

ETA Questionnaire and Responses

**WIA SERVICES FOR PERSONS WITH DISABILITIES
QUESTIONS FOR THE EMPLOYMENT AND TRAINING ADMINISTRATION**

I. Department of Labor’s Goals for Serving People with Disabilities

1. What are ETA’s goals for providing comprehensive access to the WIA One-Stop system for persons with disabilities?

Answer: ETA’s goal is to have a One-Stop Career Center system that provides integrated, meaningful, and effective participation in all WIA-funded programs and activities that are physically, programmatically, communications accessible to persons with a range of disabilities.

2. What does ETA know about the States’ goals for providing comprehensive access to the WIA One-Stop system for persons with disabilities?

Answer: WIA requires states to submit 5-year State Plans. After PY 2010, State Plans will have to be submitted at least every two years, and a “rolling submissions” option will allow states flexibility to update their State Plans. The state plan requirements include that states: identify major customer segments (including persons with disabilities), their needs, and the state’s ability to meet them; and provide information on how they will implement services to “special populations,” including adults and youth with disabilities. The state plans are reviewed by the National and Regional ETA Offices. In addition, the ETA Regional Federal Project Officers (FPOs) use a Core Monitoring Guide, when conducting project site visits. This Guide includes questions about accessibility for persons with disabilities (i.e., Objective 2.3, Civil Rights, Indicator 2.33 relates to whether the “grantee location and facility, or part of the facility, is accessible and useable by persons with disabilities.”) and other questions pertaining to strategies to recruit and serve participants who meet the target group criteria identified in the grant (i.e., Indicator 4.13). The FPOs report on this element in their monitoring reports.

Lastly, to receive DOL/ETA funding under the Disability Program Navigator (DPN) grant initiative, the states must:

“Provide a comprehensive action plan, which addresses compliance with specific legal requirements related to architectural and programmatic accessibility of One-Stop Career Centers, provisions of equally-effective communication for and with individuals with disabilities, provision of reasonable accommodations and modifications, and general nondiscrimination and equal opportunity for individuals with disabilities.

Applicants must confirm that all One-Stop Career Centers in the state comply fully with the applicable requirements related to architectural accessibility, as set forth at 29 CFR 32.36 through 32.28. If all the One-Stops do not comply fully with the applicable accessibility requirements, applicants should identify any outstanding accessibility issues of non-compliance in the state, including: (a) plans for corrective action, such as addressing communication elements and features; (b) a time-line by which the corrective action will occur; and (c) the approximate level of funds that are required for completion. The timeline for completion must not exceed six months following the award.” (DPN SGAs, 2003-2008). The DPN state grantees have indicated to the National DPN Program Office that their state undergoes annual or bi-annual EEO compliance reviews, including accessibility.

Based upon the DPN annual grant submissions (which include approximately 42 state grantees), reviews of accessibility are conducted regularly by EEO staff or others utilizing the Section 188 Checklist or other approved assessment tool. ETA’s information about the States’ goals for providing comprehensive access to the WIA One-Stop system for persons with disabilities is derived from the above-mentioned sources. This information leads ETA to believe that there has been significant improvement in the One-Step Career Center’s accessibility since the passage of WIA in 1998.

Also, states are required to have a Methods of Administration (MOA), which details how the state will ensure compliance with the Nondiscrimination and Equal Opportunity Regulations for WIA, including Section 188 of WIA and its implementing regulations (29 CFR part 37), that pertains to people with disabilities. The Civil Rights Center (CRC), ETA, and ODEP, issued the Section 188 Disability Checklist, July 22, 2003, which was designed to assist recipients of WIA Title I Federal financial assistance ensure that their Stop Career Center delivery system is accessible. All Governors must submit an MOA that has been approved by the CRC Director at least very two years

ETA and ODEP are also working on a joint collaboration as part of the FY/PY 2010 appropriation language. Plans include an evaluation of accessibility in One-Stop Career Centers. Results are expected to be available in FY 2011.

3. How does ETA measure progress towards improving access to the WIA One-Stop system by people with disabilities?

Answer: By using the WIA performance measures and compiling qualitative/anecdotal information from the DPN grantees, stakeholders, etc.

4. Has ETA conducted any risk assessment to identify factors that could limit accessibility of WIA One-Stop services to people with disabilities? Has ETA developed a risk management plan to address them?

Answer: No

5. In a December 2004 Report (“Labor Has Taken Several Actions to Facilitate Access to One-Stops for Persons with Disabilities, but These Efforts May Not Be Sufficient,” GAO-05-54), GAO recommended that DOL should develop and implement a long-term plan for ensuring that the one-stop system complies with the comprehensive access requirements for people with disabilities. GAO subsequently reported that DOL had developed a framework, finalized and approved the then ETA Assistant Secretary, which sets forth the ideal goals that DOL seeks to accomplish to promote excellence in service delivery for people with disabilities in the One-Stop Career Center system. Is the framework that GAO references a written document? If so, please provide a copy.

Answer: Yes. OPDR has the final copy, which was signed off on by ETA, CRC, and ODEP.

II. Characteristics and Needs of Jobseekers with Disabilities

1. For each of the following items, what additional information does ETA collect and review, in addition to WIASRD, about the characteristics and needs of jobseekers with disabilities that use the WIA One-Stop system?
 - What sectors of the economy are likely to hire persons with disabilities?
 - What is known about employment histories?

Answer: ETA has not conducted a systematic study of these issues. However, there has been limited information compiled on these questions from ETA’s DPN state grants. WIASRD data is limited and does not include specific disability characteristics such as sensory or mobility limitations. In addition, many individuals with disabilities that access the One-Stop system do not disclose their disability.

ETA is in the process of conducting a quantitative evaluation involving four DPN state grantees utilizing Mathematica Policy Research, Inc. which will take individualized WIA and Wagner-Peyser data on service levels and outcomes and comparing these against Social Security Administration’s disability rolls. ETA expects to get the MPR report some time in February or March. There will be more characteristic information in the SSA data and may provide some analysis of trends.

2. Has ETA noticed any change in the characteristics of this group since PY 2005?

Answer: Not specifically. However, there is accepted knowledge in the workforce and disability fields that unemployment increases the likelihood of

latent disability issues surfacing that were previously dormant or new disabilities emerging due to stress of unemployment. Given the state of the economy over the past two years, there is likely a substantial increase in job seekers with disabilities who are accessing the One-Stop system. It is also known that many populations with significant barriers to employment, such as TANF and ex-offenders, have a large incidence of disability. The current economy makes it less likely that these individuals will be able to obtain self-sustaining employment and will be in need of training and support services through the workforce system.

3. How does ETA use these data to plan WIA services to meet the needs of jobseekers with disabilities that use the One-Stop system?

Answer: The planning and delivery of services is established at the state and local level under the WIA.

1. What does ETA know about similar information that the States may collect and use in planning employment and training services (both WIA and non-WIA) to people with disabilities?

Answer: This information is compiled on a limited basis from the DPN state grantees. It would also be included in the state WIA plans and annual reports.

III. WIA One-Stop Services to Jobseekers with Disabilities

Statutory Responsibilities and Oversight

1. What are ETA's statutory responsibilities to ensure States and local workforce investment areas (LWIAs) provide physical and programmatic access for persons with disabilities?

Answer: WIA, Section 188, 29 CFR 32.36 through 32.28.

2. What role does ETA play to ensure the States and LWIAs are complying with Section 188 of WIA (e.g., CRC enforcement, ETA Regional Office monitoring)? What guidance has ETA issued on Section 188 compliance?

Answer: Refer to answer #1. ETA, CRC, and ODEP issued a Memorandum and WIA Section 188 Disability Checklist to all: State Workforce Liaisons, Workforce Agency Administrators, One-Stop Career Center Leads, State EO Officers, Job Corps Contractors, Job Corps Center Directors, and National Program Grantees, on July 22, 2003. The Regional Offices conduct comprehensive reviews of states, using the Core Monitoring guide, which includes compliance with sec. 188.

Use of WIA Services by People with Disabilities

1. Is use of WIA Adult and Dislocated Worker Program services (e.g., Core, Intensive, Training, ITAs) by individuals with disabilities significantly different than use by those without disabilities, and what factors may explain any differences?

Answer: ETA does not collect data that would support or refute this statement.

2. Is use of WIA Youth Program services (e.g., education, employment services, youth development) by individuals with disabilities significantly different than use by those without disabilities, and what factors may explain any differences?

Answer: There are much higher reported numbers of youth with disabilities accessing WIA services than adults with disabilities. The reasons may be because: youth with disabilities transitioning from special education into the WIA system are already self-identified as having a disability (i.e., have an IEP) and eligibility for WIA youth services permit a youth with a disability to be a family of one, thereby easing income eligibility. Utilization of specific services by youth have not been analyzed.

3. What percent of individuals with disabilities, that used training services, received an Individual Training Account? What did they get trained for? What types of jobs did they obtain (e.g., occupation of employment)?

Answer: ETA will provide the information that is available at a later date.

