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Folder Title:

Presidential Task Force on Employment of Adults with Disabilities [Folder 2]

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PHOTOCOPY
PRESERVATION

MARSHA SCOTT

Nancy -

These are the items
we want from Transportation
with those in brackets
being the easiest. Do
we need a private
meeting to discuss?

I was great seeing you.

4

456-2109

[= anything to do]

RECOMMENDATIONS

Reauthorization of TEA-21

TEA-21 authorizes \$42 billion for transit and \$175 billion for highways. Compared to ISTEA, it includes a good mix of increased funding, encouraging state and local partnerships and innovative practices. It does target TANF recipients, but not people with disabilities specifically (other than through formula grants for purchasing lift-equipped vehicles to comply with the ADA). Its authority extends through 2003. The reauthorization affords a great opportunity to "pick" our way through the bill, changing and adding programs.

1. Require the Department of Transportation to collect data on the use of public and private transportation options by individuals with disabilities (including the numbers of individuals using fixed route transportation vs. paratransit, numbers who cannot drive, who own/lease their own vehicles, who use public transportation for work, who use human service-funded transportation for work, etc.).

2. Require the Department of Transportation, through its Access Flagship Initiative, One DOT, or other mechanism, to review the programs and funding amounts currently authorized under TEA-21 to determine how each program can be modified to better respond to the needs and capacities of people with disabilities.

3. Require the Department of Transportation to assess the benefits and barriers to establishing a Local Coordination grants program under the Federal Transit Administration.

4. Require the establishment of a time-limited task force consisting of representatives from DOT, DOL, HHS, transit authorities, transit providers and disability advocacy groups to review existing law and practice and develop recommendations to the Secretary of DOT regarding the provision of transportation services to Americans with disabilities. Their Report should be completed and submitted to the Secretary of Transportation by April 1, 2001, prior to planning for the reauthorization.

* DOT should sponsor 1-2 day summit in late Fall as part of this

5. Require the Department of transportation to assess the need for additional funding and outreach for sidewalk improvements under the Federal Highway Administration's Surface Transportation Program.

in consultation with HUD

Expansion of the Coordinating Council on Access and Mobility

The Council, formed in 1986 with certain functions mandated under TEA-21, includes representatives of all of the major programs under DOT and HHS. Recently, it has invited representatives of the Department of Labor to participate on at least an informal basis. The objective of the Council is to remove barriers to the efficient use of human services transportation. The Council is in the process of developing joint state and local guidelines for transportation coordination that are very much needed and long overdue (the GAO has been very critical of the Council in this respect).

1. Expand the Coordinating Council to include representation from several agencies within, at a minimum, the Department of Labor, Housing and Urban Development, and the Department of Education.
2. Require the Council to develop an assessment of the benefits and barriers of transportation coordination for people with disabilities.
3. Require the Council to develop a strategy for including people with disabilities in all of its proposed initiatives and activities.
4. Require the Coordinating Council to sponsor a series of regional workshops on facilitating local coordination of transportation for people with disabilities for representatives of workforce investment boards, people with disabilities, transit authorities, private providers, metropolitan planning organizations, and advocacy organizations.
5. Require the Coordinating Council to assess accessibility to public transportation (sidewalks, curb cuts, stations, etc.) And the role other federal agencies should play in this effort.

Changes to Existing Programs

Job Access and Reverse Commute (Section 3037). Authorized at \$150 million but currently funded at \$75 million, it provides competitive grants for transportation to suburban employment from suburban, inner city and rural locations. It is intended primarily for TANF recipients.

1. Require the Department of Transportation to assess the benefits of setting aside a minimum of 10% of funding under the Access to Jobs grant program for the 2002 fiscal year.
2. Require the Department of Transportation to include as a criterion for awarding grants the existence of a plan and financing strategies for including TANF recipients who have disabilities.
3. The Department of Transportation should require each grant recipient to develop a plan for providing transportation services for TANF recipients who have disabilities.

Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities (Section 3013). Provides capital assistance, through the states, to organizations that provide specialized transportation (at 90% federal share for costs of vehicles that are needed to comply with the ADA).

4. The Department of Transportation should provide funding for the establishment of a national database on public and private transit providers which can be accessed through an "800" number by individuals with disabilities, Older Americans, TANF recipients, and others.

5. The Department of Transportation should provide funding for informational materials for individuals with disabilities that can be disseminated at one-stop centers. In addition, funding should be made available for training of one-stop counselors and administrators on transportation options and best practices related to providing transportation.

6. Require the Department of Transportation to assess the effects of implementing the proposed Intelligent Transportation Systems (ITS) on the employment of people with disabilities.

7. Require the Department of Transportation to send letters to States encouraging them to recruit individuals with disabilities through the On-the-Job Supportive Services program (Section 1208), including recruiting youth with disabilities for the Summer Transportation Institutes.

8. Require the Department of Transportation to include individuals with disabilities as one of the core groups targeted (along with minorities and women) in the On-the-Job Supportive Services program.

9. Require the Department of Transportation to develop a plan for assisting states to "market" mainline public transportation options and other, nontraditional transportation options for people with disabilities. Even with a greater percentage of mainline buses being lift-equipped, there remains an overreliance on paratransit in most urban centers (as opposed to specialized transportation, where fixed route options are not available).

10. The Department of Justice should assess the Federal Transit Administration's ADA compliance process, and develop recommendations related to its own enforcement role in this effort.

11. The Department of Labor should require that both State and Local Workforce Investment Boards, created under the Workforce Investment Act of 1998, report on a yearly basis on progress for individuals with disabilities in getting to and from jobs.

Recommendations
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1. The Federal Transit Administration (FTA) should conduct site visits and spot checks to ensure ADA compliance (*M: as opposed to reliance on transit agency self-reporting, which is currently the case*).

2. FTA enforcement should involve more serious consequences for ADA violations (e.g., withholding federal funds, referrals to DOJ).

3. Transit agencies should be required to post notices on all buses that complaints can be made directly to the FTA (*M: they don't believe that full self-reporting is taking place*).

4. Transit agencies should be required to submit ADA plans which include details on paratransit and fixed route compliance (*M: transit agencies are no longer required to submit ADA plans, just a self-certification that they are in compliance*).

5. FTA should withhold funding/refer cases to DOJ against rail transit agencies which have violated voluntary compliance agreement timelines in making stations, trains accessible.

6. FTA should develop publications for riders with disabilities about their rights to transportation services.

7. FTA should conduct extensive public education about accessible transportation.

8. FTA should offer technical assistance to transit agencies on advanced scheduling technology.

rebel, not unlikely
9. ADA monitoring and enforcement should be reassigned from FTA to the DOT General Counsel (*M: I think this is one of the most important recommendations in the Report and one I would have included in my recommendations*).

10. FTA, FRA (Federal Railroad Administration) and FAA (Federal Aviation Administration) should conduct ADA training for all staff involved in ADA-related enforcement and technical assistance.

11. FAA and the Office of General Counsel of DOT should convene a Summit on improving air travel for people with disabilities.

12. DOT should clarify with FHA (Federal Highway Administration) that civil rights enforcement is part of their mandate (*M: another recommendation I would make -- especially as it relates to curb cuts*).

13. DOT's Office of the Secretary should engage in strategic planning and evaluation, involving

DETERMINED TO BE AN ADMINISTRATIVE

MARKING INITIALS: DB **DATE:** 11/15/17

regular consultation with members of the disability community, for improving its ADA enforcement.

meda/OMB on
this

HOV Interior
Transportation
Treasury
Ag

1999 Recommendations to the President from the Presidential Task Force on Employment of Adults with Disabilities

The Task Force wishes to recognize the outstanding work by the Clinton-Gore Administration in acting on the recommendations made to the President in last year's report — *Re-charting the Course: First Report of the Presidential Task Force on Employment of Adults with Disabilities*. Prompt action and strong support by the Administration on these recommendations has resulted in significant achievements that are leading to increased employment opportunities for people with disabilities. See Chapter Two for a complete review of the status of last years' recommendations.

The Task Force also wishes to acknowledge the efforts of the Task Force Committee members, particularly those who chaired the various committees established this past spring to guide and focus the work of the Task Force. The Task Force has received a report from each committee on their activities in 1999, which largely have focused on putting in place plans for more specific activity in 2000 and beyond. The Task Force will be reviewing and using these reports as the basis for future activities as appropriate. We have included highlights of these reports in Chapter Four.

The Task Force respectfully submits the following recommendations to the President of the United States of America for immediate consideration:

The Task Force recommends that:

- 1** *The President direct the Department of Labor to develop a proposal for consideration in the FY 2001 budget process for an Office of Disability Policy, Evaluation and Technical Assistance (ODPET) to be headed by an Assistant Secretary of Labor. ODPET functions could include:*
 - *Ensuring ongoing efforts to integrate people with disabilities into the Department of Labor's mainstream employment and training programs.*
 - *Establishing the National Disability Business Development Board to be comprised of the membership of the President's Committee on Employment of People with Disabilities and to serve as the advisory body to ODPET.*
 - *Maintaining the principle functions of the President's Committee on Employment of People with Disabilities.*
 - *Assisting the Presidential Task Force on Employment of Adults with Disabilities in implementing a coordinated and aggressive national employment strategy for people with disabilities.*

The Office of Disability Policy, Evaluation and Technical Assistance could provide a long-term, permanent force to continue the work needed to ensure that persons with disabilities are integrated into mainstream employment and training programs within the Labor Department. The Presidential Task Force would continue to be responsible in the short-term for developing, refining, and monitoring the implementation of an aggressive, national employment strategy for persons with disabilities.

The Task Force recommends that:

2 ***The President direct the Departments of Justice and Labor, and the Equal Employment Opportunity Commission to collaborate in exploring methods for strengthening enforcement of employment-related nondiscrimination provisions of the Americans with Disabilities Act and the Rehabilitation Act. All efforts shall provide a clear and unequivocal message that expanded employment opportunities for individuals with disabilities are a high priority of the Administration. The efforts of the Department of Labor and the Equal Employment Opportunity Commission should include providing increased technical assistance to employers, strengthening compliance evaluations, and enhancing data collection as appropriate.***

Effective enforcement of employment-related, nondiscrimination requirements is crucial to increasing employment opportunities for individuals with disabilities. The agencies responsible for enforcement must continue to explore new and more effective approaches for increasing compliance with laws requiring equal opportunities for job applicants and employees with disabilities. The enforcement agencies should develop and disseminate technical assistance guides to assist employers in understanding and implementing nondiscrimination requirements. These agencies should also develop educational tools to inform individuals with disabilities of the full range of protections under the ADA and the Rehabilitation Act. The enforcement agencies also should explore

methods to strengthen their investigation processes. For example, the Department of Labor, through the Office of Federal Contract Compliance Programs, should utilize compliance evaluation procedures that allow the agency to focus on systemic barriers to the employment of individuals with disabilities. The Equal Employment Opportunity Commission, in coordination with the Departments of Justice and Labor, should explore enhancing data collection efforts with respect to the employment and the availability of persons with disabilities in the workforce, possibly through new regulations. Consistent with their complementary responsibilities for enforcement, Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Program should explore joint enforcement strategies.

The Task Force recommends that:

3 ***The President direct the Departments of Labor, Education, and Health and Human Services, the Social Security Administration, the Office of Personnel Management, and other appropriate Federal agencies to construct and coordinate, under the leadership of the Presidential Task Force on Employment of Adults with Disabilities, a Youth-to-Work Initiative.***

Barriers to employment for youth with disabilities include: low educational attainment; low educational and employment expectations; and confusing governmental programs with conflicting eligibility criteria and goals. As a result, many youth with disabilities transition from youth welfare to adult welfare without access to the education and training opportunities needed to make a transition to work and achieve independence. This Youth-to-Work Initiative would test alternative approaches to helping youth with disabilities gain access needed to education and training opportunities and overcome barriers to employment.

Each year, about 40,000 eighteen-year-olds are subject to an continuing disability review for Supplemental Security Income (SSI) benefits, but only 25,000 are determined eligible for such assistance. On average, the young adults deter-

mined to still be eligible will remain on SSI for 27 years, while those found ineligible are likely to live in poverty. Many youth with disabilities spend a significant portion of their lives living in poverty, dependent upon public assistance programs, and relegated to the margins of society. In addition, compared to students without disabilities, students with disabilities drop out of school much more frequently and enroll in post-secondary education less frequently.

The Task Force recommends that:

- 4 The President direct the Department of Health and Human Services to develop a proposal to allow the Maternal and Child Health Programs for Children with Special Needs to provide Healthy and Ready to Work services to youth with disabilities who are under the age of 16.**

The Maternal and Child Health Programs for Children with Special Needs (Title V of the Social Security Act) provides Healthy and Ready to Work services to youth with disabilities that are essential to preparing them for continued education and training, but are restricted to serving only youth 16 years and older. As a result, many youth with disabilities are ready to drop out of the education stream just at a time when they become eligible to receive services that would enable them to benefit from continued education. There is a clear need to provide these services to youth with disabilities at an earlier age.

