

Contractors Sue to Test Minority Hiring Plan

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The controversial Philadelphia Plan, under which the government would set hiring goals for minority construction workers on federal contracts, was challenged yesterday in its first court test. Philadelphia contractors filed suit attacking it as unconstitutional.

Earlier, however, Secretary of Labor George P. Shultz put renewed emphasis on the plan, revealing that the department "may very well go to Newark" with it and reaffirming his intention to apply it in Boston.

He also hinted that the inability thus far to consummate voluntary "hometown" solutions to the problem of minority construction employment

may require greater reliance on the mandatory Philadelphia Plan.

In Philadelphia, the first city in which the formula is to be applied, a U.S. District Court judge turned down a request by the Contractors Association of Eastern Pennsylvania for a temporary restraining order against the plan.

He set Jan. 26 for arguments on a permanent injunction.

The action came on the eve of the opening of bids for an Agriculture Department dam and water conservation project for Brandywine Creek — the first contract to which the government's hiring goals would apply.

The contract itself will probably not be let until at least after the court hears arguments on the injunction request, a Nixon administration source said last night.

Although none said so publicly, some government officials privately welcomed the

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sult as a means of clearing up the legal status of the Philadelphia Plan and establishing where they stand.

Comptroller General Elmer B. Staats ruled last fall that it violated the ban on discriminatory hiring in the Civil Rights Act of 1964. Subsequently, Attorney General John N. Mitchell found that it did not, and the White House took the position that the new opinion prevailed.

In the waning days of the session, he Senate tacked a rider onto a supplemental appropriations bill prohibiting the expenditure of funds on federal contracts that the Comptroller General found in violation of the law. The bill was enacted without the rider after the House knocked it out.

In Philadelphia, the formula would apply to only six of the best-paid crafts where minority employment was found to average little better than 1 per cent of the work force. The plan establishes a range of goals—attacked as "quotas" by opponents—that would result in an average of 20 per cent minority employment after several years. Even if it failed to meet these goals, a construction firm would not lose its contract if it proved good faith efforts to comply.

The contractors' association argued yesterday that attempts to comply with the Philadelphia Plan would violate the Civil Rights Act and would expose contractors to "corrective federal action and civil penalties." It said its

members are not opposed to affirmative action in hiring Negroes and other minority workers, however, and are "unequivocally in favor of such a program."

Reviewing the results of his first year in office, Secretary Shultz told reporters that the Labor Department expects to set guidelines for hometown solutions to minority hiring. He acknowledged that no such agreements have been completed although negotiators are fairly close in Pittsburgh and Chicago.

Shultz also released figures showing that three big textile firms—Burlington Industries, J. P. Stevens & Co. and Dan River Mills—have increased the percentage of minority employment (mostly Negro) from 17.4 to 18.3 per cent in

the six months since they were awarded government contracts on the basis of their verbal assurances to Defense Under Secretary David M. Packard that they would improve minority hiring practices.

Minority workers comprised nearly 33 per cent of the "new hires" at these three firms plus two smaller ones subsequently included in the program, Shultz said. And 32 per cent of in-plant promotions at the five firms went to minority employees, he said.

On another subject, the Secretary said that at the end of October there were 411,000 persons enrolled in government manpower work and training programs—an increase of 34 per cent over the level 12 months before.