4. Does training for WIA One-Stop staff include how to work more effectively with jobseekers with disabilities?

Answer: Yes, in those One Stop Career Centers that have Disability Program Navigators. A major role of the DPNs was to train One-Stop Career Center and partner staff on how to serve customers with disabilities, assessments, outreach, community-based resources, disclosure, assistive technology/accommodations/universal design, work and tax incentives, Federal, state, and local services, benefits, etc. ETA also worked with the Disability Business and Technical Assistance Coordinating (DBTAC) grants to develop a free, on-line training for One-Stop staff called "At Your Service". ETA has also hosted many webinars on disability related issues on Workforce3One which is available to One-Stop staff. ETA has recently implemented a community of practice platform page on Workforce3One that includes videos and narratives on successful practices when working with individuals with disabilities in the workforce system. Further, the new ETA-ODEP Disability and employment Coordination Initiative plans to develop a curriculum module for front-line One-Stop Career Center staff on serving customers with disabilities.

5. Have local workforce areas that received “Disability Navigator” grants achieved their objectives?

Answer: Some states have performed better than others and achieved greater overall success. The DPN Initiative was designed as a pilot program and has been generally identified as very successful. Based upon this success, ETA expects the states to fund the DPNs on a permanent basis through other workforce resources.

6. Did “Disability Navigator” grants result in expanded system capacity to serve people with disabilities?

Answer: Please see attachment which provides information that is based upon informal surveys of DPN grantees.

One-Stop Partners

1. What activities has ETA conducted to engage employers in planning WIA employment and training services for people with disabilities? What are the outcomes of these efforts?

Answer: ETA has engaged employers in planning WIA employment and training services to people with disabilities mainly on the State and LocalWIB levels, through the work of the DPNs s, including their work with local Business Leadership Networks (BLNs) and local Business Advisory Councils. There has been an increased number of training (including the development of materials) targeted to local business on the business case for hiring persons with disabilities/ROI.

2. What procedures does ETA have in place to assess and improve how it works with other One-Stop partners that can provide services to people with disabilities (e.g., Vocational Rehabilitation, Adult Education, and TANF)?

Answer: ETA staff work closely with other Federal partners (e.g., VR, Adult Education, TANF, SSA, etc.) to coordinate and leverage resources to improve employment outcomes for individuals with disabilities. ETA has been and continues to be involved in several major inter-agency Initiatives with these Federal partners around disability and employment- related issues.

IV. Outcomes for People with Disabilities That Use WIA One-Stop System

1. In addition to data reported in WIASRD, does ETA have additional information on the following questions:
 - What are the outcomes for people with disabilities that “exit” from the WIA One-Stop system?

Answer: No.

- For those “exiters” who obtain employment, what types of jobs do they obtain (e.g., occupation of employment)?

Answer: No.

2. Has ETA provided guidance to local workforce areas on how to work with employers and other agencies to increase retention and earnings for people with disabilities?

Answer: No

3. What does ETA know about the impact of providing this guidance (e.g., has it increased retention and earnings)?

Answer: No.

4. What is the status of participants with disabilities that did not “exit” from the programs?

Answer: ETA does not have data on this.

V. Evaluation of WIA Services to People with Disabilities

1. What independent evaluations has ETA done to assess the WIA One Stop system’s capacity to serve jobseekers with disabilities?

Answer: As mentioned above, ETA is conducting an independent evaluation of the DPN initiative under a contract with MPR. Other independent evaluations have been conducted under other entities such as the Urban Institute report for the Ticket to Work and Work Incentives Advisory Panel entitled, “Serving People with Disabilities Through the Workforce Investment Act’s One-Stop Career Centers,” November 4, 2004.

2. What are the evaluations’ objectives?

Answer: DPN evaluation is to determine the impact of the DPNs on workforce services and outcomes for Social Security Administration disability beneficiaries. Specifically, ETA expects to see the level of usage of WIA and Wagner-Peyser services by these beneficiaries, the extent to which these individuals disclose their disability, any characteristics information that impacts services and outcomes, and the extent to which these beneficiaries obtain employment and exit the SSA rolls.

3. What were the outcomes of the evaluations (e.g., findings and recommendations)?

Answer: N/A (The Report cited above stated that “The One-Stop system as a whole-often with the help of special grant funding [ETA- funded WIGs and DPNs] has made significant strides since WIA’s inception in reducing barriers pertaining to physical access and inability to address special accommodation needs. There also appears to be growing recognition that the focus on accessibility for people with disabilities with respect to the One-Stop system must move beyond physical and technological access to include a broader effort to address programmatic access. Although there is no comprehensive source of information available to determine how fully programmatic accessibility has been achieved across the One-Stop system, various case studies of One-Stop Career Centers suggest that progress has been made in this area as well-although generally not as much as with improving physical and technological access...” (Page #2)

4. What actions have ETA taken or plan to take as a result of evaluation findings and recommendations?

Answer: Although ETA has not conducted independent evaluations to assess the WIA One Stop system’s capacity to serve jobseekers with disabilities, it has listened to disability stakeholders, the One-Stop Career Centers staff, and other reports and responded by funding the Work Incentive Grants (WIGs) from 2000-2006 and the DPN grants from 2003-until 2010; both of these initiatives focused on expanding the capacity of the One-Step Career Center system to serve persons with disabilities by: promoting physical, programmatic, and communications accessibility; training front-line One-Stop and partner staff; purchasing assistive technology; developing with community-based organizations and mandated and non-mandated One-Stop partners; conducting outreach to persons with disabilities; conducting outreach to employers.

Additional Questions for ETA:

1. How does ETA coordinate and communicate with CRC and ODEP in ensuring that States and LWIAs are complying with Section 188?

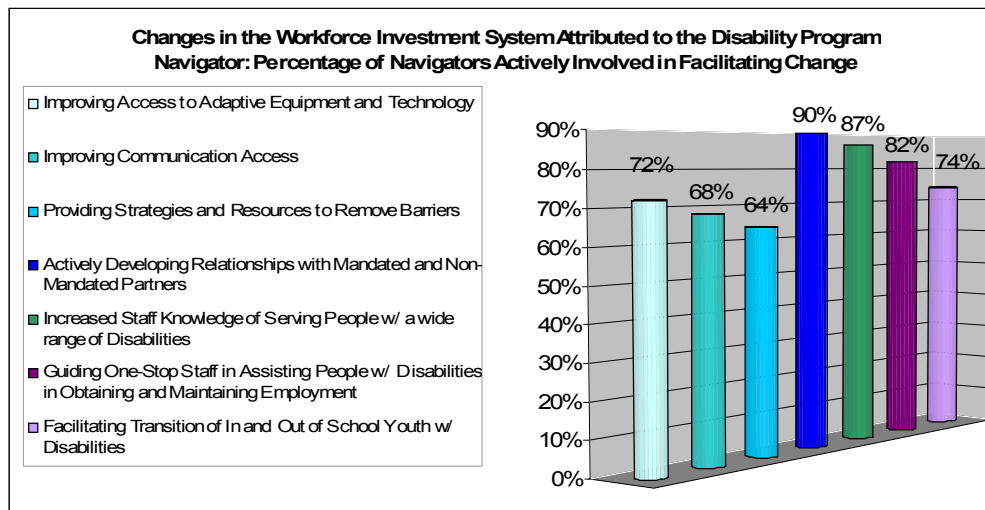
Answer: ETA meets and consults with both CRC and ETA on an as needed basis on issues related to accessibility of the One-Stop Career Centers. There have been joint webinars, conference workshops and grantee teleconferences conducted jointly with CRC and ODEP. If CRC finds any Section 188 violation in a state’s One-Stop system, it informs ETA and both agencies (including the Regional Office) try to work on a resolution of the issue.

2. What are the goals and plans for the joint \$24 million project with ODEP “built on lessons learned” from the Disability Program Navigator grants?

Answer: In anticipation of the new funding, ETA and ODEP established a collaborative, integrated team composed of representatives from both agencies and have met a number of times to determine the approach to the use of the funds. A Report to Congress is due Jan 15, 2010 and this is currently in DOL clearance. ETA and ODEP are also in the process of finalizing a Memorandum of Agreement on coordination activities. This is also in clearance. A work plan has also been developed that includes timelines and implementation activities.

Evaluation of the DPN Initiative

Data collected over the past 6 years provides a strong picture of improved access and an increase in the effective and meaningful participation of individuals with disabilities in the workforce investment system through the work of the Disability Program Navigators.



Changes in the Workforce Investment System attributed to the Navigator:

- One Stop Career Centers are more accessible (physically, programmatically and attitudinally).
 - 72% are working to ensure that adaptive equipment and technology is readily available in One Stop Career Centers and to make sure the staff is trained in its use.
 - 68% are working to improve communication between the staff in the One Stop Career Center and other systems of support.
 - 64% are working to identify strategies and resources that remove barriers to program access and services.
- One Stop staff has more tools and resources to serve all customers.
 - Developing relationships with mandated and non-mandated partners to foster collaboration in the delivery of services for a diverse population of customers, 90%.
 - Increasing staff knowledge on serving customers with a wide range of disabilities, 87%.
 - Guiding One Stop staff in helping people with disabilities access and navigate the various programs that impact their ability to retain employment, 82%.
- Youth with disabilities are being connected to the workforce investment system.
 - 74% are facilitating the transition of in or out of school youth with disabilities to obtain employment and economic self-sufficiency.

- The Navigator is helping to build the bridge between partner and community agencies and the One Stop to reduce duplication of services.
 - Over 80% of Navigators have established or participate on a local interagency action committee to address systems level barriers to employment for groups of job seekers with disabilities on a regular basis. The primary partners represented in these working groups include: VR Counselor (68%); community based organizations (64%); and One Stop WIA Counselors.