The Task Force recommends that:

- 5 The President direct the Department of Housing and Urban Development to explore steps needed to establish an earned income disregard for tenants with disabilities living in other-than-Public Housing Authority housing who return to work, and to exempt any disability-related expenses incurred when a tenant goes to work from the "countable" income used to determine rents.**

The Department of Housing and Urban Development has promulgated rules under recently enacted legislation aimed at providing additional incentives for low-income individuals

in public housing to go to work, or work additional hours. Current rules, however, do not provide sufficient incentives for employment of people with disabilities who are assisted by the Department of Housing and Urban Development subsidies, but do not live in Public Housing Authority housing. The Department should explore ways to extend similar incentives to all HUD-subsidized tenants with disabilities.

The Task Force recommends that:

- 6 The President continue to work with Congress to secure adequate funding, proposed in the Administration's FY 2000 budget, for their program to accelerate the development and adoption of information and communication technologies that can be used by the 54 million Americans with disabilities.**

The President should continue to push for this initiative that would: (1) help make the Federal Government a "model user" of accessible electronic and information technology through the implementation of Section 508 of the Rehabilitation Act; (2) support new and expanded State loan programs making assistive technology more affordable for adults with disabilities; and (3) invest in research, development, and technology transfer in areas such as "text to speech," speech recognition, and eye-tracking for people who cannot use a keyboard.

The Task Force recommends that:

- 7 The President continue to work with Congress to pass the tax credit proposed in the Administration's FY 2000 budget, in order to assist adults with disabilities with expenses related to work.**

Working-age adults with disabilities are often discouraged from working because of the high cost of personal attendant services and other services or technologies required for employment. Similarly, the cost to employers of hiring an individual requiring personal attendant services can sometimes be prohibitive. Tax credits provide a flexible way to assist people with disabilities in defraying these expenses.

The Task Force recommends that:

8 *The President continue to work with Congress to pass a strong, enforceable Patients' Bill of Rights.*

It is critically important to people with disabilities that we enact a strong, enforceable Patients' Bill of Rights. This legislation must include the following: guaranteed access to needed health care specialists; access to emergency room services when and where the need arises; continuity of care protections so that patients will not have an abrupt transition in care if their providers are dropped; access to a fair, unbiased, and timely internal and independent external appeals process, to address health plan grievances and to help govern decisions about medically necessary treatments; an enforcement mechanism that ensures recourse for patients who have been harmed as a result of a health plan's actions.

The Task Force recommends that:

9 *The President convene a White House Conference on Employment of Adults with Disabilities that will include representatives from the Administration, Congress, elected officials from State and local governments, small and large businesses, the disability community and other stakeholders.*

A White House Conference would provide heightened visibility to the issue of employing persons with disabilities and help build partnerships between public and private sectors. It would also provide the opportunity to showcase "best practices" and innovative strategies for employment of people with disabilities, and highlight actions taken by Task Force member agencies, departments, and other Federal agencies. Finally, it could commemorate the 10th anniversary of the Americans with Disabilities Act, the 25th anniversary of Individuals with Disabilities Education Act, and the 35th anniversary of the Equal Employment Opportunity Commission.

The Task Force recommends that:

10 *The President direct the Task Force members' departments and agencies to collaborate on the development and implementation of a multimedia, interagency public awareness campaign to eliminate the negative and erroneous stereotypes about employment of people with disabilities. This campaign would focus on the benefits of employing people with disabilities.*

There is an immediate need for leadership to address negative attitudes and prejudices against people with disabilities. An aggressive public awareness campaign, conducted in partnership with the disability community, businesses, and other influential entities would help to eliminate erroneous and prejudicial thinking about disability that results in limiting employment opportunities.

The Task Force recommends that:

11 *The President direct the Social Security Administration and the Department of Labor to create an "Access America for People with Disabilities" Web site that targets individuals with disabilities.*

In February, Vice President Gore announced "Access America for Seniors," a Web site providing a wide range of services to older Americans — an example of his vision of "one-stop" Web access to government services. A new Web site, "Access America for People with Disabilities," would likewise provide information and services offered by virtually every major Federal Government agency, by linking to an abundance of helpful Federal agency sites, information, programs, and services.

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The Task Force recommends that:

- 2** *The President direct the Department of Transportation to work with the Departments of Labor, Education, and Health and Human Services, the Social Security Administration, and other relevant Task Force members to develop a comprehensive plan of action to address the lack of transportation services and systems for persons with disabilities.*

The lack of available public transportation is a major employment barrier for persons with disabilities. This factor is cited by many individuals with disabilities, at recent Town Hall meetings held by the Task Force and at other events, as being the major impediment to finding and keeping jobs. The Department of Transportation has been vigorous in addressing public and private accessibility issues for people with disabilities. This directive would be to concentrate Federal efforts on developing an interagency action plan that addresses the lack of available transportation.

The Task Force recommends that:

- 3** *The President direct all Federal agencies with customer service call centers and other appropriate services to explore ways to encourage hiring people with disabilities.*

Cutting-edge telecommunications technology has recently made it possible for customer service centers to send voice and data to home-based customer service representatives who work just as if they were in a call center. Many agencies in the Federal Government operate significant customer service call center activities. This cutting-edge technology needs to be widely available in the Federal Government, and used to increase the employment rate of individuals with disabilities as much as possible.

Research has shown that the percentage of individuals with significant disabilities who are employed is the lowest of disadvantaged groups in the nation. It is critical that we seek out as many strategies as possible to change this picture.

The Task Force recommends that:

- 14** *The President direct the Social Security Administration to explore options for raising the Earned Income Exclusion in the Supplemental Security Income program, for both adults and students, in order to encourage work efforts.*

Supplemental Security Income (SSI) is a means-tested program, but beneficiaries are able to have limited earnings without impact on their benefit amounts. Allowing such earnings not only increases overall income security, but also provides an incentive to work. The earned income exclusions for both adults and students, however, have not been raised since the early 1970's, even though the SSI Federal Benefit Rate is indexed annually for inflation. The Earned Income Exclusion remains at \$65 per month for adults and up to \$400 per month for students for a limited time period. As a result, SSI beneficiaries with non-SSI income do not receive full indexing of their benefits, and work effort is less rewarded than it was previously.

Chronology of Actions Re Building Codes and Fair Housing Guidelines

October 1999 --- Judiciary subcommittee conducts hearing on bill to delay effective date of Fair Housing Accessibility Guidelines [FHAAG]

Nov.-Dec. 1999 -- HUD reviews 4 model building codes for consistency with FHAAG --- holds hearing in DC to solicit comment on its code review -- Fair Housing Workgroup formed to discuss ways to promote adherence to FHAAG -- International Building Code 2000 [IBC 2000] identified as a building code that would comply with FHAAG [as well as improve accessibility]

January 2000 -- consensus statement developed endorsing incorporation of FHAAG into building code language -- draft Code Requirements for Housing Accessibility [CRHA] distributed to workgroup. CRHA is an extraction from IBC 2000 and ICC 1998/ANSI A117.1 of building code language related to residential accessibility.

Feb 2000 --- comments on CRHA sought from fair housing workgroup by ICC [Schoonover memo] -- ICC indicates plans to submit CRHA to HUD for recognition as consistent with Fair Housing Act and safe harbor

March 2000 -- Fair Housing workgroup meets March 7 to discuss CRHA and proposed appendix [Appendix C] developed by homebuilders [NAHB] identifying elements of CRHA that, in its view, exceed FHAAG. Concerns expressed over NAHB proposed Appendix C deletion of references to Type A dwelling units, controls for security/intercom systems, laundry equipment within dwelling units and other changes that appear intended to dilute CRHA.

NAHB representative insists appendix C for information only; that it is not code language. Misgivings remain that many communities have adopted/will adopt building codes that go beyond FHAAG and that identifying a "lesser standard" could be used to adopt a code weaker than many jurisdictions now have [NAHB representative agreed with that interpretation]. NAHB indicates plans to take its "exceeds" document to HUD for review.

Disability advocates write to HUD Fair Housing office on March 21, 2000 [cc to Secretary and President of ICC] asking that the disability community be consulted before HUD acts on any document that could be used to undermine the CRHA or IBC 2000. [*Letter to HUD attached*]

March 23, HUD issues final report on review of model building codes -- two appendices [A and B] to be added to CRHA identifying variances between IBC 2000 and CRHA chapters and Fair Housing Act. Appendices A and B will include text revisions to resolve variances.

April 2000 --- CRHA, IBC 2000 discussed at ICC meeting in Birmingham, Alabama. Ongoing dispute within code community as to need for CRHA. Proponents of CRHA contend it's needed as interregnum document to foster compliance with FHA until IBC 2003 is finished. Opponents of CRHA argue it will be used well after any final version of IBC is finished, causing confusion among jurisdictions adopting building codes and, with proposed appendices, will weaken original code.

May 2000 --- On May 1, NAHB forwards to PVA its "exceeds" document [which was shared with cochair of CCD Housing Task Force]. That document identified five areas [CRHA provisions addressing Type A dwelling units; requirements for minimum number of accessible entrances; security and intercom controls; requirements for laundry equipment within dwelling units; requirements for bathing facilities] that NAHB contends exceed FHAAG. The identified areas referred to chapters in the CRHA and included an explanation of how these provisions exceeded FHAAG. No code language is included with these explanatory statements. *[example attached]*

CCD Housing Task Force receives letter [5/5/00] from Eva Plaza, Asst. Secy. For Fair Housing, asserting that HUD had been asked to review and endorse "the stand alone document, [CRHA]" and that the document "will not contain any discussion about areas of the code that may exceed the requirements in the Act." *[attached]*

May 10, 2000 HUD and NAHB issue press releases announcing HUD's endorsement of the CRHA. HUD's press release states *"HUD also prepared a special appendix to ICC's report that reviews an analysis prepared by the NAHB identifying five areas where the ICC code exceeds the requirements for meeting the Fair Housing Act. In the appendix, HUD confirms that these areas do in fact exceed the minimum required. This means that local government jurisdictions adopting the CRHA code modified in accordance with HUD's analysis will still be in compliance with the Fair Housing Act."*

The ICC Board was apprised of HUD's plans to endorse the NAHB appendix along with CRHA. The disability community was never contacted by HUD for any official review and comment about these plans for endorsement or about the NAHB Appendix C. CCD Housing Task Force objects to process followed by HUD and proposed Appendix C in letter to Plaza [cc to Cuomo, Tangy] *[attached]*

When Appendix C is finally released it contains two parts: Part I containing HUD's commentary on differences between the FHA and CRHA and IBC. HUD advises that this commentary must be taken into consideration by jurisdictions adopting CRHA in order for it to serve as a safe harbor under FHA. Part II is the NAHB-produced document identifying the provisions in CRHA and IBC that exceed the FHAAG. Appendix C Part II *now also includes proposed code language that can be substituted for the language in CRHA and IBC to bring those original provisions down to the level of the FHAAG.* *[see attached example]*

Concerns about NAHB Appendix C, Part II

There are five areas covered in Appendix C, Part II representing the elements of the CRHA that NAHB contends, and with which HUD apparently agrees, "exceed the fair housing guidelines."

Area 1 --- Type A dwelling units [considered the most accessible kind of dwelling unit] -- NAHB proposes language to delete references to Type A dwelling units in Appendix A Sections 202, 405.2 and 406 of the CRHA. This ignores the fact that ANSI A117.1 [and Type A units contained within ANSI A117.1] is specifically authorized in Section 804 [f][4] of the Fair Housing Act. A disclaimer acknowledging that Type A units will satisfy the requirements of the Act comes only after presentation of the code language to delete references to Type A dwellings.

Area 2 --- Requirements for minimum number of accessible entrances. CRHA section 404 proposes at least half of the entrances to a building comply with accessible route provisions. NAHB states that the FHAAG require only one accessible entrance on a ground floor and offers replacement language to Section 404 to reflect this. Although the explanatory statement notes that other FHA guidelines and ADAAG requirements may require additional accessible entrances, this section diminishes the accessibility provided for in the original CRHA section.

Area 3 --- provisions for security and intercom controls --- NAHB says that the FHAAG does not cover requirements for security and intercom systems located within dwelling units and deletes references to these controls in CRHA section 603.9. Security and intercom systems are increasingly being included in multifamily residential settings. This provision will promote ongoing denial of access to people with disabilities to these common residential features.

Area 4 --- laundry equipment within dwelling units -- NAHB proposes deletion of CRHA section 603.10 in its entirety because it speaks to access requirements for laundry equipment within a dwelling unit. The FHAAG refers only to accessible laundry facilities in public and common use areas. Again, in-unit laundry equipment is increasingly common in multifamily buildings. Deletion of this language will perpetuate circumstances in which people with disabilities cannot use an important feature of their home. The "exceeds" document does point out in the explanatory statement that accessibility of in-unit laundry facilities may be called for by requirements for usable doors, accessible routes, accessible light switches and electrical outlets. However, that is no guarantee that attention will be paid to the explanatory statement by jurisdictions choosing to delete this section.

