

with any contractor specified by him "until the agency has complied with the directions contained in the request."

There are no checks or balances to this delegation of authority to the Director of the Office of Federal Contract Compliance, to be legislator, judge and jury. Is there a time limit on approval of affirmative action programs? Where are the objective standards that a contractor must follow? How is this procedure to be administered on the local level? What has happened to due process?

The pre-award conference is untenable, the pre-construction scarcely better. There must be an alternative to the unreasonable delay caused by the subjective criteria imposed on contractors under the proposed pre-award procedure. A workable alternative would be to specify objective standards for a contractor to become an equal opportunity employer so that a class of contractors would be *pre-qualified* for bidding on federally assisted construction projects. Pre-qualification for highway contractors exists in Ohio with respect to financial solvency, responsibility and competency. See Sections 5525.02.09, Ohio Revised Code, and rules and regulations promulgated thereunder. There is no reason why criteria could not be established—after public hearings—to pre-qualify contractors with respect to their civil rights obligations. Pre-qualification would remove the uncertainty in bidding and avoid costly delays.

Racial discrimination cannot and will not be tolerated on public work projects in Ohio in which the Ohio Contractors Association is involved. Repeated efforts are being made to induce minority applicants to enter the construction industry. These efforts will be continued.

The ultimate success of the President's program on civil rights rests upon the good will and cooperation of those directly involved. The unbridled and unchecked powers given to the Director of the Office of Federal Contract Compliance in the proposed regulations authorize and permit an agency of the Federal Government to usurp legislative and judicial functions, create an agency uncontrolled by law, and permit the ends desired by the Office of Federal Contract Compliance to be accomplished by whatever means it desires.

The willingness to cooperate and assist in the struggle for civil rights will be set back considerably by raising the proposed regulations to the force of law. We urge that they be withdrawn and public hearings be held to investigate a pre-qualification procedure and the entire problem of civil rights in the construction industry so that justice to all may be achieved.

Sincerely,

KARL L. ROTHERMUND, Jr.,
Executive Director.

Mr. MILLER. Mr. Chairman, if I may, in conclusion, the American Road Builders Association is in complete sympathy with the philosophy and objectives of equal employment. There is little discrimination today in our industry. We have pledged our support to this program, and we intend to make it good.

The only thing we are asking of the Department of Labor, No. 1, to give us a hearing, which has been denied up to the present time; and No. 2, to please give consideration of the practical problems in the administration's program, and to give industry and the State highway departments an opportunity to implement to the best of our ability the desired objective.

Thank you, sir.

Mr. KLUCZYNSKI. Very happy to hear that.

Mr. Miller, have you spoken with the Secretary of Labor in regard to these hearings?

Mr. MILLER. The American Road Builders Association filed a formal petition for a hearing on this subject to the Secretary of Labor, and the hearing was denied. I do not understand, actually, the legal technicalities of denial, but presumably the hearing was denied because these procedures are being carried out under an Executive order, as distinguished from an act of Congress or a law.

And we therefore, Mr. Chairman, appeal to this distinguished body, at the earliest possible date, to please grant us an opportunity with