Building System Capacity through Connections with Other Initiatives

Promotion of employment as a means to advance economic self-sufficiency for all people, including people with disabilities, ties into asset building strategies (Individual Development Accounts, Earned Income Tax Credit), and the workforce system becoming Employment Networks (ENs) through SSA's Ticket to Work Program.

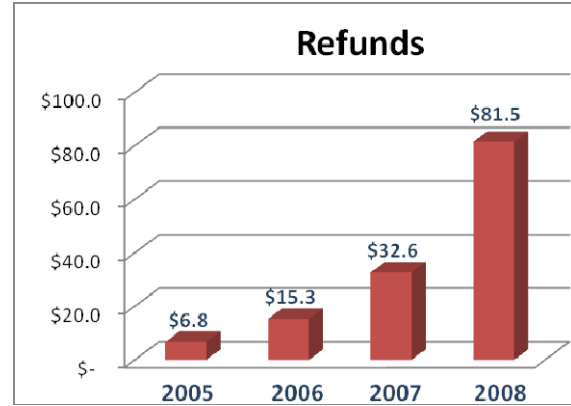
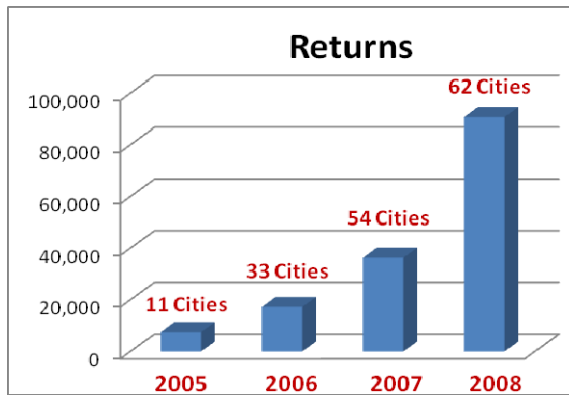
Through building relationships with other programs, the DPN Initiative has served as the liaison to the workforce investment system to help expand opportunities for job seekers with disabilities. Navigators are involved in these collaborative efforts to leverage resources and create system change. Two such efforts include the aforementioned asset building strategies and the Ticket to Work Program.

Real Economic Impact Tour (REI Tour)

The National Disability Institute and Internal Revenue Service (IRS) through the Real Economical Impact Tour (REI Tour) is bringing free tax preparation and other asset building strategies to workers, with and without disabilities, with low incomes. The national DPN Program Office is working with this initiative to show how the public workforce investment system can assist in creating economic transformation in regional economies across the nation through innovative asset building strategies.

Through this relationship, DPNs have been instrumental in connecting One Stop Career Centers to this tour to help build partnerships that are contributing to their region's economic development vision through free tax preparation (Volunteer Income Tax Assistance and use of the Earned Income Tax Credit (EITC), other asset building strategies, referral, and resource information dissemination.

- Since 2005, the REI Tour provided free tax-filing assistance to 151,751 taxpayers with disabilities with refunds of \$136,374,700.
 - The REI Tour grew from 11 cities in 2005 to 62 cities in 2008.
- In the 2008 filing season, REI Tour partners prepared over 90,000 tax returns with over \$81 million in refunds received by persons with disabilities.
 - Of the 62 REI Tour cities, DPNs were national partners in 39 (63%).



Source: *Building a Better Economic Future for Americans with Disabilities Annual Progress Report on the 2007 - 2008 Real Economic Impact Tour*. National Disability Institute. Available at <http://www.reitour.org/>

- In 2009, there are 84 participating cities.
 - DPNs are national partners in approximately 66 (79%).

Most Significant REI Tour Accomplishments in 2008

- Increased free tax returns prepared by 150% from 2007, and assisted 90,653 persons with disabilities in 2008.
- Increased refunds to taxpayers with disabilities from 2007 to 2008, from \$32.6 million to \$81.5 million.
- Created over 2,016,165 outreach contacts in asset building education and media information in 2008.
- Convened national veteran workgroup that is building strategies to better serve veterans with disabilities in the 2009 filing season.

Ticket to Work Program

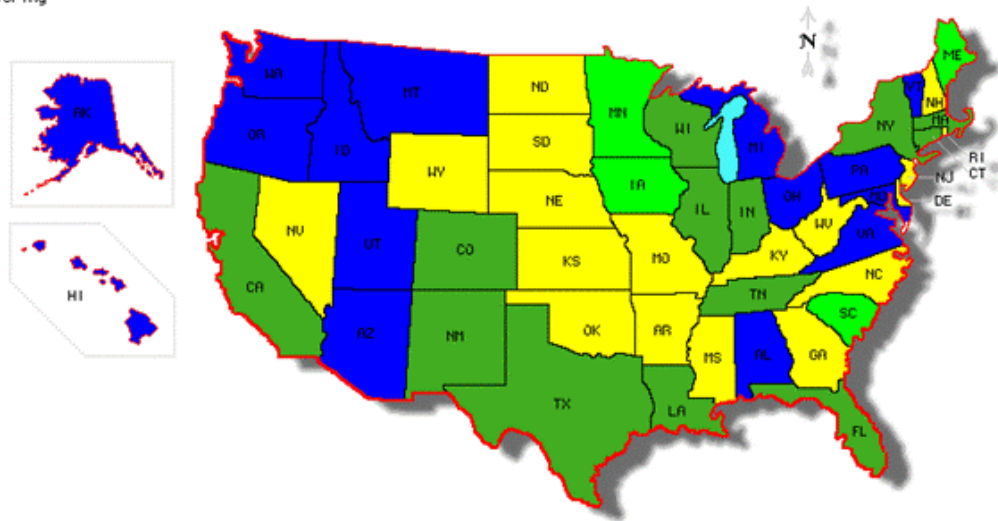
The 2005 proposed changes to the Ticket to Work regulations established a renewed enthusiasm for the potential benefit of the Ticket to Work program for both Ticket Holders and Employment Networks that provide the services to meet their return to work needs. Since the passage of the 1999 Ticket to Work and Work Incentives Improvement Act, the Social Security Administration has contracted with several entities to support the administration of the Ticket program. In November 2007, National Disability Institute became a sub-contractor of one such entity, CESSI, to educate local and State Workforce Boards on how the proposed changes impact their role in the Ticket program and to support them in making the decision to serve Ticket Holders as an Employment Network (EN).

Working in close partnership with the Disability Program Navigator Initiative, DOL-ETA, CESSI, SSA, and other contracted partners, success has been achieved through a strategic approach of national training, state directed training, individual technical assistance, Workforce specific marketing materials, the inclusion of national partners and the leveraging of trusted relationships.

- To date, NDI in partnership with the national DPN Program Office has utilized state and local level DPN grantees to engage Workforce Systems in 40 of the 50 states, the District of Columbia and Puerto Rico to explore the option of becoming an EN.
- Over the past 19 months, 6 State Workforce entities and Regional entities have become ENs, resulting in 119 new One Stop locations in 16 States, Puerto Rico and the District of Columbia that accept Tickets.
 - In 2008, nearly 30% of the 292 new Employment Networks in 399 locations were workforce investment entities.
 - Since the promotion of changes to the regulations in 2008, 21% of the 638 new EN locations (or 135 new EN locations) are workforce investment entities.

Recruitment of Workforce Partners

- - EN at State Level
- - EN at Regional Level
- - RFP in Process
- - Exploring



NOTES:
 The District of Columbia is an EN at the "State" level with 2 locations. Puerto Rico is an EN at the "State" level with 16 locations

6-5-09

Ticket to Work Impact Study

NDI provided support to one state, Iowa, and one region, Jacksonville, to study the impact of the proposed Ticket payments on customers served by the One Stop system in 2006. The data generated by the study confirms that One Stop Career Centers provide services to a pool of Ticket Holders that did not identify themselves as having a disability. These individual were successful in securing employment through the One Stop system and worked at a level that would provide an EN payment to the One Stop as an EN.

- In Florida, 1,009 potential Ticket holders returned to work through services received as One Stop customers in 2006. The potential revenue, under the proposed Ticket regulations, for serving these Ticket Holders is \$1,679,770.

- In Iowa, 1,777 potential Ticket holders returned to work through services received as One Stop customers in 2006. The potential revenue, under the proposed Ticket regulations, for serving these Ticket Holders is \$2,586,665.

June 2, 2009

ODEP Questionnaire and Responses

**WIA SERVICES FOR PERSONS WITH DISABILITIES
QUESTIONS for ODEP**

I. Department of Labor’s Goals for Serving People with Disabilities

1. What are the Department of Labor’s (DOL) goals to serve people with disabilities through the WIA One-Stop system?

Specific Questions for ODEP: How does ODEP support the DOL in answering achieve its goals to serve people with disabilities through the WIA One-Stop System (strategic plan)

ODEP supports DOL’s efforts to serve people with disabilities in WIA One-Stop System through policy research and analysis, pilot demonstration programs, technical assistance, and outreach related to the employment of people with disabilities.

2. What does DOL know about the States’ goals for providing employment and training services to people with disabilities?

Specific Questions for ODEP: What does ODEP know about the States’ goals?

States do not set specific goals or targets for serving people with disabilities. Through our technical assistance efforts, ODEP works with states to increase their service capacity and coordination efforts across the workforce development systems (e.g., vocational rehabilitation, mental health, etc.) to serve people with disabilities.

3. How does DOL measure progress towards achieving its goals for serving people with disabilities through the WIA One-Stop system?