Area 5 --- bathing facilities -- where a tub and a shower are provided in a bathroom, the CRHA implies both must be accessible. NAHB replaces CRHA section 603.11.3.2.3 with language that would require only one of those fixtures to be made accessible.

Two key issues

1] ICC should reject inclusion of Appendix C, Part II. This appendix was produced without the input of numerous stakeholders, most particularly people with disabilities who will be most directly and adversely affected by its provisions. It is inconsistent with and undermines the message of the larger CRHA -- i.e. building codes that comply with the fair housing guidelines as well as respond to the evolving science of accessibility in the built environment.

2] Given that HUD has now apparently agreed that the fair housing guidelines do not provide for access to security controls, in-unit laundry equipment and other facets of modern day multifamily residential construction, must further steps be taken to revise the guidelines or in other ways strengthen the Act to assure adequately accessible housing for people with disabilities?



Mr. William Tangye
President
International Code Council, Inc.
5203 Leesburg Pike
Suite 708
Falls Church, VA 22041

Dear Mr. Tangy:

The Consortium for Citizens with Disabilities Housing Task Force understands that you and your board will decide within the next few days whether to publish the Code Requirements for Accessible Housing [CRHA] with an appendix [Appendix C, Part II] developed by the National Association of Homebuilders [NAHB]. This appendix describes how to revise the CRHA code language so that it reflects nothing beyond the requirements of the Fair Housing Accessibility Guidelines [FHAAG]. The member organizations -- which represent a wide range of individuals with disabilities -- of the CCD Housing Task Force strongly urge you to heed the objections voiced by disability advocates across the nation as well as many architects and building and housing industry representatives and reject inclusion of Appendix C, Part II with the CRHA.

The CCD Housing Task Force viewed the development of the CRHA as a means not only to incorporate the Fair Housing accessibility guidelines into code language to foster compliance with the law but also to promote greater accessibility in residential construction. We strongly believe that several of the elements in the CRHA that NAHB contends exceed the FHAAG -- such as accessible security and intercom systems and laundry equipment in dwelling units -- are features in modern multifamily residential construction that people with disabilities find unusable because of their inaccessibility. If jurisdictions were to adopt the codes contained in the stand-alone CRHA, the problems faced by many, many people with disabilities would diminish. The CCD is strongly concerned that if the International Code Council [ICC] includes Appendix C, Part II, those states and localities resistant to accessibility will be able to weaken the advances contained in the CRHA. Many of people with disabilities that Housing Task Force organizations represent will continue to confront unfair barriers in housing.

CCD Housing Task Force organizations strongly object to the manner in which Appendix C, Part II was developed -- outside the process followed for creation of the CRHA and without any input from the disability community. The CRHA itself is the product of a lengthy consensus process involving a broad range of stakeholders, including disability organizations that put aside

their historical concerns of working closely with NAHB because of past negative experiences in the effort to find a way to ensure better access to housing for individuals with disabilities.

Appendix C, Part II was developed by one organization (NAHB) in a manner that can hardly be described as open. We strongly believe that including Appendix C, Part II with the CRHA would undermine the credibility of the CRHA and the ICC. The CCD does not dispute the right of the homebuilders to advise their members about compliance with the FHAAG through the use of materials such as Appendix C, Part II. However, we disagree strongly with the implied "stamp of approval" that would be given to the perspective of one group in an official document of the code industry.

Finally, the CCD Housing Task Force would like to emphasize the acknowledgement made by the home builders' representative at the recent meeting in Washington, DC between you and members of the ad hoc fair housing workgroup. When asked if the CRHA, in and of itself, would provide home builders with the distinct "safe harbor" that builders have clamored for since the FHAAG were first issued, he replied, "Yes." We strongly urge you to let that comment be your guide.

The CCD Housing Task Force organizations appreciate all the time and work that the ICC has put into the creation of the Code Requirements for Accessible Housing, as well as the ongoing effort to develop an International Building Code that will continue to advance a more inclusive built environment. Thank you for your attention to our concerns about Appendix C, Part II.

Sincerely,

Suellen Galbraith
American Network of
Options and Resources

Kathleen McGinley
The Arc of the United States

Andrew Sperling
National Alliance for
the Mentally Ill

(co-chairs CCD Housing Task Force)

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June 2, 2000

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June 2, 2000



CONSORTIUM
for
CITIZENS
with
DISABILITIES

June 21, 2000

William Apgar
Assistant Secretary
Housing/Federal Housing Commissioner
HUD
451 Seventh Street, SW
Washington, DC 20410

RE: HUD/NAHB Commentary in ICC 2000 Code
Requirements for Housing Accessibility

Dear Secretary Apgar:

On behalf of the Coalition for Citizens with Disabilities (CCD) and its Housing Task Force Co-Chairs, I am requesting a meeting with you to urge HUD's reconsideration of the agency's commentary in Appendix C of the International Building Council's (IBC) publication of *Code Requirements for Housing Accessibility* (CRHA). The CCD Housing Task Force Co-chairs request a meeting with you as soon as possible since the ICC Board is making decisions on final publication of the code this week.

It is not HUD's endorsement of the ICC's *Code* with which we and many others object—it is HUD's commentary in Appendix C, Part II that focuses on the request of the National Association of Home Builders (NAHB) for HUD analysis and comment on any provisions of the ICC 2000 *Code* that NAHB believe exceed HUD's Fair Housing Accessibility Guidelines and model building codes. Not only is the publication of the ICC 2000 *Code* an inappropriate document for such commentary—commentary by any outside group—HUD's public confirmation of NAHB analysis in this document undermines efforts to enhance and increase housing accessibility for people with disabilities, undermines a six-month process of a multi-industry group working with ICC, and breaks faith with HUD's promise to the disability community on this specific issue.

The CCD Housing Task Force, other disability organizations, American Institute of Architects, builders, HUD staff, ICC staff, and other related-industry representatives met for more than six months on issues related to accessibility for people with disabilities and the *Code*. The aim of the group was to ensure that the 2000 *Code* met or exceeded Fair Housing Accessibility Guidelines and to promote local adoption of the 2000 *Code*.

At the work group's March meeting to discuss NAHB's and HUD intentions to have additional comment in the published 2000 *Code*, many representatives expressed strong objections to inclusion in the ICC 2000 *Code* of any organization's commentary—including that of HUD's—that would provide a road map for diminishing the *Code*'s efforts to enhance accessibility for people with disabilities. In fact, it was the consensus of the work group that outside commentary was inappropriate.

Following a March 21st letter to Secretary Cuomo (attached) urging HUD to reconsider any proposals to place its imprimatur on documents that could be used to undermine building codes that would lead to improve accessibility, CCD co-chair Kathy McGinley received a May 5th response from Secretary Plaza (attached) that gave assurances that *the document will not contain any discussion about areas of the code that may exceed the requirements in the Act I [FHHA]. The document will not contain any discussion about areas of the code that may exceed the requirements of the Act.*

Yet five days later, HUD issued a press release confirming NAHB's analysis of areas that exceed the minimum required. In a June 9th letter to Secretary Plaza (attache), the CCD Housing Task Force again expressed concerns on inclusion of any Appendix commentary and deep disappointment in HUD's decision to produce, in concert with NAHB, a road map that would undermine accessibility for people with disabilities.

A meeting of the *Code* accessibility work group was held last week specifically to discuss the *draft 2000 Code's* inclusion of *discussion* and HUD/NAHB commentary in the *Code Appendix*. At that time, Bill Tangye, President of ICC, stated that the document was just that—a *draft*—with no final decisions made on the document. He then invited comment on the issue of Appendix C from the 50 plus interested people at this specially convened meeting. Overwhelmingly, the comments—with the exception of NAHB representatives—opposed the inclusion of HUD/NAHB *discussion* of where the *2000 Code* exceeded the minimum Fair Housing Accessibility Guidelines. These oral comments were in addition to many written letters to ICC opposing the same. Again, the disability community believed not only that consensus was reached—but near unanimity was reached—in opposition to any *discussion by HUD or NAHB* in the *2000 Code* document.

The CCD Housing Task Force is requesting this meeting to discuss reversal of HUD's push for inclusion that overrides its earlier promise to the disability community and to ask for HUD to withdraw its commentary. I can be reached at 703-642-6614 to schedule a meeting with the CCD Housing Task Force Co-chairs.

Sincerely,



Suellen R. Galbraith

Co-Chair
CCD Housing Task Force

cc: William Tangy, President ICC
Eva Plaza, Assistant Secretary FHEO

RECEIVED MAY 12 2000



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-3000

May 5, 2000



OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

Ms. Kathleen McGinley
Housing Task Force Co-Chair
Consortium for Citizens with Disabilities
1730 K Street NW, Suite 1212
Washington, DC 20006

Dear Ms. McGinley:

On behalf of Secretary Cuomo, thank you for your March 21, 2000 letter concerning continued efforts to promote accessibility in housing construction through state and local adoption of model building codes that incorporate the design and construction requirements of the Fair Housing Act (the Act). As you know from our recent review of four model building codes, and the Department's interest in endorsing the Consensus Statement already endorsed by your organization and other interested organizations, the Department supports inclusion of requirements into model building codes that are consistent with the requirements of the Act. The Department also continues to work with all interested organizations to encourage states and units of local government to adopt building codes that reflect the Act's accessibility requirements.

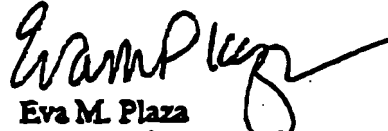
The International Code Council (ICC) has asked the Department to review and endorse the stand alone document, "Code Requirements for Housing Accessibility" (CRHA). We understand that the CRHA will incorporate text from the IBC 2000 and related ICC/ANSI A117.1-1998 text that meets or exceeds the accessibility requirements of the Act. We also understand that the CRHA will include an appendix that reflects proposed changes to the IBC 2000 that will make the code language consistent with the accessibility requirements in the Act. The document will not contain any discussion about areas of the code that may exceed the requirements in the Act.

The Department believes the CRHA will be mutually beneficial to the federal government, model building code organizations, state and local jurisdictions, architects, builders and, more importantly, persons with disabilities. When jurisdictions adopt and enforce model codes which have been deemed consistent with the Act's design and construction requirements, this will provide an opportunity for a review of building plans before a project is built, and will increase the opportunity to detect and correct areas of noncompliance early on since code officials will be enforcing the requirements of the code. In addition, the Department strongly believes that the CRHA will significantly increase housing choices for persons with disabilities.

The National Association of Home Builders has asked the Department to consider a document that outlines a small number of areas of the IBC 2000 which NAHB believes exceed the requirements of the Act. The Department is currently reviewing this document. The concerns expressed by the Consortium for Citizens with Disabilities in its letter regarding this matter will be considered during this review.

The Department recognizes that the Act does not, in any way, invalidate or limit the authority of any state or local government to adopt accessibility requirements that are stricter than those in the Act. While the Department cannot require states and local governments to adopt stricter laws, the Department fully supports their right to do so. In reviewing the document submitted by NAHIB, the Department will make every effort to ensure that its statement regarding this document does not discourage states and units of local government from pursuing their authority to adopt stricter accessibility laws in addition to laws or codes that are consistent with the accessibility requirements of the Act.

Sincerely,



Eva M. Plaza
Assistant Secretary for
Fair Housing and Equal Opportunity



June 9, 2000

Ms. Eva Plaza
Assistant Secretary for
Fair Housing and Equal Opportunity
U. S. Department of Housing and
Urban Development
451 7th St. SW
Washington, DC

Dear Ms. Plaza

This letter follows up on your May 5, 2000 response to our letter of March 21, 2000 to Secretary Cuomo expressing our concern about Department of Housing and Urban Development's [HUD] endorsement of certain building codes as safe harbors for compliance with the Fair Housing Act [FHA]. We asked your agency to consult with the disability community before it placed its imprimatur on documents that could be used to undermine building codes that improve on the level of accessibility offered by the FHA accessibility guidelines.

We, the undersigned members of the Consortium for Citizens with Disabilities Housing Task Force, are deeply disappointed in HUD's decision to produce, in concert with the National Association of Homebuilders, an appendix to the Code Requirements for Housing Accessibility [CRHA], that offers a road map for bringing the accessibility building codes from the 2000 International Building Code [IBC 2000] down to the modest level of accessibility required under the FHA. The IBC 2000, from which the CRHA was extracted, is the product of a lengthy public process undertaken by the International Code Council [ICC]. In the course of that public process, building code language was developed that enhances accessibility for people with disabilities.

Your May 5th letter indicated that the CRHA would include an appendix with "proposed changes to the IBC 2000" to make the code language consistent with the accessibility requirements of the Act. However, you assured us that "the document will not contain any discussion about areas of the code that may exceed the requirements in the Act." Five days later, HUD issued a press release stating that it had reviewed the NAHB "analysis" of the ICC code and "confirms that these areas do in fact exceed the minimum required. This means that local government jurisdictions adopting the CRHA code modified in accordance with HUD's analysis will still be in compliance with the Fair Housing Act."

