that OPM is planning to implement measures to improve Hispanic hiring and promotions to SES ranks in response to the projected wave of vacancies in federal positions that are expected due to retirements.
- The GAO's most recent report on OPM's coordination of overlapping responsibilities with the EEOC documents OPM's failure to provide guidance, technical assistance, and compliance activities to accomplish the goals of federal policies designed to advance affirmative employment, workforce diversity, and eliminate underrepresentation.
- The MSPB report on the FCIP reveals OPM's lack of leadership in implementing government-wide standards and procedures to ensure the full utilization and success of the FCIP.

In view of these conclusions, NHLA finds that OPM has failed to ensure appropriate representation of Hispanics in the federal government, and has failed to carry out its mandate to provide equal employment opportunities to all minorities in accordance with federal laws, directives and policies.

Therefore NHLA gives OPM efforts to improve Hispanic representation in the federal workforce a failing performance grade.

## NHLA RECOMMENDATIONS

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When a central department of government has failed to produce results, changes must be made for the benefit of the nation. OPM has failed to accomplish measurable progress in addressing the underrepresentation of Hispanics in the federal workforce, and has failed to hold federal agencies accountable for their poor performance. Therefore, a critical question for Congress is whether the current efforts by OPM have any likelihood to succeed in eliminating the growing disparity that exists in the representation of Hispanics in the federal workforce, or whether a new strategy is required.

NHLA believes that no better case exists for change than the growing disparity in Hispanic representation in the federal workforce, and we strongly urge Congress to take immediate action to implement changes in the management of affirmative employment and workforce diversity programs. Allowing the current disparity in federal employment of Hispanics to continue is unacceptable and requires Congress' undivided attention.

**To succeed in eliminating Hispanic underrepresentation the federal government should implement the following recommendations:**

### EMPLOYMENT AND TRAINING INITIATIVES

- Engage in an aggressive recruitment initiative to increase the number of Hispanics that are hired annually.
- Implement a government-wide program to ensure the long term retention of Hispanic employees.
- Perform a comprehensive analysis to determine the causes of high separation rates for Hispanic employees.
- Develop effective employee training and career development programs that will provide incentives and opportunities for the participation and advancement of Hispanics in the federal workforce.
- Provide authority to agencies with Hispanic underrepresentation that is below the federal workforce representation level to utilize hiring preference programs and other incentives to increase Hispanic employment and retention.

### STRENGTHENING EXECUTIVE ORDER 13171

- Requiring agencies to prepare annual reports for community outreach, strategic recruitment, career development, and accountability initiatives to improve Hispanic representation, and give these goals and initiatives a higher value in the OMB PMA Scorecard rating process.
- Include applicant-flow data in E.O. 13171 in FEORP reports to provide statistical information on the racial and ethnic composition of applicants for federal positions.
- Include information on FCIP, SCEP, and other non-competitive appointment authority programs in E.O. 13171 and FEORP reports to provide information on Hispanic hiring under these programs.

### ACCOUNTABILITY

- Require annual reports on Hispanic employment pursuant to Executive Order 13171 to also be submitted to Congress.
- Give Hispanic Employment Program Managers independent responsibility and authority to monitor and prepare "Scorecard" reports on their agency's progress in implementing outreach, recruitment, career development and accountability measures to improve Hispanic representation pursuant to Executive Order 13171.

### OVERSIGHT

- Ensure the full implementation and use of the FCIP and SCEP and other flexible hiring authorities such as the bilingual-bicultural non-competitive appointment authority to recruit and hire Hispanic employees.
- Improve coordination between OPM and EEOC in areas where the agencies have overlapping responsibilities and EEO reporting requirements.

- Track and maintain Hispanic employment statistics in a consistent manner across all OPM reports and make data readily available to the public

**Congress should hold hearings on Hispanic underrepresentation based on the GAO's up-coming report, the GAO's June 2006 report on OPM and EEOC coordination, and the Merit Systems Protection Board report on the Federal Career Incentive Program.**

At the request of several members of Congress,<sup>29</sup> the Government Accountability Office has conducted a review of Hispanic underrepresentation, and is expected to issue a report in September 2006. The report will be the most extensive analysis of Hispanic underrepresentation to date, and will provide answers and raise many questions regarding the underlying reasons and potential solutions to this historical problem. Other recent reports by the GAO and MSPB also provide documentation and insight on OPM's management of affirmative employment and workforce diversity programs, and should be considered concurrently with the soon to be released GAO report on Hispanic underrepresentation.

Because of the long standing lack of improvement in Hispanic representation and growing disparity in Hispanic federal representation, congressional action is required to implement results-oriented systemic changes in the management of minority equal employment and recruitment programs by OPM. Without such action Hispanic underrepresentation in the federal government will continue to worsen.

To address Hispanic underrepresentation in a comprehensive manner, Congress should hold hearings and look to crafting legislation which will strengthen the government's efforts to improve Hispanic representation. Congress should also further investigate agencies that have made little progress, and specifically require HHS, Education, and other poorly performing federal agencies to report on their plans and programs to address Hispanic underrepresentation.