Specific Questions for ODEP: How does ODEP measure its progress towards achieving its goals for serving people with disabilities?

The WIA does not specify goals or targets for service delivery. ODEP does not provide direct service to people with disabilities. ODEP’s work is focused on policy, research, evaluation, and analysis of the systems that provide services. ODEP’s long term outcome goal is “implementation of ODEP identified disability employment-related policy and practices by targeted agency partners, and public and private employers.” This goal is measured by achieving system-wide change through the “number of targeted Federal, state, and local agencies and employers implementing ODEP identified disability employment-related policy and practices.”

4. Has DOL conducted any risk assessment to identify factors that could prevent achieving these goals? Has DOL developed a risk management plan to address them?

Specific Questions for ODEP: Has ODEP done any risk analysis related to identifying factors that could prevent achieving these goals?

ODEP, in collaboration with CPPR, has conducted evaluations designed to assess the effectiveness of the agency's performance measurement and results. An assessment completed in 2008 by Eastern Research Group, Inc., resulted in a recommendation to conduct an evaluation of ODEP's redefined performance measures and supporting processes. In FY 2010 ODEP plans another evaluation to conduct an "Agency-wide look-back study to assess ODEP's impact on disability employment and related systems" that is aligned with ODEP's new performance measurement system.

II. Characteristics and Needs of Jobseekers with Disabilities

1. What information does DOL (ETA, **ODEP**, and CRC) collect and/or review about the characteristics and needs of jobseekers with disabilities that use the WIA One-Stop system?

In general ETA's WIASRD data collection system collects general disability status of jobseekers with disabilities. The data are not categorized into disability-specific categories.

- What data are available about the characteristics of disabled job seekers?

Characteristics include state and local program exiters with disabilities, age, gender, race/ethnicity, veteran status, number of exiters, employed at participation, wages, limited English language proficiency, single parents, UI status, public assistance recipient, homeless, offender, and education attainment,

- What are the variations by gender, race, etc.?

In 2008 43% of adult exiters were women; 57% were men. 9.7% were Hispanic; 1.6% were American Indian or Alaskan Native; 1.3% were Asian; 27.6% were African American; 57.1% were White; and 2.4% were more than one race. The data also indicate that 14.5% of youth served had a disability.

- What is known about employment histories?

The 2008 data indicates that 12.2% of jobseekers with disabilities were employed at the time of program participation; and 87.8% were not employed or received a layoff notice.

- What sectors of the economy are likely to hire persons with disabilities?

This data is not collected.

2. How have the characteristics of this group changed since implementation of WIA?

Although we have not conducted extensive research on this, ODEP has no evidence that these characteristics have significantly changed over time.

3. How does DOL use these data to plan WIA services to meet the needs of jobseekers with disabilities that use the One-Stop system?

This question is more appropriate for ETA, as the role of ODEP is strictly the provision of technical assistance and research to support their efforts.

4. What does DOL know about similar information that the States collect and use in planning employment and training services (both WIA and non-WIA) to people with disabilities?

Again, this question is more appropriate for ETA.

III. WIA One-Stop Services to Jobseekers with Disabilities

Statutory Responsibilities and Oversight

No questions for ODEP at this time

Use of WIA Services by People with Disabilities

1. Have local workforce areas that received “Disability Navigator” grants achieved their objectives?

Specific Questions for ODEP: Has ODEP conducted any evaluations on the Disability Navigator grants? What are the goals of the \$24 million FY2010 initiative with ETA to build on “lessons learned” from the DNP grants?

ODEP has not conducted any evaluations of the DPN initiative. The goals of the FY 2010 initiative are to develop a: (1) design for a strategic approach to accomplishing the expressed Congressional intent in order to achieve Good Jobs For All – including Persons with Disabilities; (2) work plan and timeline for implementing the activities in the overall design, including mechanisms and

processes necessary for implementation; and (3) Memorandum of Agreement between our two agencies to formally establish the collaboration and set the parameters for oversight and accountability.

2. Did “Disability Navigator” grants result in expanded system capacity to serve people with disabilities?

Specific Question for ODEP: What does ODEP know about the grant results?

ODEP, working with ETA, has recognized the successful results from the DPN initiative. ETA has shared the results of its DPN evaluation with ODEP and we have used this information to design our FY 2010 collaborative plans.

In addition, prior ODEP pilot demonstration programs (youth and adult) were located in the One-Stops. Final results from these programs identified that the navigators were extremely useful in building systems capacity, including partnerships, capacity building, and sustainability of effective practices.

One-Stop Partners

1. What activities has DOL (ODEP) conducted to engage employers in planning WIA employment and training services for people with disabilities? What are the outcomes of these efforts? Are you aware of any additional activities that DOL has done?

ODEP currently funds an Employer Technical Assistance Center. The work of this center has just recently started (October 2009). We are currently working with the grantee on it’s work plan (final is due in January 2010). In collaboration with ETA, ODEP will ensure that the work plan includes employer engagement with the WIA system. In addition ODEP’s adult and youth technical assistance centers work with employers to promote WIA employment and training services.

2. What procedures does DOL (ODEP) have in place to assess and improve how it works with other One-Stop partners that can provide services to people with disabilities (e.g., Vocational rehabilitation, Adult Education, TANF)?

ODEP has an MOU with the Department of Education that outlines the procedures ODEP will put into place to enhance One-Stop partnerships with other Federal, state, and local agencies. For example, ODEP is aware that co-locating these agencies to improve access for people with disabilities is a somewhat effective practice. VR is a mandated WIA partner and we work with the Rehabilitation Services Administration to promote this and other identified best practices.

ODEP leads the “Federal Partners in Transition Workgroup,” which is comprised of staff from DOL, ED, HHS, and SSA. The Workgroup focuses on improving outcomes for transition age youth with disabilities.

ODEP is currently working through our national Technical Assistance Center housed at Rutgers University to promote leadership in state workforce agencies to partner with other state systems, including those that are disability specific (such as rehabilitation, social security etc) as well as generic (commerce, small business, TANF, etc.). Multiple strategies are being documented for successful partnership development through this activity.

ODEP also implements a cross-agency workgroup on Asset Development and Financial Education composed of 18 federal programs and agencies (including, VR, HHS, CMS, SAMHSA, Commerce, Treasury, IRS and others). The focus of this cross agency work group is to coordinate and leverage activities with a focus on enhancing employment profitability for people with disabilities, including through activities of the One-Stop and their state and local partners.

ODEP is partnering with the Centers for Medicare and Medicaid Services (CMS) to research and develop necessary information for expanded funding of supported and customized employment, including through the One Stop systems. This research will be completed later this year.

IV. Outcomes for People with Disabilities That Use WIA One-Stop System

No questions for ODEP at this time.

1. What are the outcomes for people with disabilities that “exit” from the WIA One-Stop System?
2. For those “exiters” who obtain employment, what types of jobs do they obtain (e.g., occupation of employment)?
3. Has DOL provided guidance to local workforce areas on how to work with employers and other agencies to increase retention and earnings for people with disabilities?
4. What does DOL know about the impact of providing this guidance (e.g., has it increased retention and earnings)?
5. What is the status of participants with disabilities that did not “exit” from the programs?

Specific Question for ODEP: In addition to the information within WIASRD, does ODEP have any additional questions on outcomes related to the above questions?

ODEP does not have additional questions at this time.

V. Evaluation of WIA Services to People with Disabilities

5. What independent evaluations has DOL (ODEP) done to assess the WIA One-Stop system's capacity to serve jobseekers with disabilities?

ODEP is in the process of designing a survey to assess One-Stop programmatic and physical accessibility using the 188 regulations and "Check List" developed several years ago.

ETA currently is conducting a longitudinal evaluation and the results are expected in the Spring of 2010.

ODEP conducted an independent evaluation of its pilot demonstration programs from 2000 through 2008. This evaluation documents the extent to which projects built systems capacity of those One-Stop Centers to provide meaningful and effective services to people with disabilities. Systems change includes information on models of partnership across systems, universal design of programs and services, and successful models for service delivery for people with disabilities.

Specific Question for ODEP: Are you aware of any other evaluations performed outside DOL, including those done by the States?

ODEP is not aware of additional evaluations that specifically investigated WIA services to job seekers with disabilities.

6. What are the evaluations' objectives?

Not applicable.

7. What were the outcomes of the evaluations (e.g., findings and recommendations)?

Not applicable

8. What actions has DOL taken as a result of the evaluations?

Not applicable.

Additional Questions for ODEP

1. Since FY 2005, how has ODEP supported WIA One-Stop System accessibility through its grants program and other activities?

ODEP's pilot demonstrations programs were completed in 2008. Since that time, ODEP's support to WIA One-Stop System accessibility has been achieved through on-going technical assistance and research.

2. What have been the results of these grants and activities?

ODEP's technical assistance centers' (Adult and Youth) results are currently being evaluated through an independent evaluation. This evaluation should be completed by April 2010.

3. How does ODEP work with ETA and CRC to ensure WIA One-Stop System accessibility for people with disabilities?

ODEP collaborates with CRC and ETA on an ongoing and regular basis. One result has been the proposed expansion of data collection of characteristics of jobseekers with disabilities in the WISPR data system. ODEP has also collaborated with ETA and CRC on the design of the survey previously mentioned. Finally ODEP, ETA, and CRC have collaborated on numerous TENS and TEGLS and other policy documents to the system.