The Department may believe that it is under no obligation to promote anything but the requirements of the Fair Housing Act, no matter how minimal a standard of accessibility

they represent. However, the disability community had hoped that HUD would champion greater accessibility in housing for people with disabilities through the use of the most up-to-date building codes. Instead, HUD appears to have sided with those looking for the most limited way to conform with the law.

The portion of the appendix produced by NAHB and endorsed by HUD in no way represents the type of consensus process followed in the development of the Code Requirements for Housing Accessibility. CRHA, if followed, would foster compliance with the FHA accessibility guidelines as well as advance the cause of greater accessibility for people with disabilities. Inclusion of the NAHB language in the appendix will seriously diminish the CRHA's effectiveness and call in to question its legitimacy.

Needless to say, we are disappointed in the course HUD has chosen to take. By consulting only with the NAHB on the appendix, HUD has shut the disability community out of a decision that will have a direct impact on the lives of people with disabilities. Furthermore, HUD's endorsement of the appendix will undermine the adoption of building codes that could improve residential accessibility beyond the limited parameters of the Fair Housing Act.

Sincerely,

American Network of Community Options and Resources
Brain Injury Association
International Association of Psychosocial Rehabilitation Services
National Alliance for the Mentally Ill
National Association of Developmental Disabilities Councils
National Association of Protection and Advocacy Systems
Paralyzed Veterans Of America
Rehabilitation Engineering and Assistive Technology Society of America
Technical Assistance Collaborative
The Arc of the United States

Cc: The Hon. Andrew Cuomo, Secretary
William Tangy, President ICC



March 21, 2000

Contact: Michael Allen, BCMHL, 202-467-5730
 Sueilen Galbraith, ANCOR, 703-642-6614
 Kathleen McGinley, The Arc, 202-785-3388
 Andrew Sperling, NAMI, 703-516-7222

The Honorable Andrew Cuomo
 Secretary
 Department of Housing and Urban Development
 451 7th St. SW
 Washington, DC 20410

Dear Mr. Secretary:

As disability advocacy organizations interested in promoting accessibility in housing to the fullest extent possible, we ask you to consider carefully your Department's response to the impending publication of building code requirements for accessible housing contained in the International Building Code 2000 [IBC 2000] developed by the International Code Council [ICC]. We understand that the IBC 2000 will include code language that meets, and in some cases exceeds, the requirements of the Fair Housing Amendments Act [FHAA] accessibility guidelines [FHAAG]. We are pleased to see that the code development community is crafting a document that will help to assure compliance with the Act and FHAAG while advancing the cause of greater accessibility in residential housing.

Many of the undersigned groups have endorsed the concept of incorporating the Fair Housing Accessibility Guidelines into building codes in order to enhance compliance with the law. While we believe such an approach represents one of the strongest ways to enforce the FHAA, we recognize that accessible design is an evolving science and that the FHAAG is, in many respects, the minimum standard in accessibility.

However, we are concerned that attempts may be made to dilute the impact of the IBC 2000 [and other future codes with improved accessibility components] by some in the building industry who view the Fair Housing Accessibility Guidelines as the maximum accessibility standard that should be applied in residential housing. Such a stance undermines any progress that might be made through the building code development process in fostering integration of people with disabilities into society.

HUD has been asked to identify building codes that reflect safe harbors under the Fair Housing Act Amendments and the ICC will submit the IBC 2000 for acceptance as one such safe harbor. We understand, though, that your Department has also been asked by the homebuilders to endorse an interpretation of the IBC 2000 that specifies where it exceeds the FHAAG. Such a document could be used at the state and local levels to justify amendments to the IBC 2000 that reduce accessibility in those jurisdictions.

We believe that any endorsement by HUD of a particular building code should not offer ammunition to those resistant to accessible housing. Furthermore, we urge you to consult with the broader disability community before your agency places its imprimatur on policy statements that could have a detrimental impact on its members.

Sincerely,

Advocacy Resources, Inc.
 American Network of Community Options and Resources
 Bazelon Center for Mental Health Law
 Brain Injury Association
 National Alliance for the Mentally Ill

National Association of Developmental Disabilities
 Councils
 NISH
 Paralyzed Veterans of America
 Rehabilitation Engineering and Assistive Technology
 Society of North America
 The Arc of the United States

Cc: William Tangy, President, ICC, William Apgar, Assistant Secretary for Housing
 Eva Plaza, Assistant Secretary for Fair Housing and Equal Opportunity, Gail Laster, HUD General Counsel



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press release

HUD News

HUD No. 00-99

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For Release

Wednesday

May 10, 2000

CUOMO SAYS HUD WILL ACCEPT NEW HOUSING ACCESSIBILITY RULES AS "SAFE HARBOR" UNDER REQUIREMENTS OF THE FAIR HOUSING ACT

WASHINGTON - Housing and Urban Development Secretary Andrew Cuomo today announced that the Code Requirements for Housing Accessibility (CRHA) will serve as a "safe harbor" for compliance with the requirements of the Fair Housing Act.

If a builder follows provisions in the CRHA without waivers or exceptions, HUD will view the builder's compliance with the code as an affirmative defense against complaints alleging violations of the Fair Housing Act's accessibility requirements for people with disabilities, Cuomo said. The Secretary made the announcement in a speech to the National Association of Home Builders.

The CRHA was developed by the International Code Council (ICC), with participation by the government at all levels, industry groups and advocates for people with disabilities.

"HUD is committed to increasing housing opportunities for people with disabilities," Cuomo said. "We're also committed to continuing to provide guidance to the housing industry on the accessibility requirements of the Fair Housing Act. Now for the first time, we can show builders, architects, advocates for people with disabilities, and local governments how to develop affordable, accessible housing that conforms to the Fair Housing Act."

Cuomo told the Home Builders that the ICC report will for the first time give builders in clear building code language, guidance on how to build housing that meets the standards of the Fair Housing Act. It takes HUD's guidelines and puts them in a place where builders go for such guidance - building codes. HUD worked closely with ICC in preparing the report over the last several months, and as a result can verify that it can serve as a "safe harbor" for builders in meeting standards of the Act.

HUD also prepared a special appendix to ICC's report that reviews an analysis prepared by the National Association of Home Builders identifying five areas where the ICC code exceeds the requirements for meeting the Fair Housing Act. In the appendix, HUD confirms that these areas do in fact exceed the minimum required. This means that local government jurisdictions adopting the CRHA code modified in accordance with HUD's analysis will still be in compliance with the Fair Housing Act.

##



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
WASHINGTON, DC 20410-0001

Dear Colleague:

This is a landmark document. The International Code Council's *Code Requirements for Housing Accessibility* (CRHA) is a giant step forward for ICC, disabled persons across America, the industry, and for HUD.

This document will serve as a safe harbor for compliance with the accessibility requirements of the Fair Housing Act. The CRHA may be used by state and local jurisdictions, as well as builders and architects, in designing and constructing new multifamily housing that is covered under the Fair Housing Act.

Twelve years ago the Fair Housing Act was amended to include disabled persons as a covered class. At the time, the nation recognized the need for increased housing accessibility. It was both the right thing to do and it made good business sense.

With this document we put that consensus into practice. It brings everyone onto the same page. It will, for the first time, give builders in clear building code language guidance on how to build housing that meets the standards of the Fair Housing Act. It takes HUD's guidelines – issued in 1991 -- and puts them in a place where builders go for such guidance – building codes.

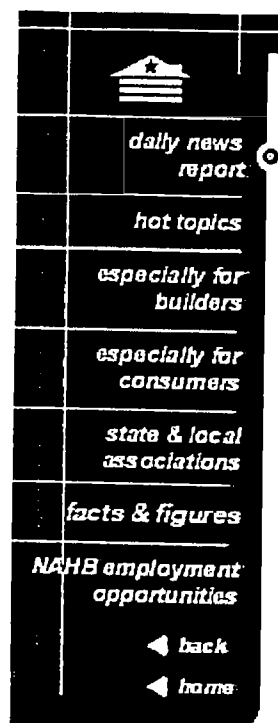
While the code will serve as a safe harbor for builders in meeting standards of the Act, HUD is not attempting to invalidate any existing or future state or local laws that may require greater accessibility for persons with disabilities than is contained in the Fair Housing Act.

With the publication of this document, HUD continues to be committed to the goal of increasing housing opportunities for persons with disabilities. We are committed to continuing our efforts to provide guidance to the housing industry on the accessibility requirements of the Act.

This is an important achievement. Congratulations to all concerned – the International Code Council, the disabled community, and the nation's builders -- for their hard work and their commitment to resolving this issue. I believe we all share a common goal: eliminating discrimination against persons with disabilities – and eliminating the structural barriers to housing choice that stand in the way of their being full citizens in our society.

Sincerely,

A handwritten signature in dark ink, which appears to read "Andrew Cuomo", is written over the word "Sincerely,".
Andrew Cuomo



HUD Endorses Accessibility Document Prepared By NAHB

May 10 -- The U.S. Department of Housing and Urban Development has endorsed a new building codes document that clarifies the federal Fair Housing Accessibility Guidelines for builders and will help ensure that new apartments and condominiums are accessible to people with disabilities.

The Codes Requirements for Housing Accessibility (CRHA) document, which was prepared by HUD, the National Association of Home Builders (NAHB), and the International Code Council (ICC), describes the federal multifamily construction accessibility requirements in building code language.

Speaking to NAHB's Executive Committee during the association's Spring Board of Directors Meeting, HUD Secretary Andrew Cuomo said: "HUD is committed to increasing housing opportunities for people with disabilities. We're also committed to continuing to provide guidance to the housing industry on the accessibility requirements of the Fair Housing Act. Now, for the first time, we can show builders, architects, advocates for people with disabilities, and local governments how to develop affordable, accessible housing that conforms to the Fair Housing Act."

The HUD endorsement represents a major breakthrough for the multifamily industry which—for the first time since the Fair Housing Act was enacted in 1988—will have a clear delineation of the exact federal accessibility requirements written in building code language and a safe harbor for those who comply. NAHB has long held that the best way to assure compliance with accessibility requirements would be to incorporate them into state and local building codes.

The NAHB initiative that led to the new stand-alone accessibility codes document began a year ago. Using the International Building Code (IBC) accessibility provisions as a base (with the consent of the International Codes Council), NAHB and others, including representatives of the disability rights community, identified places where the IBC fell short of the federal standard. NAHB also identified those provisions in the IBC that exceeded the federal law.

"We applaud Secretary Cuomo for his commitment to completing the difficult process of correcting the many problems related to the fair housing accessibility guidelines," said Robert Mitchell, president of NAHB and a home builder from Rockville, Md. "As a result of his commitment, multifamily builders will now have the federal accessibility requirements written in a form most likely to ensure compliance."

According to Robert Josephs, senior staff vice president of NAHB's Multifamily Division, the CRHA will be available for adoption by local and state jurisdictions as part of their local

building code. He also said that NAHB is committed to working closely with HUD, the disability rights community, and other interested parties to encourage states and localities to adopt the CRHA into law as quickly as possible. Local governments use building codes, which are developed by private organizations, including the International Codes Council, as a starting point for adopting their own building and safety codes. Building inspectors for local governments issue construction and occupancy permits based on compliance with these codes.

"NAHB is very pleased to have been able to close this critical gap," said Josephs. "Making local building code requirements consistent with the accessibility requirements of the Fair Housing Act will significantly increase the amount of accessible multifamily housing available." Josephs added that the CRHA will play an important role in increasing the nation's inventory of accessible housing and assuring that anyone who wants an accessible unit can find one."

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Monday, May 15, 2000

WASHINGTON HOTLINE

HUD ENDORSES ACCESSIBILITY CODES DOCUMENT AS 'SAFE HARBOR' FOR BUILDERS; SECRETARY CUOMO HAILS NAHB FOR SPEARHEADING EFFORT

The U.S. Department of Housing and Urban Development (HUD) has endorsed an NAHB-initiated document that describes the federal multifamily construction accessibility requirements in building code language. Most importantly, this document provides a safe harbor—for the first time since the Fair Housing Law was enacted—for builders who comply with these requirements. HUD Secretary Andrew Cuomo made the announcement in a speech to NAHB's Executive Committee during the association's Spring Board of Directors Meeting, held last week in Washington, D.C.

"If builders meet the code set forth in the [Code Requirements for Housing Accessibility (CRHA)] that we've endorsed today, they will have complied with the law and no court can say otherwise," Cuomo said, noting that the U.S. Department of Justice (DOJ) had also signed off on the document.

In his speech, Cuomo praised NAHB for its leadership role in resolving this critical issue and said the CRHA document is a metaphor for the "great things that happen when HUD and NAHB work together."