In conducting its review of Hispanic representation Congress should include witnesses from:

- Government agencies which are responsible for central leadership and administration of affirmative employment, workforce diversity and recruitment programs such as OPM, and EEOC, and federal management oversight agencies such as the GAO, OMB and MSPB.
- Human Capital and EEOC officers and directors from well performing and poorly performing government agencies.
- Hispanic federal employee organizations and advocacy groups.
- Hispanic federal employees who are in Senior Executive Service positions.

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<sup>29</sup> Letter to the GAO from Representatives Henry Waxman, Ranking Member, House Government Reform Committee, Rep. Danny Davis, Ranking Member, House Government Reform Subcommittee, Representative Charles Gonzalez, Chair Congressional Hispanic Caucus, Civil Rights Task Force, and Representative Ciro Rodriguez: October 1, 2003.

## DATA SOURCES AND WEBSITES

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**Bureau of Labor Statistics (BLS):** Labor Force Statistics from the Current Population Survey  
<http://data.bls.gov/PDQ/outside.jsp?survey=ln>

**Government Accountability Office (GAO):** Equal Employment Opportunity – Improved Coordination Needed between EEOC and OPM in Leading Federal Workforce EEO (June 2006)  
<http://www.gao.gov/new.items/d06214.pdf>

**GAO:** OPM Is Taking Steps to Strengthen Its Internal Capacity for Leading Human Capital Reform (June 2006)  
<http://www.gao.gov/new.items/d06861t.pdf>

**GAO:** Equal Employment Opportunity – The Policy Framework in the Federal Workplace and the Roles of EEOC and OPM (April 2005)  
<http://www.gao.gov/new.items/d05195.pdf>

**GAO:** Senior Executive Service – Enhanced Agency Efforts Needed to Improve Diversity as the Senior Corps Turns Over (October 2003)  
<http://www.gao.gov/new.items/d04123t.pdf>

**Merit Systems Protection Board (MSPB):** Building a High Quality Workforce – The Federal Career Intern Program (October 2005)  
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**OPM:** The Fact Book – Federal Employment Statistics  
<http://www.opm.gov/feddata/factbook/index.asp>  
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**OPM: Federal Equal Opportunity Recruitment Program (FEORP)**

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**OPM: Demographic Profile of the Federal Workforce**

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**OPM: Senior Executive Service Demographics**

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**FEDERAL AGENCY WEBSITES**

**Bureau of Labor Statistics (BLS)**

<http://www.bls.gov/>

**Chief Human Capital Officers Council (CHCOC)**

<http://www.chcoc.gov/>

**Equal Employment Opportunity Commission (EEOC)**

<http://www.eeoc.gov/>

**Government Accountability Office (GAO)**

<http://www.gao.gov>

**Merit Systems Protection Board (MSPB)**

[www.mspb.gov](http://www.mspb.gov)

**U.S. Office of Personnel Management (OPM)**

<http://www.opm.gov>

**U.S. Census Bureau: Equal Employment Opportunity**

<http://www.census.gov/hhes/www/eoindex/eoindex.html>

**HISPANIC NATIONAL ORGANIZATIONS AND HISPANIC EMPLOYEE ORGANIZATIONS WEBSITES**

**Council of Federal EEO and Civil Rights Executives**

<http://www.fedcivilrights.org/www.fedcivilrights.org/index.html>

**Federal Employee Coalition of Hispanic Associations (FECHA)**

<http://www.fecefed.org>

**Hispanic Employment Programs**

<http://www.hepm.org>

**IMAGE**

<http://www.nationalimageinc.org/>

**National Association of Hispanic Federal Executives (NAHFE)**

<http://www.nahfe.org/>

**National Council of Federal Hispanic Employment Program Managers**

<http://www.nationalcouncilhepm.com/>

**National Hispanic Leadership Agenda (NHLA)**

<http://www.bateylink.org/nhlaboard.htm>



## National Hispanic Leadership Agenda

The National Hispanic Leadership Agenda (NHLA) was founded in 1991 as a non-partisan coalition of major Hispanic national organizations, as well as distinguished Hispanic leaders from across the nation. NHLA's mission calls for a spirit of unity among Latinos nationwide to provide the Hispanic community with greater visibility and a clearer, stronger voice in our nation's affairs. NHLA seeks a consensus among Hispanic leaders to help frame policy to promote public awareness of the major issues facing Latinos. NHLA members represent the diversity of the Latino community—Mexican Americans, Puerto Ricans, Cubans, and other Hispanic Americans.

NHLA promotes consensus among Hispanic leaders and uses its collective voice to frame public policies and raise public awareness of the major issue that affect Latinos at the national level. To accomplish these goals NHLA issues reports, policy documents, and statements on issues affecting the Hispanic American community including a Congressional Scorecard, a Hispanic Policy Agenda, and reports on the administration's efforts to ensure the full inclusion on Hispanics in the federal workforce.

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