CRC Questionnaire and Responses

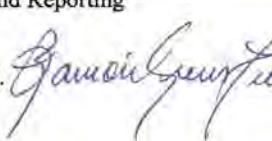
U.S. DEPARTMENT OF LABOR

Office of the Assistant Secretary
for Administration and Management
CIVIL RIGHTS CENTER
200 Constitution Ave, NW, Room N-4123
Washington, DC 20210



JAN 11 2010

MEMORANDUM FOR: DAVID STERLING
Acting Director
Office of Policy, Audit Management and Reporting
Office of Inspector General

FROM: RAMON SURIS-FERNANDEZ, ESQ. 
Director
Civil Rights Center

SUBJECT: Responses to OIG Questions Re: WIA Services For Persons With Disabilities

By memorandum dated December 7, 2009, Assistant Inspector General for Audit Elliot P. Lewis advised that the Office of Inspector General's (OIG's) Office of Audit was initiating a review of "the Department of Labor's [DOL's] efforts to ensure physical and programmatic access to the One-Stop Career System" for persons with disabilities. As agreed in our discussion with you at the December 14 entrance conference for this review, the Civil Rights Center (CRC) is providing the following responses to questions you conveyed to us by e-mail on December 18. A list of exhibits is appended to the end of this memorandum.

I. Department of Labor's Goals for Serving People with Disabilities

1. What are the Department of Labor's (DOL) goals related to serving people with disabilities through the WIA One-Stop system?

(Specific Question for CRC: How does CRC support the Department achieving these goals? Where can we find more information? (e.g. strategic plan, annual workplan?)

DOL's disability-related goals for the system include (but are not necessarily limited to) the following:

- The system is fully accessible and available to all people, including persons with disabilities.
- The workforce system targets in-school and out-of-school at-risk youth, including those with disabilities.

CRC's performance goals for FY 2011 include two goals that support the achievement of these DOL-wide goals:

- 1) Addressing the new responsibilities imposed on the Department by the passage of the Americans with Disabilities Act Amendments Act of 2008 (ADAAA or Amendments Act), which transformed the Federal disability nondiscrimination laws implemented and enforced by CRC; and

- 2) Re-focusing on enforcement of the nondiscrimination and equal opportunity laws that apply to external recipients of Federal financial assistance, including the laws that impose obligations related to disability.

Documents containing information regarding these goals include CRC's Congressional Budget Justification Narrative for FY 2011, attached as Exhibit 4.

2. How does DOL measure progress towards achieving its goals for serving people with disabilities through the WIA One-Stop system?

(Specific Question for CRC: What is CRC's understanding of how DOL measures its progress in serving people with disabilities through the WIA One-Stop System?)

Progress is measured via the performance accountability system required by WIA Section 136. Under ETA's TEGL No. 17-05 and follow-up documents, States and direct grantees of DOL employment and training programs must collect and report data on all participants, in order to provide an assessment of program impact. WIA Section 136 explicitly requires collection of data, and reporting of performance, regarding individuals with disabilities. *See, e.g.,* WIA Section 136(d)(2)(F), 29 U.S.C. 2871(d)(2)(F). Examples of indicators of progress include entry by participants who have completed training services into unsubsidized employment related to the training received. WIA Section 136(d)(2)(A), 29 U.S.C. 2871(d)(2)(A).

3. What is the status of the Department of Labor's agreement to develop and implement a long-term plan for addressing comprehensive access within the WIA One-Stop system, as recommended by the Government Accountability Office in its December 2004 report? ("Labor Has Taken Several Actions to Facilitate Access to One-Stops for Persons with Disabilities, but These Efforts May Not Be Sufficient?" GAO-05-04)?

DOL established a working group to develop the recommended long-term plan. Initially, the working group included representatives from ETA, ODEP, and CRC. This group developed a framework that delineated an overarching structure for the full work plan, and that included both the workgroup's goals and high level strategies for accomplishing those goals. CRC's then-Director approved the proposed framework in May 2005. It is CRC's understanding that management of both ODEP and ETA also gave their approval, and that the framework was submitted to and approved by GAO.

The most recent information CRC has with regard to the status of the work plan is contained in an October 21, 2008, memorandum from former Assistant Secretary for Administration and Management (ASAM) Patrick Pizzella to Brent R. Orrell, former Deputy Assistant Secretary (DAS) for Employment and Training. The memorandum stated that it was sent in response to an October 1, 2008, memo from DAS Orrell to ASAM Pizzella, conveying a copy of the aforementioned framework. ASAM Pizzella's responsive memorandum expressed concurrence with the high level goals set forth in the framework, as well as interest in having CRC contribute to the further development of the plan as part of a work group led by ETA.

CRC continues to work, both independently and in collaboration with ODEP and ETA, to achieve full compliance with disability-related requirements in the One-Stop system. Those efforts are described throughout this document.

II. Characteristics and Needs of Jobseekers with Disabilities

Not applicable to CRC.

III. WIA One-Stop Services to Jobseekers with Disabilities

Statutory Responsibilities and Oversight

1. What are DOL's statutory responsibilities to ensure States and local workforce investment areas (LWIAs) provide physical and programmatic access for persons with disabilities?

See section titled "Source of accessibility requirements and other disability-related requirements" in attached summary memo.

2. How does DOL (CRC, ETA, ODEP) ensure that States and LWIAs are complying with Section 188 of WIA related to One Stop Center accessibility (e.g., CRC enforcement, ETA Regional Office monitoring)?

As described in detail in our response to Question III(2)(d), CRC reviews Methods of Administration (MOA) documents submitted by States to ensure that the States have taken adequate measures to ensure compliance with nondiscrimination requirements, including requirements related to programmatic and architectural accessibility. CRC also receives and processes complaints alleging various violations of the nondiscrimination requirements, including those related to accessibility. See response to Question III(2)(a) below.

Additionally, under an informal arrangement between CRC and ETA, ETA's Federal Project Officers (FPOs) conduct on-site reviews of the compliance of recipients' facilities with applicable architectural and programmatic accessibility standards, during their visits to recipients' facilities to carry out their monitoring duties. CRC has trained, and supplied reference materials to, FPOs regarding the overall nondiscrimination and equal opportunity requirements of WIA Section 188 and its implementing regulations. The training and materials have included information about the accessibility requirements.

In addition, the WIA nondiscrimination regulations require State- and local-level agencies administering WIA financial assistance to designate Equal Opportunity (EO) Officers.¹ These agencies and their EO Officers have an independent obligation to assess compliance with nondiscrimination laws by covered entities within their jurisdictions, and to ensure that any violations -- including violations of the accessibility requirements -- are remedied. CRC reviews

¹ 29 CFR 37.23.

the State level compliance with this requirement during the MOA review process, during complaint investigations, and during compliance reviews.

Specific Questions for CRC:

a. What are CRC's written policies and procedures re: complaint processing re: Section 188?

The WIA nondiscrimination regulations at 29 CFR part 37 provide the underlying framework for CRC's processing of complaints filed under WIA Section 188. The specific provisions governing CRC's processing of complaints are found in 29 CFR 37.70 through 37.75 and 37.79 through 37.89. These provisions cover such topics as who may file a complaint, when a complaint must be filed, what information a complaint must contain, and what the CRC Director must do if he or she determines that a complaint will not be accepted.

CRC's complaint processing manual, first developed in 1983, is modeled after the U.S. Department of Justice's (DOJ's) procedural manual for processing complaints filed pursuant to Title VI of the Civil Rights Act of 1964. Since the initial CRC manual was produced, staff have revised various sections to clarify or modify the procedures. A copy of the current manual is attached as Exhibit I.

b. What are CRC's compliance assistance activities to ensure that WIA One Stop System is accessible to people with disabilities?

CRC staff members provide one-on-one technical assistance, including assistance on disability-related matters, to large and small recipients at various levels of the One-Stop system. This assistance is provided via phone, e-mail, or (in at least one recent instance) webinar. On average, CRC receives requests for such assistance several times a week. In addition, as discussed in detail in the response to the next question, CRC includes a page of Compliance Assistance Tools on its website.²

c. What written guidance has CRC, or CRC in coordination with ETA and ODEP, provided to the One Stop System on accommodations and other comprehensive access requirements?

Materials developed by CRC: CRC's disability-related compliance assistance tools are available on the agency's website at <http://www.dol.gov/oasam/programs/crc/Compassis.htm#Disability>. At present, the primary tool is a complete set of training materials, developed and distributed by CRC, regarding the disability-related requirements that apply to the One-Stop system. Those materials are available in the Disability section of the Compliance Assistance Tools page under the heading "Section 188 Disability Checklist Training." <http://www.dol.gov/oasam/programs/crc/Sec188.htm> The materials have been used by CRC to conduct major, two-to-three-day training sessions for State- and local-level recipients about the disability issues addressed in the Checklist. Staff of ODEP and ETA have assisted in presenting this training.

² This response does not address CRC's training activities, discussed in the response to Question V(4).

The training materials go into detail about compliance with various obligations imposed by the WIA nondiscrimination regulations. CRC has grouped related obligations (and the regulatory provisions that impose them) together by topic; the topics are known as Elements.³ Disability-related obligations are grouped into sub-elements under Element 5: for example, the requirements related to programmatic and architectural accessibility fall under Elements 5.6 and 5.7. See, e.g., PowerPoint presentation on “Elements 5.6 and 5.7: Programmatic and Architectural Accessibility,” <http://www.dol.gov/oasam/programs/crc/dElement5.67.ppt>. This presentation explains the “hierarchy of obligations” regarding architectural accessibility requirements, as well as the relationship between architectural and programmatic accessibility requirements.