NAHB moved the accessibility guidelines issue to the top of its priorities during last year's Spring Board meeting, when former NAHB President Mark Tipton and a group of North Carolina members brought it to the attention of NAHB's Board. Then-President Charlie Ruma made a commitment to resolving the problems and he garnered the same commitment from Secretary Cuomo. Current NAHB President Robert Mitchell kept the issue at the top of his agenda. The idea for a stand-alone accessibility document that could be endorsed by HUD was conceived by NAHB's Multifamily Division, which took the lead on this issue. NAHB then gained the support of Secretary Cuomo to create this document, which would be endorsed as a safe harbor by HUD and DOJ.

Using the International Building Code (IBC) accessibility provisions as the base (with the consent of the International Codes Council), NAHB identified 57 places where the ICC code exceeded the requirements for meeting the Fair Housing Act. These were consolidated and incorporated into the basic IBC document. A set of provisions prepared by NAHB and others, including representatives of the disabilities community, which had to be added to bring the IBC up to the federal standard, was also included. Local government jurisdictions adopting the CRHA code modified in accordance with the NAHB-analysis that HUD endorsed will be in compliance with the Fair Housing Act, Cuomo said.

"We applaud Secretary Cuomo for his commitment to completing the difficult process of correcting the many problems related to the fair housing accessibility guidelines," Robert Mitchell said after Cuomo's announcement. "As a result of his commitment, multifamily builders will now have the federal accessibility requirements written a form most likely to ensure compliance."

According to Robert Josephs, NAHB's senior staff vice president in charge of the Multifamily Division,



NAHB
NATIONAL ASSOCIATION
OF HOME BUILDERS

National Association of Home Builders Multifamily Division

1205 15th Street, NW • Washington, DC 20005-2800 • 202-822-0215 •

800-368-5242, ext. 215

Fax: 202-861-2120 • E-mail: multifamily@nahb.com



the CRHA will be available for adoption by local and state jurisdictions immediately. Josephs said that NAHB will work with HUD, the disability rights community, and other interested parties to encourage states and localities to adopt the CRHA into law as quickly as possible.

"NAHB is very pleased to have been able to close this critical gap" said Josephs, who added that the CRHA will play an important role in increasing the nation's inventory of accessible housing and assuring that anyone who wants an accessible unit can find one." For more information, contact Robert Josephs at 1-800-368-5242, ext. 147.

NAHB PREPARING ACCESSIBILITY COMPLIANCE "TOOLKIT"

NAHB is putting the finishing touches on a "toolkit" designed to help builders understand and comply with the new accessibility codes document. The toolkit includes materials that analyze and interpret the codes document together with a description of how it is to be employed in building multifamily housing. It also provides a "how-to" guide for adopting the CRHA and its appendices into state and local building codes. It includes a copy of the new HUD-endorsed codes document. For more information or to order a copy, please contact Karen Danielsen at 1-800-368-5242, ext. 208 or via e-mail at multifamily@nahb.com.



VOLUNTARY SETTLEMENT NOW TAKES CENTER STAGE

With HUD's endorsement of CRHA complete, NAHB Senior Staff Vice President Robert Josephs has asked HUD to move forward with plans to devise a program to assist builders in resolving disputes over properties that allegedly violate the technical requirements of the federal accessibility law.

In his speech to NAHB's Executive Committee, HUD Secretary Cuomo acknowledged that it was HUD's lack of guidance in the years after the fair housing law was enacted that created this "very difficult situation" for multifamily builders.

"A good intention, badly implemented, becomes a barrier," Cuomo said, "and HUD was not immediately forthcoming with the information builders needed to create housing that was in compliance with the law." During the seven years that builders waited for HUD's guidance, Cuomo said, HUD funded enforcement efforts that resulted in numerous lawsuits.

"It is our intent now to get out of a litigation mode and get into a production mode of producing accessible, affordable housing," Cuomo said, adding that both he and FHA Commissioner William Apgar are committed to "settling this issue once and for all." Both Cuomo and Apgar reaffirmed their commitment to working closely with NAHB to develop a method for resolving this difficult issue. For more information, contact Robert Josephs at 1-800-368-5242, ext. 147.



GROUP MEETS TO DEVELOP RECOMMENDATIONS FOR BEST USE OF FHA SURPLUS

NAHB invited a select group of the nation's most successful and innovative multifamily builders and lenders to a special forum May 9 to help develop recommendations for HUD on how best to spend the \$5 billion surplus generated by the FHA's Mutual Mortgage Insurance Fund. HUD sought NAHB's advice after President Clinton called on members of his Administration to recommend how the surplus could be used to enhance affordable housing opportunities. Ideas discussed at the forum included: Developing new programs as well as modifying existing programs that provide incentives to private sector developers who participate

Monday, May 15, 2000



in affordable housing projects; expanding voucher programs directed at very-low income Americans; and expanding the Low-Income Housing Tax Credit Program. Staff are now preparing a draft of the recommendations to be reviewed and prioritized by the working committee, which plans to submit the comments by the August deadline. For more information, contact Michael Scheurer at 1-800-368-5242, ext. 232 or mscheurer@nahb.com, or Jeanne Engel at 1-800-368-5242, ext. 219, or jengel@nahb.com.

BROOKINGS' KATZ; CONGRESSWOMAN JOHNSON ADDRESS NAHB FORUMS

"Housing policy must become a priority for Americans and their politicians," said Bruce Katz, a senior fellow at the Brookings Institution, during an address to the Multifamily Division's Housing Credit Group and Affordable Housing Production forum. The joint luncheon was held May 9 in Washington, D.C., during the HCG's Spring Forum. Katz said that even though multifamily housing—affordable and otherwise—is a critical component of smart growth and the redevelopment of urban centers, it has not been effectively linked to these hot topics. He also noted that housing makes up the biggest single expense for most Americans, yet housing issues have not even been given a minor role in presidential political campaigns. Katz urged NAHB members to continue working on ways to make housing—especially affordable housing for low- and moderate-income Americans—a national priority and encouraged the formation of coalitions to work toward this purpose.

Congresswoman Nancy Johnson (R-CT) also spoke at the HCG Spring Forum, updating members on the legislative progress of the proposed increase in the per capita allocation of the Low-Income Housing Tax Credit program (LIHTC). NAHB is aggressively lobbying for passage of this increase, which is currently included in the Small Business Tax Fairness Act of 2000 (H.R. 3081). H.R. 3081 would increase the LIHTC per capita limit by 10 cents annually until it reaches \$1.65, after which the limit will be indexed for inflation. The bill also includes NAHB-supported reforms designed to "level the playing field" between nonprofit and for-profit developers during the credit allocation process. Additionally, the bill would increase the Private Activity Bond Cap (to \$70 per capita by 2004). This is important, as private activity bonds are used by many states to finance affordable multifamily housing. Although the House passed H.R. 3081 in March, its future is questionable, as the Senate's version of a tax bill did not include these provisions. If Congress fails to include the tax credit legislation in a tax bill this year, Johnson said, the next Congress may not make them a priority. She urged NAHB members to vigorously push the congressional leadership and the Administration to pass these provisions this year. For more information, contact Margaret McFarland at 1-800-368-5242 or via e-mail at mmcfarland@nahb.com.

PILLARS OF THE INDUSTRY AWARD NOMINATIONS

The Call for Entries Brochure soliciting nominations for the 2001 Pillars of the Industry Awards competition will be mailed out soon. The Pillars Awards are the most prestigious in the industry, honoring the "best of the best" in multifamily design, development, construction, management and marketing. The awards will be presented this spring at a Gala Banquet held during NAHB's spring educational conference. Applicants can enter as many categories as they'd like, and are encouraged to begin preparing their entries now. Sponsorships are also available. For more information, contact Laura Zaner at 1-800-368-5242, ext. 563 or via e-mail at lzaner@nahb.com.



National Association of Home Builders Multifamily Division

1205 15th Street, NW • Washington, DC 20005-2800 • 202-822-0215 •

800-368-5242, ext. 215

Fax: 202-861-2120 • E-mail: multifamily@nahb.com



Kathy McGinley

From: Dominic Sims [Dsims@co.palm-beach.fl.us]
Sent: Thursday, June 22, 2000 8:10 AM
To: McGinley@thearc.org
Cc: btangye@sbcci.org
Subject: Re: Letter to Bill Tangye on Appendix C, Part II

Kathy thanks for your letter. I am from Palm Beach County, the first county in the state of Florida to adopt and enforce an accessibility ordinance. Our recent experience with FHA is very painful however. We are wasting enormous resources because of the lack of local enforceability provisions of FHA. These resources would be better used in other areas of accessibility enforcement. Building Officials need to have all accessibility provisions mainstreamed into the IBC. It helps us educate, enforce and ultimately achieve greater compliance.

Since appendix C is really only an agenda for future changes, I would suggest that you ask ICC to print your opinion on appendix C in the document. It will ultimately be decided by the members during the code deliberation process.

If I can be of any further assistance please call me at your convenience.

Dom Sims, CBO

>>> "Kathy McGinley" <McGinley@thearc.org> 6/21/00 3:20:08 PM >>>
Below as text and included as a Word attachment is a letter from the Consortium for Citizens with Disabilities Housing Task Force voicing our strong opposition to the inclusion of Appendix C, Part II in the CRHA.

Mr. William Tangye

President

International Code Council, Inc.

5203 Leesburg Pike

Suite 708

Falls Church, VA 22041

Dear Mr. Tangy:

The Consortium for Citizens with Disabilities Housing Task Force understands that you and your board will decide within the next few days whether to publish the Code Requirements for Accessible Housing [CRHA] with an appendix [Appendix C, Part II] developed by the National Association of Homebuilders [NAHB]. This appendix describes how to revise the CRHA code language so that it reflects nothing beyond the requirements of the Fair Housing Accessibility Guidelines [FHAAG]. The member organizations * which

represent a wide range of individuals with disabilities -- of the CCD Housing Task Force strongly urge you to heed the objections voiced by disability advocates across the nation as well as many architects and building and housing industry representatives and reject inclusion of Appendix C, Part II with the CRHA.

The CCD Housing Task Force viewed the development of the CRHA as a means not only to incorporate the Fair Housing accessibility guidelines into code language to foster compliance with the law but also to promote greater accessibility in residential construction. We strongly believe that several of the elements in the CRHA that NAHB contends exceed the FHAAG -- such as accessible security and intercom systems and laundry equipment in dwelling units -- are features in modern multifamily residential construction that people with disabilities find unusable because of their inaccessibility. If jurisdictions were to adopt the codes contained in the stand-alone CRHA, the problems faced by many, many people with disabilities would diminish. The CCD is strongly concerned that if the International Code Council [ICC] includes Appendix C, Part II, those states and localities resistant to accessibility will be able to weaken the advances contained in the CRHA. Many of people with disabilities that Housing Task Force organizations represent will continue to confront unfair barriers in housing.

CCD Housing Task Force organizations strongly object to the manner in which Appendix C, Part II was developed -- outside the process followed for creation of the CRHA and without any input from the disability community. The CRHA itself is the product of a lengthy consensus process involving a broad range of stakeholders, including disability organizations that put aside their historical concerns of working closely with NAHB because of past negative experiences in the effort to find a way to ensure better access to housing for individuals with disabilities.

Appendix C, Part II was developed by one organization (NAHB) in a manner that can hardly be described as open. We strongly believe that including Appendix C, Part II with the CRHA would undermine the credibility of the CRHA and the ICC. The CCD does not dispute the right of the homebuilders to advise their members about compliance with the FHAAG through the use of materials such as Appendix C, Part II. However, we disagree strongly with the implied "stamp of approval" that would be given to the perspective of one group in an official document of the code industry.

Finally, the CCD Housing Task Force would like to emphasize the acknowledgement made by the home builders' representative at the recent meeting in Washington, DC between you and members of the ad hoc fair housing workgroup. When asked if the CRHA, in and of itself, would provide home builders with the distinct "safe harbor" that builders have clamored for since the FHAAG were first issued, he replied, "Yes." We strongly urge you to let that comment be your guide.

The CCD Housing Task Force organizations appreciate all the time and work that the ICC has put into the creation of the Code Requirements for Accessible Housing, as well as the ongoing effort to develop an International Building Code that will continue to advance a more inclusive built environment. Thank you for your attention to our concerns about Appendix C, Part II.

Sincerely,

Suellen Galbraith
Andrew Sperling

Kathleen McGinley

American Network of
National Alliance for

The Arc of the United States

Options and Resources
the Mentally Ill

(co-chairs CCD Housing Task Force)

Kathy McGinley
The Arc Governmental Affairs Office
www.thearc.org
Housing and Health Task Forces -- www.c-c-d.org
"Opening Doors" -- www.c-c-d.org/doors.html

It is far more impressive when others discover your good qualities without
your help.