The disability section of CRC’s Compliance Assistance Tools page also contains the WIA Section 188 Disability Checklist (see discussion below) and a PowerPoint presentation explaining the legal requirements related to collection, disclosure, and storage of medical and disability-related information. This presentation, also developed by CRC, is titled “Disability-Related Information: Asking, Telling, Using, Storing.” <http://www.dol.gov/oasam/programs/crc/AskingTellingUsingStoringOct05.ppt>

Materials developed by CRC in coordination with ETA and ODEP: CRC has been a primary partner with ETA and ODEP in developing and issuing several documents providing guidance for complying with the disability-related requirements.

CRC, ODEP, and ETA collaborated to produce the above-mentioned WIA Section 188 Disability Checklist, issued in 2003. The Checklist summarized the basic disability-related requirements imposed by WIA Section 188 and its implementing regulations at 29 CFR part 37, and provided examples of policies, procedures and other steps that recipients could follow “to ensure equal access to programs and services under WIA for people with disabilities.” The Checklist may be found on CRC’s website at <http://www.dol.gov/oasam/programs/crc/section188.htm>; the memorandum introducing and explaining the Checklist is at <http://www.dol.gov/oasam/programs/crc/WIASection188DisabilityChecklist.htm>.

The Checklist was issued well before the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) made significant changes to the text and interpretation of Federal disability nondiscrimination laws, including those applicable to the One-Stop system. Other aspects of the Checklist are also outdated.⁴ CRC intends to initiate revision and reissuance of the Checklist after the Equal Employment Opportunity Commission, the Department of Justice, and CRC itself publish final rules implementing the regulatory changes necessitated by the ADAAA.

³ The system of Elements was originally developed for use in the Methods of Administration (MOA) documents that must be submitted or revised periodically by each State’s Governor under the WIA nondiscrimination regulations. See response to Question 2(d) in main text.

⁴ For example, with regard to architectural and programmatic accessibility, the Checklist refers users to outdated guidance materials on the website of the U.S. Access Board. Those materials are designed to help assess compliance with the Uniform Federal Accessibility Standards (UFAS), which were replaced by the Architectural Barriers Act (ABA) Accessibility Standards as of 2006 and 2007. See <http://www.access-board.gov/ada-aba/aba-standards-gsa.cfm>.

Another guidance document, entitled “Demystifying the Rehabilitation Act: What Faith-Based and Community Organizations Need to Know,” was issued by DOL in April 2007. <http://www.dol.gov/opa/media/press/odep/archive/odep20070512.htm> Written in user-friendly language, the document was designed to help recipients of Federal financial assistance (including faith-based and community organizations) comply with disability-related legal requirements. Among other subjects, the document explains the circumstances under which the facilities used by recipients must comply with architectural accessibility requirements, and explains the difference between architectural and programmatic accessibility. The document was widely publicized by DOL when it was first issued, and is posted on ODEP’s website. <http://www.dol.gov/odep/pubs/fact/faith.htm> Although CRC, ODEP, and ETA all contributed to the development of the document, much of the text was drafted by CRC.

CRC has also helped plan the structure and substance of, contributed substantive text to, and/or participated in editing, various guidance documents being developed by ODEP, ETA, their contractors, or other DOL agencies. Examples include an “Info Brief” entitled “Disability Inquiries in the Workforce Development System” (available at http://www.ncwd-youth.info/assets/info_briefs/infobrief_issue9.pdf), which was credited to a staff member at the National Collaborative on Workforce and Disability for Youth, but written largely by CRC; the Data Collection Handbook prepared by a contractor for ETA’s Senior Community Service Employment Program (SCSEP); and an eLaws Advisor on disability nondiscrimination laws that was initiated by ODEP, but developed and drafted by representatives from the Office of the Assistant Secretary for Policy (ASP) and Office of the Solicitor (SOL), as well as ODEP and CRC. (The latter Advisor has not yet been posted on DOL’s website.)

d. What is CRC’s process for reviewing and monitoring of the Methods of Administration (MOA) (where is this requirement listed, what are source of criteria?)

The WIA nondiscrimination regulations set forth the basic requirements re: MOA submission. See 29 CFR 37.52, 37.54, and 37.55. The MOA is essentially a nondiscrimination plan: it must describe the actions a State will take to ensure that its WIA Title I-financially assisted programs, activities, and recipients are complying, and will continue to comply, with WIA Section 188 and its implementing regulations – including the requirements related to disability. See 29 CFR 37.54. A more detailed explanation of CRC’s expectations regarding MOAs appears in a guidance document published in the Federal Register in 2000, “State Guidance for Developing Methods of Administration (MOA) Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998,” 65 FR 51984 (August 25, 2000) (“MOA Guidance”). This document is attached as Exhibit 2, and is also available on CRC’s website at http://www.dol.gov/oasam/regs/fedreg/notices/State-MOA_EO-Guidance.htm (last accessed January 5, 2010).

The WIA nondiscrimination regulations are also the underlying source of the criteria for reviewing each MOA. The specific criteria used, however, are set forth in the MOA Analysis Checklist, attached as Exhibit 3, and also available on CRC’s website at <http://www.dol.gov/oasam/programs/crc/MOAChecklist.htm> (last accessed January 5, 2010).

The major phases of the MOA review process:

1. CRC reminds States of their due dates, offers technical/compliance assistance, and encourages States to make all revisions to MOAs prior to the submission deadline.
2. Under cover letter from Governor or Governor's designee, State makes formal submission of either revised MOA or certification that previous MOA remains in effect.
3. CRC reviewer/point of contact conducts a cursory review of the submission to make sure it meets minimum requirements for initiation of full review. These requirements include sufficient narrative and supporting documentation.
4. Formal review conducted. Criteria used for review are set forth in the MOA Analysis Checklist, and, if appropriate in a given case, the WIA Section 188 Disability Checklist. Review is expedited by use of telephonic and email requests for additional information and changes.
5. The State must make the requested changes and resubmit relevant portions of the revised MOA in a neat and orderly manner. The changes must be labeled specifically with instructions pertaining to their location in the overall MOA document. CRC consults with the State by telephone and e-mail regarding the resubmitted material. Where no additional or revised material is submitted upon request, or where the additional or revised material is inadequate to demonstrate compliance, CRC will issue a letter informing the State of the actions that must be taken to bring its MOA into compliance.
6. When the review is finalized and the MOA is ready to be approved, the CRC reviewer signs the copy of the MOA Analysis Checklist that documents the review, and prepares the MOA approval letter. The letter should cite the date the MOA was received, include references to all related incoming correspondence, and address any significant issues of noncompliance that were identified in the review process.
7. The MOA and all associated documents, including the signed MOA Analysis Checklist, are filed as appropriate. Hard copies are placed in the CRC file room.

3. *Does DOL's Civil Rights Center have data available to do a trend analysis of complaints it receives?*

Yes. CRC maintains an electronic database of complaints it receives that allege violations of Federal nondiscrimination law by recipients of Federal financial assistance. The database on these complaints presently contains data going back to 1995. Improvements to the database, to improve the data collected and reflect procedural changes, have been ongoing.

If so, what analyses does CRC do?

CRC's annual report regarding enforcement of statutes that prohibit discrimination in Federally assisted programs, submitted to the Department of Justice (DOJ) pursuant to Executive Order 12250, contains information about which types of disability-related allegations appear most frequently in the complaints CRC receives.

Specific Question for CRC:

a. *What information does CRC compile about complaints received related to alleged violations of WIA accessibility?*

CRC maintains a database of information about complaints alleging that a recipient of Federal financial assistance has violated applicable nondiscrimination requirements. This database allows for the following information to be maintained about each complaint: complainant's contact information; identity of complainant's representative; identity of respondent entity; date complaint was filed; date of alleged discrimination; additional bases of discrimination alleged in the complaint;⁵ issues related to the discrimination; remedies sought by complainant; and other venue(s) where the complainant may have filed a discrimination complaint.

In addition to filing complaints with CRC, complainants have the option of filing at the recipient level. The WIA nondiscrimination regulations require recipients to maintain, and to submit to CRC upon request, a log of complaints they receive that allege discrimination on the bases prohibited by WIA Section 188. 29 CFR 37.37(c). The complaint log must contain the following information: date the complaint was filed; name and address of the complainant; grounds of the complaint (the alleged bases for discrimination); description of the issue(s); disposition of the complaint; and date of disposition. *Id.* The complaint log, records of complaints, and records of actions taken regarding complaints must be maintained for a minimum of three years from the date of resolution of the complaint. 29 CFR 37.39(b).

IV. Outcomes for People with Disabilities That Use WIA One-Stop System

Not applicable to CRC.

V. Evaluation of WIA Services to People with Disabilities

1. Has OASAM/CRC ever had an independent evaluation conducted of its work related to Section 188 enforcement to identify areas for improvement? Evaluation of its compliance assistance activities?

CRC voluntarily participated in the American Customer Satisfaction Index (ACSI) process in 2004 and 2005. Produced by the University of Michigan in partnership with the American Society for Quality (ASQ) and CFI Group (an international consulting firm), the ACSI is described in its publications as a "uniform, national, cross-industry measure of satisfaction with the quality of goods and services available in the United States."⁶ According to an ACSI news release, the government ACSI "reflects user evaluations of government services measured through a econometric model that captures key components of service that collectively determine

⁵ In addition to disability, WIA Section 188 and its implementing regulations prohibit discrimination based on race, color, religion, sex, national origin, age, political affiliation or belief, and, for beneficiaries only, citizenship or participation in any WIA Title I-financially assisted program or activity. WIA Section 188(a)(2), (a)(4) [29 U.S.C. 2938(a)(2), (a)(4)]; 29 CFR 37.5.

⁶ See, e.g., "Citizen Satisfaction with Federal Government Improves, Correlation between User Satisfaction and Trust in Government, According to ACSI," available at <http://www.theacsi.org/images/stories/images/govsatscores/1208Govt.pdf> (last accessed January 5, 2010).

overall citizen satisfaction.”⁷ The ACSI methodology “uses customer interviews as input to a multi-equation econometric model”⁸ that is adjusted for use in the public sector.⁹ The publications further note that “[i]n 1999, the federal government selected ACSI to be a standard metric for measuring citizen satisfaction.”¹⁰

For the 2004 CRC ACSI, State-level Equal Opportunity (EO) Officers were surveyed about their satisfaction with the information and assistance provided by CRC.¹¹ The resulting score of 79 ranked CRC second not only among Federal agencies in the “Information Providers/Technical Assistance/Supply” category, but among all Federal agencies that do not deliver benefits.¹² The ACSI Commentary on the 2004 Federal Government Scores singled CRC out for special mention.¹³ On the 2005 ACSI, CRC received a slightly-lower score of 74¹⁴ from the local-level recipients¹⁵ who were surveyed.

Additional Questions for CRC:

1. *How does ODEP work with ETA and CRC to ensure . . . WIA One-Stop-System accessibility?*

These activities are described throughout our responses.

2. *How does OASAM/CRC assess the effectiveness of its compliance assistance activities re: WIA Section 188 specifically related to WIA One-Stop accessibility? How does CRC use the information for program planning?*

⁷ “Customer Satisfaction with Federal Government Dips Slightly, According to Latest American Customer Satisfaction Index,” available at http://www.theacsi.org/index.php?option=com_content&task=view&id=141&Itemid=112 (last accessed January 5, 2010).

⁸ “ACSI Methodology,” in “About ACSI,” on ACSI website at http://www.theacsi.org/index.php?option=com_content&task=view&id=48&Itemid=41 (last accessed January 5, 2010).

⁹ “ACSI Model for Most Government Agencies,” in “ACSI Scores and Commentary: Government Satisfaction Scores,” on ACSI website at http://www.theacsi.org/index.php?option=com_content&task=view&id=30&Itemid=150 (last accessed January 5, 2010).

¹⁰ See “Citizen Satisfaction with Federal Government Improves,” cited in Footnote 1.

¹¹ See “ACSI Scores for U.S. Federal Government 2004,” available at http://www.theacsi.org/index.php?option=com_content&task=view&id=119&Itemid=130 (last accessed January 5, 2010).

¹² *Id.*

¹³ See http://www.theacsi.org/index.php?option=com_content&task=view&id=152&Itemid=62 (last accessed January 5, 2010).

¹⁴ See “ACSI Scores for U.S. Federal Government 2005,” available at http://www.theacsi.org/index.php?option=com_content&task=view&id=118&Itemid=129 (last accessed January 5, 2010).

¹⁵ Although the 2005 report identifies the “customer segment” surveyed as “[l]ocal level recipients of information from CRC” (*see* http://www.theacsi.org/index.php?option=com_content&task=view&id=118&Itemid=129), we assume that the reference to recipients “of information” was inserted erroneously by ACSI, and that the correct reference is to recipients of Federal financial assistance under the Workforce Investment Act. CRC customarily uses the term “recipients” to refer to the latter group.

Much of CRC's compliance assistance activity is provided on a one-on-one basis, as described in the response to Question III(2)(b). Therefore, CRC is in a position to obtain direct feedback about the utility and effectiveness of the assistance provided, and to use that feedback to assess its compliance assistance approach. *See also* the response to Question V(1). With regard to training, see the response below to Question V(4).

3. What is the status of CRC's plan (in budget request) to "re-vamp regional civil rights officer program?"

The positions were not funded for FY 2010.

4. What training does CRC provide to WIA One-Stop staff to ensure physical and programmatic accessibility [for] persons with disabilities? How does CRC assess effectiveness of this training?

See the discussion about Section 188 Disability Checklist Training in the response to Question III(2)(c), under the heading *Materials developed by CRC*.

In addition, CRC conducts an annual National Equal Opportunity Professional Development Forum in the Washington, DC, area. The multi-day Forum provides the EO Officers discussed in the response to Question III(1), and other interested stakeholders, with intensive training on various nondiscrimination topics, including topics related to disability. CRC and its partner in presenting the Forum, the Equal Opportunity Committee of the National Association of State Workforce Agencies (NASWA), celebrated the 20th anniversary of the Forum in 2009.

Several times a year, CRC has also provided on-site training on EO-related matters, including disability-related topics, at various locations throughout the country, usually when requested to do so by a State-level recipient or regional group of recipients. In such cases, audiences have generally included EO Officers and other representatives (including front-line staff) from local-level, as well as State-level, recipients.

Furthermore, beginning in March 2009, CRC has offered webinars and in-person training sessions about the significance for the One-Stop system of the changes to Federal disability nondiscrimination law wrought by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), discussed in the attached summary memo. Response to these sessions has been enthusiastic: according to the host site, at one point during the initial offering of the webinar, 359 different registered sites were signed in.

At all in-person training sessions, CRC distributes an evaluation form, collects and reviews the responses, and uses the information thus garnered to make changes to its training plans. In FY 2008, CRC added a customer satisfaction measure to its performance goals in order to report on the results of participant surveys from its Annual Forum. During that year, 98 percent of survey respondents indicated that the information provided at the Forum will enhance their job performance. As CRC's goal had been receiving positive responses from 85 percent of survey respondents, the goal was exceeded by 13 percent.

Information / Data Request from CRC:

- *CRC's annual work plan (mentioned in the Fiscal Year 2010 budget request)*

Incorporated in CRC's Congressional Budget Justification Narrative for FY 2011, attached as Exhibit 4.

- *Current organizational chart*

See Chart attached as Exhibit 5.

- *Policies and Procedures for CRC staff to carry out the following work:*

- a) *On-site reviews to ensure compliance with Section 188 of the Workforce Investment Act of 1998*

Equal Opportunity Guidebook for Recipients of Financial Assistance Under the Job Training Partnership Act, attached as Exhibit 6.

- b) *Process for reviewing and addressing complaints related to alleged violation of WIA Section 188*

Complaint Processing Manual, U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Office of Civil Rights¹⁶, attached as Exhibit 1.

Flow chart, "External Enforcement Complaint Processing Procedures," attached as Exhibit 7.

Flow chart, "OEE Complaint Intake Process," attached as Exhibit 8.

Flow chart, "Office of External Enforcement Investigative Procedures," attached as Exhibit 9.

Chart of timelines for complaint processing, attached as Exhibit 10.

Complaint Investigation Quality Control Review Checklist, attached as Exhibit 11.

- c) *Review of States' "Methods of Administration" (MOAs)*

MOA Analysis Checklist, attached as Exhibit 3, also available on CRC's website at <http://www.dol.gov/oasam/programs/crc/MOAChecklist.htm> (last accessed January 5, 2010).

¹⁶ "Office of Civil Rights" is a name by which CRC was previously known.

- *Independent evaluations that CRC has contracted for related to its role in enforcing WIA Section 188 compliance.*

- *Title of the evaluation*

See response to question V(1).

- *Contract award (amount, contractor, and year awarded)*

Not applicable.

- *Status of evaluation – completed or in process (expected date of completion)*

Completed. See response to question V(1).

- *Final or interim evaluation report(s)*

See response to question V(1).

- *Written guidance that CRC has issued to States on processes to review and update their MOAs.*

- “State Guidance for Developing Methods of Administration (MOA) Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998 (WIA),” 65 FR 51984 (August 25, 2000) (“MOA Guidance”), attached as Exhibit 2, also available on CRC’s website at http://www.dol.gov/oasam/regs/fedreg/notices/State-MOA_EO-Guidance.htm (last accessed January 5, 2010).

- MOA Analysis Checklist, attached as Exhibit 3, also available on CRC’s website at <http://www.dol.gov/oasam/programs/crc/MOAChecklist.htm> (last accessed January 5, 2010).

- CRC Directive No. 2009-02, “Requirements for the Biennial Review of the MOA and Submission of MOA Revisions and Certifications” (August 13, 2009), attached as Exhibit 12.

- MOA WIA Train-the-Trainer Course Materials, including Participant Guide, Trainer’s Guide, and PowerPoint slide presentations on the nine MOA Elements discussed in Exhibit 2, the MOA Guidance. All materials attached as Exhibit 13; also available on CRC website at <http://www.dol.gov/oasam/programs/crc/moawia.htm> (last accessed January 5, 2010).

- Sample letter reminding State of approaching deadline for MOA submission, from Acting CRC Director Willie Alexander to Clark Bishop, Commissioner,

Alaska Department of Labor and Workforce Development (January 15, 2008),
attached as Exhibit 14.

**Responses of Civil Rights Center (CRC)
To OIG Questions Dated December 18, 2009
Re: WIA Services for Persons with Disabilities**

Exhibit List

- Exhibit 1 Complaint Processing Manual, U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Office of Civil Rights
- Exhibit 2 “State Guidance for Developing Methods of Administration (MOA) Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998,” 65 FR 51984 (August 25, 2000)
- Exhibit 3 MOA Analysis Checklist
- Exhibit 4 CRC’s Congressional Budget Justification Narrative for FY 2011
- Exhibit 5 CRC’s current organizational chart
- Exhibit 6 Equal Opportunity Guidebook for Recipients of Financial Assistance Under the Job Training Partnership Act
- Exhibit 7 Flow chart, “External Enforcement Complaint Processing Procedures”
- Exhibit 8 Flow chart, “OEE Complaint Intake Process”
- Exhibit 9 Flow chart, “Office of External Enforcement Investigative Procedures”
- Exhibit 10 Chart of timelines for complaint processing
- Exhibit 11 Complaint Investigation Quality Control Review Checklist
- Exhibit 12 CRC Directive No. 2009-02, “Requirements for the Biennial Review of the MOA and Submission of MOA Revisions and Certifications” (August 13, 2009)
- Exhibit 13 MOA WIA Train-the-Trainer Course Materials, including Participant Guide, Trainer’s Guide, and PowerPoint slide presentations on the nine MOA
- Exhibit 14 Sample letter reminding State of approaching deadline for MOA submission, from Acting CRC Director Willie Alexander to Clark Bishop, Commissioner, Alaska Department of Labor and Workforce Development (January 15, 2008)

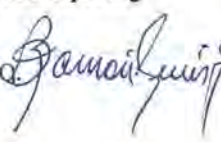
U.S. DEPARTMENT OF LABOR

Office of the Assistant Secretary
for Administration and Management
CIVIL RIGHTS CENTER
200 Constitution Ave, NW, Room N-4123
Washington, DC 20210



JAN 11 2010

MEMORANDUM FOR: DAVID STERLING
Acting Director
Office of Policy, Audit Management and Reporting
Office of Inspector General

FROM: RAMON SURIS-FERNANDEZ, ESQ. 
Director
Civil Rights Center

SUBJECT: CRC Mission and Scope of Authority, and Source of
"Accessibility" and Other Disability-Related Requirements
Applicable to One-Stop Career Center System

By memorandum dated December 7, 2009, Assistant Inspector General for Audit Elliot P. Lewis advised that the Office of Inspector General's (OIG's) Office of Audit was initiating a review of "the Department of Labor's [DOL's] efforts to ensure physical and programmatic access to the One-Stop Career System" for persons with disabilities. As agreed in our discussion with you at the December 14 entrance conference for this review, we are providing the following summary of the mission and scope of authority of the Civil Rights Center (CRC) with regard to ensuring such access. We are also providing the source of the accessibility requirements and other disability-related requirements applicable to the One-Stop system.

Accessibility and Other Disability-Related Requirements

Source of accessibility requirements and other disability-related requirements. Both Section 188 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2938 (WIA Section 188), and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (Section 504), prohibit discrimination on the basis of disability by covered recipients of Federal financial assistance. Specific obligations regarding accessibility are imposed not by statute, but by regulation. The regulations implementing WIA Section 188, promulgated by CRC and published at 29 CFR part 37, incorporate by reference the accessibility provisions of DOL's Section 504 regulations, found in Subpart C of 29 CFR part 32. See 29 CFR 37.3(b). Under these provisions, covered recipients of financial assistance must ensure *both* that their facilities comply with applicable standards for architectural accessibility, *and* that their programs and activities comply with program accessibility requirements. Both types of accessibility requirements relate to *physical* access for persons with disabilities.¹ Recipients must also comply with other disability-related requirements.

¹ See, e.g., 29 CFR 32.27(a); U.S. Access Board on-line publication "About ADAAG: Frequently Asked Questions" ("ADAAG FAQ"), available at <http://www.access-board.gov/adaag/about/FAQ.htm#g13> (last accessed December 30, 2009), responses to Questions 13 and 14.

CRC Responsibilities

CRC responsibilities: Secretary's Order. Section 5(A)(1) of Secretary's Order 04-2000² (the Secretary's Order), in pertinent part, delegates authority and assigns responsibility to the Director of CRC for "[d]eveloping, implementing, and monitoring DOL's civil rights enforcement program under all equal opportunity and nondiscrimination requirements applicable to programs or activities financially assisted or conducted by DOL." The listed "equal opportunity and nondiscrimination requirements" with regard to which the Order delegates authority and assigns responsibility to the Director include Section 504 and WIA Section 188.

- "Establishing and formulating all policies, standards, and procedures for, as well as issuing rules and regulations governing, the civil rights enforcement programs under" the listed legal provisions;
- "Achieving compliance [with the listed legal provisions] through pre-approval and post-approval reviews, complaint investigations and other compliance monitoring techniques, negotiations, mediations, and other alternative dispute resolution techniques, conciliation proceedings, and the application of appropriate sanctions and remedies";
- "Cooperating and coordinating with DOL Agencies, the Office of the Inspector General, the Department of Justice, the Department of Health and Human Services, the Equal Employment Opportunity Commission, and other agencies in connection with the administration of [unspecified] nondiscrimination and equal opportunity laws";
- "Developing and conducting training and providing technical assistance for CRC staff, as well as for DOL Agency program staffs, recipients of Federal financial assistance from DOL, and beneficiaries of that assistance, programs or activities conducted by DOL"; and
- "Developing, implementing, and maintaining a management information and case tracking system that can be used to assess the effectiveness of the DOL Civil Rights program."

CRC responsibilities: WIA nondiscrimination regulations. The WIA nondiscrimination regulations provide that CRC is "responsible for administering and enforcing" Section 188 and its implementing regulations, and "developing and issuing policies, standards, guidance, and procedures for effecting compliance."³ However, the Secretary of Labor may assign such responsibilities to "officials of other departments or agencies of the Government (with the consent of such department or agency)."⁴

Breadth of programs and activities covered. All programs and activities that are offered through the One-Stop system by One-Stop partners listed in Section 121(b) of WIA are covered by – and therefore must comply with – the WIA nondiscrimination regulations.⁵ These programs and activities are therefore within CRC's jurisdiction, even if their primary source of financial assistance is another Federal Department or agency.

² Issued November 07, 2000.

³ 29 CFR 37.12.

⁴ 29 CFR 37.13(a).

⁵ See 29 CFR 37.3(a)(2), 37.4 (definition of "recipient," final paragraph).

General compliance assessment: MOA reviews. CRC's primary method of assessing overall compliance with the WIA nondiscrimination regulations is via its biennial review of documents known as Methods of Administration (MOAs). Under 29 CFR part 37, subpart C, each State Governor must submit to CRC an MOA that describes the actions his or her State has taken to ensure that its WIA Title I-financially assisted programs, activities, and recipients are complying, and will continue to comply, with WIA Section 188 and its implementing regulations – including the requirements related to disability. See 29 CFR 37.54(d)(2)(v). CRC reviews each MOA and, to the extent the document indicates a deficiency in the State's equal opportunity (EO)-related policies, practices, and procedures, works with the State to help bring it into compliance.

With regard to the DOL-conducted Job Corps program, one of CRC's major projects during FYs 2008 and 2009 was to work with the Office of the Assistant Secretary for Administration and Management's (OASAM's) Office of Acquisition Management Services to ensure that the required assurance is included in all covered Job Corps contracts. CRC also trained Job Corps Contracting Officers about the assurance and its significance.

Compliance assessment and enforcement: Equal Opportunity Officers. The WIA nondiscrimination regulations require State- and local-level agencies administering WIA financial assistance to designate Equal Opportunity (EO) Officers.⁶ These agencies and their EO Officers have an independent obligation to assess compliance with nondiscrimination laws by covered entities within their jurisdictions, and to ensure that any violations -- including violations of the accessibility requirements -- are remedied.⁷ CRC relies on these State- and local-level agencies and their EO Officers to conduct any on-site compliance reviews that are appropriate.

CRC-conducted training. To help these EO Officers and their staffs reach and maintain a necessary level of competency, CRC conducts an annual National Equal Opportunity Professional Development Forum in the Washington, DC, area. The multi-day Forum provides the EO Officers and other interested stakeholders with intensive training on various nondiscrimination topics, including topics related to disability.

In addition, several times a year, CRC has provided on-site training on EO-related matters, including disability-related topics, at various locations throughout the country, usually when requested to do so by a State-level recipient or regional group of recipients. In such cases, audiences have generally included EO Officers and other representatives from local-level, as well as State-level, recipients. CRC also has recently provided such training via distance-learning methods, typically via webinar.

Technical assistance. Upon request, CRC staff members provide one-on-one technical assistance, including assistance on disability-related matters, to large and small recipients at various levels of the One-Stop system. This assistance is provided via phone, e-mail, or (in at least one recent instance) webinar. Additionally, in at least one instance, CRC has required, and provided, intensive, in-person training and technical assistance to a Local Workforce Investment Agency (LWIA) in which a compliance review disclosed extensive noncompliance with disability-related requirements.

⁶ 29 CFR 37.23.

⁷ E.g., 29 CFR 37.25(b), 37.51, 37.54(d)(2)(v).

Complaint processing. CRC also processes complaints alleging violations of the WIA nondiscrimination regulations, including the disability-related provisions. The complaint procedure includes an investigation and, where discrimination is found, the opportunity for alternative dispute resolution and for a hearing before sanctions are imposed on the recipient/respondent.