Kathy McGinley

From: Cheryl D. Kent [Cheryl_D_Kent@HUD.GOV]
Sent: Wednesday, June 21, 2000 5:23 PM
To: Kathy McGinley
Subject: Re: Letter to Bill Tangye on Appendix C, Part II



ATT00009.txt



att1.htm



clip_image001.gif



CCD letter.doc

Kathy: Thanks for sharing this. Since you "bcc'd" me, I am checking with you first to find out if it is okay with you if I share this with Amy Wilkinson and the others at HUD who attended the public forum, and also with Joan and Kathy at DOJ? I think it would be very good if Amy can share this with staff in the Secretary's office, as they need to see this too. So please let me know if I may share it. Thanks. --Cheryl

"Kathy McGinley" <McGinley@thearc.org> on 06/21/2000 03:20:08 PM

To: btangye@sbcci.org, "Joe Berchenko (E-mail)" <gpspecs@navix.net>, "Katie Corrigan (E-mail)" <Katie_Corrigan@labor.senate.gov>, "Tom Hlavacek (E-mail)" <tomh@w-c-a.org>
cc: nickle@lakewood.org, bekknitek@aol.com, blane@ci.rlling-meadows.il.us, traw@icbo.org, helisted@bocai.org, kuchnicki@intlcode.org, Nick.D'Andrea@ci.tampa.fl.us, billduck@aol.com, fred_herman@city.palo-alto.ca-us, paul.myers@rcc.org, rnienaber@ci.maple-grove.mn.us, erodgers@co.arlington.va.us, jtryan@opkansas.org, toward@ci.oak-ridge.tn.us, dwolfe@co.la.ca.us, dhipps@columbiasc.net, dsims@co.palm-beach.fl.us, "'Soy L. Williams, AIA'" <williams@intlcode.org> (bcc: Cheryl D. Kent/FHEO/HHQ/HUD)
Subject: Letter to Bill Tangye on Appendix C, Part II

Below as text and included as a Word attachment is a letter from the Consortium for Citizens with Disabilities Housing Task Force voicing our strong opposition to the inclusion of Appendix C, Part II in the CRHA.

Mr. William Tangye

President

International Code Council, Inc.

5203 Leesburg Pike

Suite 708

Falls Church, VA 22041

Dear Mr. Tangy:

The Consortium for Citizens with Disabilities Housing Task Force understands that you and your board will decide within the next few days whether to publish the Code Requirements for Accessible Housing [CRHA] with an appendix [Appendix C, Part II] developed by the National Association of Homebuilders [NAHB]. This appendix describes how to revise the CRHA code language so that it reflects nothing beyond the requirements of the Fair Housing Accessibility Guidelines [FHAAG]. The member organizations

Healthy and Ready to Work Options:

We previously recommended a legislative change to provide for Healthy and Ready to Work (HRTW) services for youth with special health needs through the State Title V Maternal and Child Health Children with Special Health Care Needs (CSHCN) programs. The intent was to provide a clear authority and accompanying funding appropriation to ensure the provision of appropriate services to youth with special health needs in transition to adulthood. However, if a legislative option is not available, the following resource alternatives should be considered:

- 1) A line item appropriation could be added for the Health Resources and Services Administration (HRSA) to provide national HRTW services through the State Title V programs.
- 2) A budget request for FY 2002 was prepared within the Maternal and Child Health Bureau requesting \$150 million to establish a national HRTW services program within the existing Title V legislation. That proposal did not make it through the HRSA level since at the time of consideration it was believed that the above-mentioned legislative proposal would address the issue. At this time, the budget request could be reinstated at the Department or OMB level. (A copy of the request is attached.)
- 3) A Presidential Directive or Executive Order could create a Federal HRTW Interagency Council, composed of HRSA, Health Care Financing Administration (HCFA), Social Security Administration, Department of Education, Department of Labor, and other appropriate departments and agencies, family and youth representatives, etc., with the charge of working together to ensure access to and utilization of HRTW services by youth with special health needs. As part of the directive or order, HCFA and/or other participating Federal entities could be required to contribute funds through an inter-agency agreement to either conduct a demonstration program or roll out a full-scale national HRTW program.
- 4) The demonstration authority and funding of the Work Incentives Improvement Act could be utilized for HRTW services to youth with special health needs.
- 5) The pending Family Health Opportunities Act could possibly absorb the HRTW proposal or under that Act's demonstration authority, a HRTW demonstration could be conducted.



U.S. Department of
Transportation

Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

RE: 10th anniversary
ADA plans

CONFIDENTIAL FAX:

TO: Becky Ogie, Executive Director, PTFEAD
FAX: 202-
693-4829

FROM: Nancy Dunham *ND*
Senior Civil Rights Attorney
Office of Environmental, Civil Rights, and General Law
202-366-8072

including cover-pp. 5

As requested
at yesterday's meeting. The OMB item (pending)
is circled. I am also sending you
this electronically by E Mail.

In addition, for your information, DOT's
Secretary, Deputy Secretary and General Counsel
will be actively involved in DOT's ADA celebration.
The Deputy Secretary participated in the ADA Torch
Relay in Austin, TX on 6/13/00. Secretary Slater is
doing the Torch Relay in NY, NY on 8/6/00. Our
DOT event is scheduled for 7/21/00, and will
include all these officials.



U.S. Department of
Transportation

Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

June 16, 2000

**MEMORANDUM FOR THE SECRETARY
THE DEPUTY SECRETARY**

FROM:

NANCY E. MCFADDEN

SUBJECT:

**Tenth Anniversary of the ADA-July 2000:
Disability-related Accomplishments and New Initiatives**

As I mentioned at the senior staff meeting, I had asked my staff to pull together a list of disability-related accomplishments and new initiatives related to the work of the Office of General Counsel, in preparation for the tenth anniversary of the passage of the ADA on July 26, 2000. We have also included accomplishments or initiatives related to other offices to the extent we are aware of them. While we know that much good work is being done in the disability area by the Departmental Office of Civil Rights and our Modal Administrations, we may not have captured each and every possible accomplishment or initiative, but have primarily focused on those to which this Office has made a contribution.

Attachment

cc: Jerry Malone
—Norma Krayem
Eugene Conti
Mary Trupo
Ronald Stroman
Michael Winter

I. Accomplishments

- ▶ Issued DOT Final Rule on Over-the-Road buses in September 1999, requiring accessibility of new Over-the-Road buses and bus service.
- ▶ Issued DOT Final Rule in August 1999 eliminating \$2,500 cap on liability of airlines to passengers for loss or damage to their wheelchairs and other assistive devices.
- ▶ Secretary issued Departmental Accessibility Policy Statement in July 1999, stressing access for persons with a disability to all modes of transportation and deeming accessibility in transit as an important civil right.
- ▶ Issued DOT Final Rule requiring priority seating for disabled travelers to accommodate their disabilities and incorporating a general ADA requirement on reasonable accommodations into DOT's Air Carrier Access Act (ACAA) rules.
- ▶ At request of DEAF-DOT and DOT/ADA, General Counsel issued March 27, 2000 memorandum to all Departmental managers and supervisors, stressing their legal obligations of affirmative action for persons with disabilities under Section 501 of the Rehabilitation Act.
- ▶ Distribution of new DOT publications comprehensively outlining maximum access and guidelines on accessibility for sidewalks, trails, and airports.
- ▶ Unveiling of new DOT website on accessibility, coordinating and integrating links to DOT, the federal government, and advocacy organizations.
- ▶ Announcement of two million dollars in FTA Over-the-Road bus grants to assist in capital costs of making Over-the-Road buses accessible.
- ▶ Worked to strengthen enforcement provisions of the ACAA, resulting in new AIR-21 provisions requiring investigations of each ACAA complaint; increasing the maximum civil penalty for ACAA violations to \$10,000; and bringing foreign air carriers under ACAA coverage.
- ▶ Began investigating and enforcing cases against foreign air carriers for unreasonable discrimination against disabled air travelers for the first time. Until April 5, 2000, foreign air carriers were not covered by the ACAA, but unreasonable discrimination against disabled air travelers was otherwise prohibited by law. Two precedent-setting cease and desist orders – one against Lufthansa and the other against Alitalia – have already been issued by DOT.

- ▶ Began to publish, on a monthly basis, in DOT's Air Travel Consumer Report, the number of disability-related complaints DOT receives for each major airline, providing useful information to disabled travelers.
- ▶ Issued DOT Final Rule requiring lifts for small commuter aircraft to facilitate the boarding by individuals with disabilities; harmonizing requirements relating to airport facilities in the Department's Section 504 and ACAA regulations; and clarifying provisions concerning communicable diseases.

II. New Initiatives

**** Starred items are new initiatives requiring future action that we are trying to complete before the July 26, 2000 ADA anniversary**

- ▶ Developing initiative for biennial Secretarial "Excellence in Accessibility" Award.**
- ▶ Issuing Notice of Proposed Rulemaking to Adopt Access Board's Updated Accessibility Guidelines.**
- ▶ Finalizing DOT Rule on Lifts for Aircraft w/31 plus seats which will require air carriers and airports to work jointly to make lifts or other boarding devices available for persons with a disability on aircraft of any size where level entry loading bridges or existing lifts are not currently available.
- ▶ Issuing Notice of Proposed Rulemaking which will require air carriers to file with DOT detailed information on the disability-related complaints they receive, to be used for enforcement, educational, and other relevant purposes by DOT, disabled air travelers, and Congress.
- ▶ Issuing Notice of Proposed Rulemaking seeking to amend DOT's ACAA regulation to cover foreign air carriers operating to and from the United States or code sharing with U.S. carriers.
- ▶ Examining feasibility of DOT conducting regulatory negotiation on airline travel and additional accommodations needed for hearing-impaired passengers under the ACAA, including the elimination of barriers faced by deaf and hard-of-hearing airline travelers.
- ▶ Working on proposals to establish two new safety standards for motor vehicles: first, an equipment standard specifying requirements for platform lifts, and, second, a vehicle standard for all vehicles equipped with lifts. The proposal would regulate platform lifts installed on all motor vehicles, including over-the-road buses, school buses, and multi-

purpose vehicles and would impose additional interlock requirements, improved wheelchair retention and platform slip resistance tests, and, in some instances, lesser compliance standards for lifts installed on vehicles typically used solely for private transport.

- ▶ Providing legal advice and assisting the Departmental Office of Civil Rights in implementation of the next phase of the Section 504 Self-Evaluation process, including drafting portions of the Self-Evaluation, analyzing data from DOT personnel, planning publication and public comment period.
- ▶ Working with Disability Resource Center personnel to assess and develop centralized job vacancy site on DOT's internet website for employees/applicants with a disability.
- ▶ Providing legal counsel to Departmental Office of Civil Rights and ONE-DOT Section 501 Task Force to establish the DOT "Plan For Employing Persons with a Disability," to be submitted to the Secretary in June 2000, in response to Presidential and Office of Personnel Management directives.**
- ▶ Providing legal advice and drafting a new Departmental Policy Statement on Section 501 Affirmative Action for Persons with a Disability, to be submitted with the DOT Plan, above, for Secretarial signature, in June 2000.**
- ▶ Developing initiative to ensure that performance appraisals of all Departmental managers and supervisors and the Secretarial performance agreements of senior management at DOT reflect the mandates of Section 501 of the Rehabilitation Act, including recruiting, hiring, mentoring, training, and promoting individuals with a disability, in response to a listening session held by the General Counsel with the two disability advocacy groups at DOT.
- ▶ Developing initiative to establish a competitive leadership development program for qualified persons with a disability, as part of the Department's affirmative obligations under Section 501 of the Rehabilitation Act, as well as the Administration's request that federal executive agencies develop new initiatives in this area.
- ▶ Developing with the Department of Justice and the National Council on Disability the ACAA outreach plan mandated by AIR-21.**
- ▶ Working with the Departments of Labor, Education, and Health and Human Services, the Social Security Administration, and other relevant "Presidential Task Force on Employment of Adults with Disabilities" members to develop by this summer a comprehensive plan of action to address the lack of transportation services and systems for persons with disabilities.**

DEPARTMENT OF LABOR

Employment Standards Administration, Office of Federal Contract
Compliance Programs

41 CFR Part 60-1

RIN: 1215-AB28

41 CFR Part 60-250

RIN: 1215-AB27

41 CFR Part 60-741

RIN: 1215-AB23

Affirmative Action and Nondiscrimination Obligations of
Contractors and Subcontractors; Compliance Evaluations in All
OFCCP Programs

AGENCY: Office of Federal Contract Compliance Programs,
Labor

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would revise certain regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503 or the Act). Section 503 requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. The current regulations

As a convenience to commenters, public comments transmitted by facsimile (FAX) machine will be accepted. The telephone number of the FAX receiver is (202) 693-1304. To assure access to the FAX equipment, only public comments of six or fewer pages will be accepted via FAX transmittal. Receipts of FAX transmittals will not be acknowledged; however the sender may request confirmation that a submission has been received by calling (202) 693-0102 (voice), (202) 693-1308 (TTY).

FOR FURTHER INFORMATION CONTACT: James I. Melvin, Director, Division of Policy, Planning and Program Development, OFCCP, Room C-3325, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 693-0102 (voice), (202) 693-1308 (TTY). Copies of this proposed rule, including copies in alternative formats, may be obtained by calling (202) 693-0102 (voice), or (202) 693-1308 (TTY). The alternate formats available are large print, electronic file on computer disk, and audiotape. The proposed rule also is available on the Internet at <http://www.dol.gov/dol/esa>.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503 of the Act), requires parties holding a nonexempt Government contract or subcontract in excess of \$10,000 to take affirmative action to employ and advance in employment qualified individuals with disabilities. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) enforces Section 503 through implementing

This proposal to revise certain of the Section 503 regulations is precipitated by the new methods for evaluating contractor compliance introduced in the Executive Order 11246 and VEVRAA regulations. Under the current regulations implementing Section 503 the compliance review remains the primary method for evaluating compliance. The current regulations at 41 CFR 60-741.60 prescribe the scope of compliance reviews, but unlike the prior Executive Order regulations, do not prescribe the content of a review. For example, under the current regulations, OFCCP may complete the Section 503 compliance review without making an on-site visit to the contractor's establishment, if the agency can make a determination about compliance based upon a review and analysis of the documentation submitted by the contractor in response to the scheduling letter. Likewise, if an on-site visit is required in order to evaluate a particular contractor's compliance with the requirements of Section 503, OFCCP has the authority, under the current regulations, to limit its on-site investigation to one or two issues.

Today's proposal would supplement the comprehensive compliance review with a variety of different means for assessing a contractor's compliance with Section 503 and its implementing regulations. The rule we propose today would formally adopt the compliance evaluation approach and expressly authorize off-site reviews of records, compliance checks, and focused reviews under Section 503. As was mentioned above, OFCCP currently has authority to use procedures akin to the

change would allow OFCCP greater flexibility when using the compliance check method to assess a contractor's compliance status. Lastly, today's proposal corrects a drafting oversight by adding the term and definition of "compliance evaluation" to the definition section of the VEVRAA regulations at 41 CFR 60-250.2. The definition proposed is consistent with the definition in OFCCP's Executive Order 11246 regulations and with the definition we today propose to add to the Section 503 regulations.

Section-by-Section Analysis

Section 60-741.2 Definitions

A definition of the term "compliance evaluation" is being added to the definition section of the regulations implementing Section 503 of the Rehabilitation Act of 1973. The proposed definition is consistent with the definition included in the regulations implementing Executive Order 11246 at 41 CFR 60-1.3. Under the new definition a compliance evaluation means any one or combination of actions OFCCP may take to examine a Federal contractor's or subcontractor's compliance with one or more of the requirements of Section 503 of the Rehabilitation Act of 1973.

Section 60-741.44 Required contents of affirmative action programs

These paragraphs are unchanged from the existing § 60-741.44, except that the term "compliance review" has been replaced with the new term "compliance evaluation" in § 60-741.44(a)(2).

documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether the contractor has complied with the requirements of Section 503 of the Rehabilitation Act of 1973 and its implementing regulations. A compliance check is described in proposed paragraph (a) (3) as a determination of whether data and other information previously submitted by the contractor are complete and accurate; whether the contractor has maintained records consistent with § 60-741.80 and/or whether the contractor has developed an affirmative action program consistent with § 60-741.40. Proposed paragraph (a) (4) states that a focused review is an on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices.

Section 60-741.62 Conciliation agreements and letters of commitment

These paragraphs are unchanged from the existing § 60-741.62, except that at § 60-741.62 the term "compliance review" is replaced with the new term "compliance evaluation."

Section 60-741.65 Enforcement proceedings

These paragraphs are unchanged from the existing § 60-741.65, except that the term "compliance review" is replaced with the new term "compliance evaluation" at § 60-741.65(a) (1).

Section 60-741.68 Reinstatement of eligible contractors

other information previously submitted is accurate and complete; whether the contractor has maintained records consistent with the record retention requirements in §§ 60-1.12 and 60-250.80; and whether the contractor has developed affirmative action programs consistent with the regulations. The agency has found that, in many instances, the assessments made with a compliance check procedure can be made without making an on-site visit. Accordingly, the proposal would — revise the regulations at 41 CFR 60-1.20(a)(3) and 60-250.60(a)(3) by removing the requirement that OFCCP visit a contractor's establishments when the "compliance check" procedure is used to assess compliance. The proposed revision to the compliance check procedure is designed to improve agency efficiency, but OFCCP believes that contractors also would find it more efficient and less burdensome if the regulations allowed documents requested during a compliance check to be mailed, in some instances.

Section 60-250.2 Definitions

A definition of the term "compliance evaluation" is being added to the definition section of the regulations implementing VEVRAA. The definition being added is consistent with the definition in OFCCP's Executive Order 11246 regulations. Under the new definition, a compliance evaluation means any one or combination of actions OFCCP may take to examine a Federal contractor or subcontractor's compliance with one or more of the requirements of VEVRAA.

Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, the proposed rule, if promulgated, will not include any federal mandates that may result in increased expenditures by state, local, and tribal governments, or increased expenditures by the private sector, of \$100,000,000 or more in any one year.

Paperwork Reduction Act

Today's proposal would have a negligible impact, if any, on the information collection requirements currently approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501, et seq.). Information collection requirements for compliance evaluations are currently approved under OMB control number 1215-0072. The currently approved inventory includes a burden estimate for compliance checks, which is based on the assumption that it takes the average contractor approximately four-tenths of an hour to find and make available the documents requested during a compliance check. The proposal to revise the compliance check procedure by removing the on-site visit requirement would mean that, during some compliance checks, contractors would be asked to submit documents by mail rather than make them available for an OFCCP compliance officer to review on-site. OFCCP believes that, for some contractors, it may take more time to mail the documents than it would to make them available

41 CFR Part 60-741

Equal Employment Opportunity, Administrative Practice and Procedure, Civil Rights, Government Contracts, Individuals with Disabilities, Investigations, and Reporting and Recordkeeping Requirements.

Signed at Washington, D.C., this ____ day of _____ 2000.

Alexis M. Herman
Secretary of Labor

Bernard E. Anderson
Assistant Secretary for Employment
Standards

Shirley J. Wilcher
Deputy Assistant Secretary for
Federal Contract Compliance

741.60

(2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) or any other Federal, State or local law requiring equal opportunity for disabled persons;

* * *

* * * * *

4. In § 60-741.60 the section heading and first and second clauses of paragraph (a) are revised to read as follows:

§ 60-741.60 Compliance evaluations.

(a) OFCCP may conduct compliance evaluations to determine if the contractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated in accordance with this part during employment. A compliance evaluation may consist of any one or any combination of the following investigative procedures:

(1) Compliance review. A comprehensive analysis and evaluation of the hiring and employment practices of the contractor, the written affirmative action program, and the results of the affirmative action efforts undertaken by the contractor. A compliance review may proceed in three stages:

(i) A desk audit of the written affirmative action program and supporting documentation to determine whether all elements required by the regulations in this part are included, whether

(3) Compliance check. A determination of whether data and other information previously submitted by the contractor is complete and accurate; whether the contractor has maintained records consistent with §60-741.80; and/or whether the contractor has developed an affirmative action program consistent with §60-741.40; or

(4) Focused review. An on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices.

* * * *

5. In §60-741.62, the first sentence of paragraph (a) is revised to read as follows:

§ 60-741.62 Conciliation agreements and letters of commitment.

(a) If a compliance evaluation, complaint investigation or other review by OFCCP finds a material violation of the Act or this part, and if the contractor is willing to correct the violations and/or deficiencies, and if OFCCP determines that settlement on that basis (rather than referral for consideration of formal enforcement) is appropriate, a written conciliation agreement shall be required. * * *

* * * * *

6. In § 60-741.65, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 60-741.65 Enforcement proceedings.

(a) General. (1) If a compliance evaluation, complaint investigation or other review by OFCCP finds a violation of the

Federal, State or local law requiring equal opportunity for disabled persons;

* * * * *

9. In §60-741.80, the last two sentences of paragraph (a) are revised to read as follows:

§ 60-741.80 Recordkeeping.

(a) * * * Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor shall preserve all personnel records relevant to the complaint, compliance evaluation or action until final disposition of the complaint, compliance evaluation or action. The term "personnel records relevant to the complaint, compliance evaluation or action" would include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.

* * * * *

10. In § 60-741.81, the first sentence is revised to read as follows:

§ 60-741.81 Access to records.

**Part 60-250-AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS
OF CONTRACTORS AND SUBCONTRACTORS REGARDING SPECIAL DISABLED
VETERANS AND VETERANS OF THE VIETNAM ERA**

13. The authority citation for part 60-250 continues to read as follows:

Authority: 29 U.S.C. 793: 38 U.S.C. 4211 and 4212;
E.O. 11758 (3 CFR, 1971-1975 Comp., p. 841.)

14. In § 60-250.2 paragraph (v) is added to read as follows:

§ 60-250.2 Definitions.

* * * * *

(v) Compliance evaluation means any one or combination of actions OFCCP may take to examine a Federal contractor or subcontractor's compliance with one or more of the requirements of the Vietnam Era Veterans' Readjustment Assistance Act.

15. In § 60-250.60 paragraph (a)(3) is revised to read as follows:

§ 60-250.60 Compliance evaluations

(a) * * *

(3) Compliance check. A determination of whether data and other information previously submitted by the contractor is complete and accurate; whether the contractor has maintained records consistent with § 60-250.80; and/or whether the contractor has developed an AAP consistent with § 60-250.40; or

* * * * *

First Iteration of HHS Activities and Deliverables Related to the 10th Anniversary of the Americans with Disabilities Act:

OLMSTEAD IMPLEMENTATION:

HHS Olmstead Implementation: In 1999 the Supreme Court ruled it discrimination under ADA for a State to institutionalize a person with a disability could live in the community with affordable supports. In January HCFA and the HHS Office of Civil Rights sent Initial guidance to States on how to comply with the the ADA and the Olmstead decision. Secretary Shalala wrote a letter to Governors at the same time urging their supportive and leadership in working with the disability community on developing comprehensive, effectively working plans to carry out the ruling as recommended by the Court:

HHS is now engaged in the following:

A second letter from Secretary Shalala to the Governors is being prepared updating them on HHS Olmstead activities and urging their leadership in this area.

OCR and HCFA have prepared for dissemination Q&A's on Olmstead implementation

HCFA has prepared and is about to put into clearance a series of State Medicaid Director on how States can best use Medicaid to carry out the Olmstead decision in a cost effective manner.

HCFA currently has a RFP out to award \$2 million to 3 to 5 States to work with independent living centers and others on identifying and supporting people with disabilities who want and are able to move out of nursing homes to do so. Proposals for the nursing home transition projects are due in mid July. Grants will be made in late September. HCFA has awarded nearly \$3 million to 8 States for such projects since 1998.

HCFA with possible support from the Administration on Developmental Disabilities will provide funding to the National Conference of State Legislators to provide TA to their members on issues related to Olmstead and expanding access to quality home and community based services. This will be done through an existing cooperative agreement that HRSA has with NCSL. An exact dollar amount is TBD.

HCFA is about to fund (July 1) a 3 to 5 year effort to provide on going technical assistance to individuals with disabilities and families of children with disabilities in effective ways to work with State policy makers to expand access to home and community based services. This will complement a similar initiative being funded by OSERS. An exact dollar amount is TBD.

The Resource Network on Home and Community Based Services -- funded by the HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE) and HCFA -- will launch a major Web site in the next several weeks. The site will provide access to data, policy research and information on promising approaches on increasing the availability of HCBS and will be useful to policy makers and people with disabilities alike.

HHS and HUD Joint Correspondence:

A joint letter from Secretaries Shalala and Cuomo on HHS and HUD's shared commitment to work with States, housing authorities and the disability community on practical strategies for expanding the availability of accessible, affordable housing. A similar joint memo from the Secretaries may go out to all relevant HHS and HUD staff as well. The ADA anniversary and the importance of such collaboration for Olmstead implementation will be underscored in both.

ADA and Olmstead related Media coverage:

The PBS News Hour is expected to air a segment on the Cash and Counseling demonstration project in Arkansas as part of its ADA 10th Anniversary coverage. Through this initiative people with disabilities, including those who are elderly, are given the option of hiring, managing and letting go their own personal assistants. 3 States --Arkansas, Florida and New Jersey -- are conducting these demos through Medicaid waivers granted by HCFA and additional funding from Robert Wood Johnson and ASPE. PBS has expressed interest in interviewing Secretary Shalala and Bob Williams for this segment.

Joe Shapiro of US News is working on a series that will be featured on NPR around the time of the 10th anniversary dealing with much the same issues. He will likely write a companion piece for the magazine.

IMPLEMENTATION OF THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT

HCFA has 2 RFPs out on the street with mid July deadlines for proposals for funding the following:

Developing and enhancing State Medicaid programs'capacity to offer the buy in and to provide personal assistance to "the extent necessary to enable people with disabilities to remain employed."

Offering health care and related services to enable individuals with "potentially severe" disabilities like MS, AIDS and some psychiatric disabilities to continue to work.

Possible press releases (targeted at the disability media in particular) could be done on these if the States' response on the RFPs could be described as "overwhelming" and/or "enthusiastic".

OTHER READILY ACHIEVEABLE STEPS THAT COULD BE TAKEN TO HIGHLIGHT
HHS' COMMITMENT TO THE ADA AND IMPROVING OPPORTUNITIES FOR
PEOPLE WITH DISABILITIES:

1. HHS has several disability relevant HHS Web sites on Olmstead implementation, work incentives, increasing access to HCBS, the health and wellness of women with disabilities and Healthy People 2010, etc. Currently, however, there is no way to access these sites from a central, highly visible page. This could be remedied by creating a page called, HHS and people with disabilities, similar to one that exists at HUD.
2. Attention could be given to the inclusion -- for the first time ever -- of health and wellness objectives for individuals with disabilities in Healthy People 2010. This could be done, for example, by having the CDC play a role in the ADA torch relay event in Atlanta. Alternatively, interest has been expressed in David Satcher speak at the Montgomery, Alabama rally and this could be a major part of what he speaks on.

OLMSTEAD RELATED ACTIVITIES WISH LIST

1. \$5 MILLION IN SUPPLEMENTAL OCR FUNDING: OCR is investigating and working to resolve 100+ complaints brought nationwide alleging States policies and practices result in unjustified institutionalization. It is working with States to develop comprehensive working plans to strengthen community service systems and to actively involve people with disabilities and their families in the design, development and implementation of such plans.

Supplemental funding is needed to support OCR's work on Olmstead as well as other ADA enforcement efforts around managed care, improving the quality of home and community based services and the impact of Welfare Reform on people with disabilities.

2. MODIFICATION IN ARKANSAS CASH AND COUNSELING WAIVER: Arkansas has asked that it be allowed to let people currently in nursing homes into the Cash and Counseling demo. This would enable such individuals to move back into their homes and communities. It would also the nature of the demonstration. HCFA and OMB would need to approve of such a modification before it could move forward. Thus far only staff level discussion of this request have occurred.

Company	Description	Cost
Occasions Caterer	Food and Beverage	\$23,000.00
Party Rental	equipment (chairs, tables, linens, etc.)	\$3,500.00
HDO	Tent	\$30,000.00
Floral Expressions	Flowers	\$5,000.00
Kritzer Marketing	Files	\$5,025.00
Paras Printing	design and printing of envelopes and invitations	\$900.00
Jose Feliciano	musical entertainment	\$7,000.00
Atmosphere	staging, lighting	\$5,000.00
?	sound equipment	\$5,000.00
Beach Brothers Printing	posters	\$2,500.00
Beach Brothers Printing	invitations	\$2,500.00
?	ramps for the house, flooring for tent	\$10,000.00
WVSA	table design and materials	\$1,500.00
		\$99,425.00

Memorandum

To:

From:

Date:

Re: Presidential Directive on Renewing the Federal
Government's Commitment to Ensuring that Federal
Programs are Free from Disability-Based Discrimination

The Department of Justice and the Presidential Task Force on Employment of Adults with Disabilities (Task Force) have drafted the attached Presidential Directive. It contains specific steps designed to reach the goal of making federal programs free of disability-based discrimination.

Overview

The Directive's core requirement is that all agencies engage in a Five-Year Plan to ensure that today's federal programs are free from disability-based discrimination.

The Department of Justice and the Equal Employment Opportunity Commission, working in close consultation with the Task Force and the Interagency Disability Coordinating Council (IDCC), are charged with assigning additional priorities and setting schedules for further agency actions to be completed as part of the Five-Year Plan.

Background

Section 504's prohibition of discrimination on the basis of disability, 29 § USC 794, was extended in 1978 to federal agencies. Section 504 was a forerunner of the Americans with Disabilities Act (ADA), which does not apply directly to federal agencies. Section 504 applies to all agency programs, including the program of employment. Section 501 and its implementing regulations contain specific provisions related to employment.

The regulations implementing section 504, in addition to prohibiting discrimination, contain affirmative requirements designed to lower barriers to participation in federal programs and activities by people with disabilities. One of these provisions was a one-time requirement that federal agencies engage in a comprehensive self-evaluation of their programs, activities, and facilities to determine if they are accessible to people with disabilities.

Since the mid-1980's, the federal government has seen dramatic changes. Agencies have been created. Others no longer exist.

Programs and functions have changed. Many of the actions designed to comply with Section 504 may no longer be effective.

This Administration is committed to the full participation in all aspects of American society by people with disabilities and recognizes that the federal government must set a good example. Today's government programs must be readily accessible to and usable by persons with disabilities. The time has come to evaluate whether yesterday's tools meet today's needs.

Employment discrimination. The nature of the workplace has changed. Most agencies thrive on a teamwork approach, using collaborative efforts to achieve agency missions. Diversity among team members is essential to achieving customer-friendly solutions. Government cannot provide the services Americans need unless it reflects the diversity of our society. By ensuring the promise of equal opportunity for government employees with disabilities, the Administration will set an example for the rest of the country to follow.

Technology accessibility. More than any other factor, technology has changed the federal workplace and the way government serves the American public. As our society grows more technologically advanced, we must ensure that the technology upon which the federal government relies does not create new barriers for people with disabilities.

Five-Year Plan

While there is a clear need to reevaluate the tools we use to implement sections 501 and 504 in light of today's federal programs, agencies should not be overburdened with unnecessary paperwork exercises. Instead of requiring agencies to engage in a wholesale self-evaluation of all programs for compliance with section 504, we recommend that agencies engage in a "Five Year Plan" to take specific actions and focus on particular priorities. These priorities include ensuring that agency programs offered on the Internet are accessible to people with disabilities and that modern employment practices remain free from discrimination.

The first two steps under the Five Year Plan will be for agencies to:

- ensure that agency programs on federal Internet and Intranet sites are accessible to people with

disabilities;¹ and

- publish by various means, including by incorporation on all agency Internet home pages, the name and contact information for the office(s) responsible for coordinating the agency's compliance with sections 501 and 504 of the Rehabilitation Act.

Other targeted priorities to be determined by the Department of Justice and the EEOC may include taking specific steps to:

- eliminate disability-based discrimination in employment,
- remove barriers in buildings and outdoor environments,
- ensure accessible transportation arrangements and vehicles,
- provide effective communication,
- ensure nondiscrimination in credentialing and licensing programs,
- make policy modifications, and

¹The broad language of "make all programs offered on [agency] Internet and Intranet sites accessible to and usable by people with disabilities" provides a necessary degree of flexibility to agencies to determine how they will provide accessibility. If, for example, an agency offers on its Internet site numerous historic documents in Adobe Acrobat's "portable document format" or ".pdf," which can be difficult or impossible to read for people who use assistive technology such as screen readers, agencies may be able to meet the goal of full accessibility by providing an e-mail address to which persons for whom a posted document is inaccessible could request one in an alterante format. This level of flexibility is necessary, due to the broad range of documents and formats already posted on the Internet. Guidance from the Department of Justice could address the extent to which agencies would have to retrofit existing, widely-used pages in other respects (i.e., use appropriate color combinations, changing format, etc.).

The interagency Chief Information Officers' Council has directed agencies to make their twenty most popular Internet sites fully accessible by July 27, 2000, the 10th anniversary of the ADA.

- achieve other goals.

The EEOC will continue to be the lead agency to determine policies, practices, and schedules for addressing disability-based employment discrimination. The Department of Justice will continue to be the lead agency on all other issues. Both of these agencies will consult regularly with the Presidential Task Force and the IDCC.

Expanded Membership in and Role for the IDCC

The Interagency Disability Coordinating Council (IDCC) was established under the Rehabilitation Act, 29 U.S.C. § 794c, as a mechanism for, among other things, "developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government . . ." The Attorney General is Chair of the IDCC, pursuant to Executive Order 12250.

The IDCC met on a regular basis throughout the 1980's, when agencies were drafting implementing regulations for "federally conducted activities" under section 504 of the Rehabilitation Act and as they modified their programs to comply with section 504. Since then, as agencies have become more focused on other issues, IDCC meetings became less frequent. Eventually, they tapered off altogether. The Administration's commitment to taking a fresh look at disability accessibility issues - especially in light of the changing nature of government - makes it desirable to revitalize the IDCC as a coordinating body.

In comparison to the Presidential Task Force on Employment of Adults with Disabilities, which contains many of the same member agencies but focuses only on employment-related issues, the IDCC's statutory charge is much broader: to coordinate the federal government's actions and policies to implement all parts of the Rehabilitation Act and its implementing regulations. 29 U.S.C. § 794c.

By statute, the IDCC includes:

- The Secretary of Education
- The Secretary of Health and Human Services
- The Secretary of Labor
- The Attorney General
- The Director of the Office of Personnel Management
- The Chair of the Equal Employment Opportunity Commission
- The Chair of the Access Board

- The Assistant Secretary of the Interior for Indian Affairs
- other officials as designated by the President.

In the Directive, the President designates the following agencies to participate, as well:

- The Administrator of the General Services Administration
- The Secretary of Defense
- The Secretary of Transportation

Although the President does not have authority over the Federal Communications Commission and the U.S. Postal Service, the Attorney General will invite those agencies to participate as ad hoc members of the IDCC. The Office of Management and Budget will also be asked to participate.

Substantively, the Directive charges the IDCC to lead executive agencies in making the federal government's electronic and information technology accessible to persons with disabilities. The IDCC, after the additional members are added, includes the Access Board and GSA - the two agencies charged with providing technical assistance under section 508 - as well as the Department of Justice and the EEOC - the two lead policy setting agencies - and the Federal Communications Commission, which has authority over the Telecommunications Act, the IDCC is the ideal body to coordinate all of these activities.

MEMORANDUM FOR THE HEADS OF ALL EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Renewing the Commitment to Ensure that Federal Programs are Free from Disability-Based Discrimination.

As we draw near the tenth anniversary of the Americans with Disabilities Act, we have much to celebrate. This landmark civil rights law has increased opportunities for employment, education, and leisure for millions of Americans. Our country is stronger as a result.

As we celebrate the ADA, we cannot forget that it was built on the solid foundation of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended in 1978, which prohibits discrimination on the basis of disability in federal programs and activities. One important goal of section 504 is for the federal government to set an example for the rest of the country by being a model employer and providing exemplary service to its customers with disabilities. While this goal remains constant, the nature and structure of government have changed in the decades since the inception of section 504. New agencies have been formed, while others no longer exist. Government is more efficient and doing more with less.

The time has come to reaffirm the federal government's commitment to ensuring that agencies' programs are free from discrimination. The means we use to accomplish our goals should be tailored to the changing nature of government.

I call upon the Department of Justice, the Equal Employment Opportunity Commission, the Interagency Disability Coordinating Council (IDCC), and the Presidential Task Force on Employment of Adults with Disabilities to provide leadership to ensure that all agencies meet a common goal: to ensure that today's federal programs - including the program of employment - continue to be readily accessible to and usable by persons with disabilities.

To meet this goal, I hereby direct all agencies to engage in a Five Year Plan. Under this Five Year Plan, agencies will follow guidance to be provided by the Department of Justice and the Equal Employment Opportunity Commission (EEOC) to evaluate agency programs, activities, and facilities for compliance with sections 501 and 504 of the Rehabilitation Act, set targeted goals consistent with priorities developed by the Department of Justice and the EEOC, and implement all actions necessary to achieve those goals, within the next five years. As the initial steps in the Five Year Plan, agencies are directed to do the following:

- make all programs offered on their Internet and Intranet sites accessible to people with disabilities by July 27, 2001; and
- publish by various means, including by incorporation on all agency Internet home pages, the name and contact information for the office(s) responsible for coordinating the agency's compliance with sections 501 and 504 of the Rehabilitation Act.

I furthermore direct the Department of Justice and the Equal Employment Opportunity Commission, in close consultation with the IDCC and the Presidential Task Force on Employment of Adults with Disabilities, to develop priorities and establish for the Five-Year Plan under which agencies will focus on specific programs or types of programs to ensure that they are readily accessible to persons with disabilities.

I direct the IDCC to coordinate executive agencies' efforts to make the federal government's electronic and information technology accessible to persons with disabilities.

I designate the following persons to participate in the IDCC, in addition to those members set out by statute (29 U.S.C. § 794c):

- The Administrator of the General Services Administration
- The Secretary of Defense
- The Secretary of Transportation

These steps will enable federal agencies to work together as they renew their ongoing commitment to ensure that federal programs do not discriminate against people on the basis of disability.

Nothing in this memorandum is intended in any way to limit the effect or mandate of Executive Order 12250, which conveys certain authorities upon the Attorney General, or Executive Order 12067, which conveys certain authorities upon the Chair of the Equal Employment Opportunity Commission.

This memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton