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OA/ID Number: 24519

FolderID:

Folder Title:

10th Anniversary ADA [Americans with Disabilities Act] Deliverables [2]

Stack:

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Row:

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Section:

7

Shelf:

4

Position:

2

WordPerfect Document Compare Summary

Original document: c:\origreasaccEOdft.wpd

Revised document: S:\T7\JSAMUELS\DISTSKFC\ReasaccEO.wpd

Deletions are shown with the following attributes and color:

~~Strikeout~~, Blue RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Redline, (No color code).

The document was marked with 43 Deletions, 48 Insertions, 0 Moves.

EXECUTIVE ORDER

REQUIRING FEDERAL AGENCIES TO ESTABLISH ~~EFFECTIVE WRITTEN~~ PROCEDURES ~~FOR PROCESSING REQUESTS FOR~~ TO FACILITATE THE PROVISION OF REASONABLE ACCOMMODATIONS

By the authority invested in me as President by the Constitution and the laws of the United States of America, and in order to promote a model Federal workplace that grants: (1) reasonable accommodations for qualified individuals with disabilities in the ~~Federal~~ application process for Federal employment; (2) reasonable accommodations that enable qualified ~~disabled~~ Federal employees with disabilities to perform the essential functions of the position in question; and (3) reasonable accommodations that enable ~~the qualified disabled~~ Federal ~~employees~~ employees with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities, as required by the Rehabilitation Act of 1973, *as amended* ~~and the Americans with Disabilities Act of 1990~~, it is hereby ordered as follows:

~~Section 1.~~ A. Establishment of Effective Written Procedures ~~E~~for Processing Requests for Reasonable Accommodation.

~~(a) Each~~

Section 1. Contents of Required Agency Procedures.

(a) All agencies must be prepared to respond effectively and efficiently to requests for reasonable accommodation. In addition, agencies must plan for, and engage in, an interactive process with the qualified individual with a disability before denying a request for reasonable accommodation. Accordingly, each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation. ~~The procedures are applicable to all qualified disabled employees within the agency who request a reasonable accommodation. The agency is not required to institute a single agency wide procedure but may, in their discretion, establish different procedures for~~

(b) All agency procedures must permit flexibility in processing each accommodation request. The procedures must impose as few burdens as possible on employees and applicants with disabilities, and must allow first-line managers and supervisors to promptly approve provision of routine accommodations. As a result, different components of ~~their agency~~

~~(b)~~an agency may tailor their procedures as necessary to ensure the expeditious processing of requests by the employees and applicants of that component.

(c) As set forth in *Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities*- (1998), effective written procedures for processing requests for reasonable accommodation ~~are~~ must, at a minimum, do ~~these procedures that~~ following:

(1-) Explain how an employee or job applicant initiates a request for reasonable accommodation. An agency must always promptly consider requests for reasonable accommodation, whether oral or written. If the agency requires an applicant or employee to complete a reasonable accommodation request form for recordkeeping purposes, the form must be provided as an attachment to the agency's written procedures.

(2-) Specify to whom ~~the~~ a request must be submitted and from whom the ~~employee~~ individual will receive a final decision.

~~3. Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. If designated time deadlines are not met, responsible agency officials should explain the delay to the employee.~~

~~4. Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation.~~

~~5. Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace.~~

~~6. Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.~~

~~7. Provide that reasonable accommodation decisions should be in writing and specify the reasons for denial, when applicable.~~

~~8. Provide a "plain English" explanation of certain key legal terms used in the policy (e.g., reasonable accommodations, disability, qualified person with a disability, and undue hardship), and reference applicable statutes and regulations as a source of the actual wording of the terms.~~

~~9. Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee to perform the essential functions of his or her current position. In the case of reassignment to a lower-graded position, the agency has the option of providing pay retention because the action is not for personal cause.~~

~~10. Designate a system of record keeping that tracks the processing of requests for reasonable accommodation and maintains the confidentiality of medical information received in accordance with applicable law and regulations.~~

~~11. State in the policy that employees have the right to file a complaint in the event that~~

~~their requests for reasonable accommodation are denied.~~

~~12.~~ The procedures should eliminate unnecessary levels of review and permit first-line supervisors flexibility in authorizing accommodations.

(3) Clearly and expressly explain the role and responsibility of each agency official or office involved in the grant or denial of reasonable accommodation requests.

(4) Designate a time period within which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. Time limits for decisionmaking should be as short as reasonably possible. If designated deadlines are not met, responsible agency officials should explain the delay to the individual.

(5) Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and/or the requested accommodation where the disability and/or need for accommodation is not obvious.

(6) Explain the agency's right to request relevant supplemental medical information or require a medical examination where (a) the disability and/or need for accommodation is not obvious; and (b) the information initially submitted does not clearly explain the nature of the disability or the need for reasonable accommodation.

(7) Explain the agency's right to have medical information reviewed, or medical examinations conducted, by a medical expert of the agency's choosing at the agency's expense where the standards set forth in paragraph (6) above are met.

(8) Provide that denials of reasonable accommodation, including requests for particular reasonable accommodations, be in writing and specify the reasons for denial.

(9) Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee to perform the essential functions of his or her current position. The procedures should also describe the means of identifying available vacancies and the decisionmaking process to be followed when the agency considers reassignment. Reassignment must be made to a position at the same grade level as the employee's current position unless no such position is or will be vacant in a reasonable amount of time. In a case where reassignment must be made to a lower graded position, the agency has the option of providing pay retention because the action is not for personal cause.

(10) Where the agency's initial decision is to deny a reasonable accommodation, create a flexible and informal process for reconsidering that denial. This process is to be separate from, and will not affect, the agency's EEO complaint process. The procedures should explicitly state that individuals have the right to file an EEO complaint in the event that their requests for reasonable accommodation are denied.

(11) Provide a “plain English” explanation of certain key legal terms used in the policy (e.g., reasonable accommodation, disability, qualified person with a disability, and undue hardship), and refer to applicable statutes and regulations as a source of the actual wording of the terms.

(12) Designate a system of recordkeeping that (a) tracks the processing of requests for reasonable accommodation (including the types of jobs for which reasonable accommodations were requested and the number of requests granted and denied); and (b) maintains the confidentiality of medical information received in accordance with applicable law and regulations.

Section 2. Submission of ~~a~~Agency ~~r~~Reasonable ~~a~~Accommodation ~~p~~Procedures for approval to the EEOC

~~Each agency shall submit their procedures to the EEOC for review and approval. Upon completion of the review the EEOC shall certify the procedures. All agencies must have EEOC certified reasonable accommodation procedures within two years.~~

(a) Within one year of the effective date of this Executive Order, ~~Agencies,~~ each agency must adopt, and submit to the Equal Employment Opportunity Commission (EEOC), reasonable accommodation procedures that meet the requirements of the Order. Each agency shall further submit to the EEOC any subsequent modifications to its reasonable accommodation procedures at the time that those modifications are adopted. The EEOC is authorized to require modifications to an agency’s reasonable accommodation procedures as necessary to ensure compliance with the requirements of this Executive Order.

(b) In adopting their reasonable accommodation procedures, agencies must honor their obligations to notify their collective bargaining representative(s) and bargain over such procedures to the extent required by law.

Section 3. Information and ~~t~~Training ~~r~~Regarding the ~~p~~Procedures.

All employees in an agency ~~will~~ must receive a copy of the reasonable accommodation procedures. At a minimum, all current managers and supervisors ~~will~~ must receive training on these procedures within one year of the establishment date of the ~~EEOC certified procedures~~ adoption by the agency. Each agency shall notify the EEOC when ~~they~~ it has completed the training. Each agency shall also develop a plan to train new managers and supervisors on a regular basis.

B. Review of Existing Policies to Identify Barriers to Granting Requests for Reasonable Accommodation and Consideration of New Practices to Facilitate Providing Reasonable Accommodation.

Section 1. Review of Agency Policies That May Affect the Agency’s Ability to Grant

Reasonable Accommodation.

(a) Each agency must identify and evaluate agency policies that may affect the agency's ability to grant requests for reasonable accommodations on an expeditious basis. Among the policies that should be reviewed are:

(1) Procurement policies that require excessive paperwork or burdensome levels of review and/or approval, or that otherwise may create impediments to prompt delivery of effective reasonable accommodations that require that the agency obtain equipment, information technology, or other products.

(2) Contracting policies that may create impediments to the agency's ability to promptly identify and obtain services where necessary to make physical facilities or other technology or equipment accessible.

(b) Where an agency discovers an existing policy that may create an impediment to the agency's ability to grant requests for reasonable accommodation, the agency should modify the policy to eliminate or, at a minimum, reduce the impediment.

Section 2. Consideration of New Agency Practices to Facilitate Providing Reasonable Accommodation.

Each agency shall regularly consider implementing practices that will facilitate the agency's ability to provide reasonable accommodation. Among the practices that agencies should consider are:

(a) Establishing a central pool of staff assistant slots, that would not be included in an individual office's personnel ceiling, to provide readers, interpreters, and other assistants throughout the agency.

(b) Implementing funding mechanisms that will avoid charging individual offices for the cost of accommodations.

(c) Creating central offices that can, among other services, demonstrate and evaluate equipment and assistive devices; expeditiously purchase equipment needed for reasonable accommodation; provide technical assistance and referrals for information on reasonable accommodation; coordinate training on reasonable accommodation and other non-discrimination obligations; and expeditiously prepare agency printed and audiovisual materials in alternative formats on request.

SYNOPSIS OF OPM'S SUBSTANTIVE COMMENTS ON EXECUTIVE ORDER

1. Narrows the Scope of Bargaining

Due to its detailed provisions, the Executive Order would narrow the scope of bargaining on matters related to the processing of requests for reasonable accommodation.

2. Certification

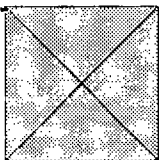
The EEOC does not have the resources to be responsible for certifying each agency's reasonable accommodation procedures. This procedure should be worked out between the agencies and their employees.

3. Limits Flexibility of Agencies

The requirements of the Executive Order may limit the flexibility that agencies have to provide reasonable accommodation to their employees. For example, an agency could delay providing reasonable accommodation to an employee by asking for detailed information regarding the employee's disability, or by requiring him/her to undergo a medical evaluation.

4. Agencies will Perceive Requirements as Intrusive

The provisions of the Executive Order are over-prescriptive and agencies will likely view them as intrusive. One alternative is to have the EEOC issue a regulation with government-wide procedures.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

June 22, 2000

MEMORANDUM

TO: Becky Ogle
Executive Director
Presidential Task Force on Employment of Adults with Disabilities

FROM: Louis Lopez
Equal Employment Opportunity Commission

SUBJECT: EEOC Comments on Draft Reasonable Accommodation Executive Order

We have reviewed the draft Executive Order on Reasonable Accommodation and have attached our proposed changes. In brief, the modifications we propose would do the following.

- * Add cautionary language to ensure that the reasonable accommodation procedures developed by the agencies will benefit individuals with disabilities, not tie them up in bureaucratic requirements. We have, for example, added language that stresses that agency procedures must provide for flexibility and authorization of routine accommodations by first-line supervisors; that oral requests must always be considered; and that deadlines for decisionmaking must be as short as reasonably possible. We have also added a requirement that agencies establish an informal process for reconsideration of denials of requests for accommodation that is separate from the EEO complaint process.
- * Modify the section on EEOC review of agency procedures to remove any requirement that EEOC "certify" the procedures. Absent significant additional resources, EEOC does not have the capacity to review and certify the hundreds of procedures that will be developed by agencies for their various components. We also had questions about what certification would mean. It was unclear to us, for example, whether "certification" would provide an agency with any kind of legal defense if the agency's procedures were challenged. In light of these and other questions, we have modified the language to provide for EEOC review, but not certification, of agency procedures.
- * Add additional requirements that agencies both review existing policies that might hamper the agency's ability to provide reasonable accommodations and

consider implementing policies that would affirmatively enhance the agency's ability to grant requests for accommodation.

- * Make other changes necessary for accuracy and clarity. We have, for example, modified sections addressing agency requests for medical information to ensure that they reflect Rehabilitation Act standards. We have also modified the statement that components of agencies could develop their own procedures, based on a concern that this could lead to a proliferation of procedures which would undermine efforts to ensure consistency in agency responses to requests for reasonable accommodation.

If you have questions about any of our proposed modifications, please call Peggy Mastroianni, Associate Legal Counsel, at (202) 663-4609, Doug Gallegos, Attorney-Advisor, at (202) 663-4615 or Jocelyn Samuels, Senior Attorney, at (202) 663-4624.

Department of Agriculture

The Secretary's Advisory Committee for Employees with Disabilities (SACED) as a best practice that can be replicated at other agencies. The Secretary has approved a full-time staff for the SACED.

- ✓ Established quarterly data collection for SACED review on the amount USDA offices are spending on accommodations, to determine the feasibility of Department-wide central funding. The SACED supports processes to reduce costs and delivery time for employee accommodations.
- ✓ Established a mentor program targeted for USDA employees with disabilities to expand opportunities for employee development and career advancement.
- ✓ Launched a SACED home page as a communications vehicle for employees and applicants with disabilities with a contact list, calendar of events, and an extensive resource list for use by committee members, managers, and employees with links to disability information and Internet resources. The home page offers an easy, accessible method for employees and applicants to contact the committee with their comments and suggestions.
- ✓ Established Employment Subcommittee to develop recruitment strategic plan with Departmental employment goals for hiring of persons with disabilities at all levels in cooperation with the Presidential Task Force on Employment of Adults with Disabilities. Promoted alternative workplace, telecommuting, and work at home programs as a mechanism for accommodating employees with disabilities.
- ✓ Assessed statistical data on representation of employees with disabilities and disabled veterans in the USDA workforce so the SACED can ensure appropriate representation at all levels. Developed and implemented an all-employee survey on employment and service delivery issues that achieved a 30 percent response rate and published a report entitled *Employee Survey on Disability Issues* in January 2000.
- ✓ Held four SACED forums with employees throughout the country to listen to concerns, success stories, and suggestions from the disability community and prepared an action item memo that was signed by the Secretary and distributed to the Subcabinet for action. Periodic progress reports to the Secretary will serve to monitor progress.

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The Secretary's Advisory Committee for Employees with Disabilities (SACED): A best practice that can be replicated at other agencies

Secretary Glickman established the Secretary's Advisory Committee for Employees with Disabilities (SACED) in 1997 to provide input and focus on achieving equal access to affirmative employment, advancement, and services for people with disabilities at USDA. The SACED has expended considerable time and in-house resources to provide outreach, raise awareness, and make USDA a model employer of persons with disabilities. This year, the Secretary approved a full-time staff for the SACED. The committee operates at the highest level of executive leadership and is charged with providing advice and direction to the Secretary to:

- eliminate barriers to equal opportunity for employees with disabilities;
- provide accessible facilities, reasonable accommodations, and equal opportunity in hiring and promotions;
- promote affirmative employment opportunities for disabled veterans and persons with severe (targeted) and other (non-targeted) disabilities; and
- provide effective communication, including information in alternative formats, as needed, to all employees.

SACED has the responsibility of reviewing the Department's progress in achieving results and ensuring accountability. The SACED provides oversight for implementation of recommendations resulting from a series of nationwide listening forums for employees with disabilities. Periodic reports to the Secretary will serve to monitor progress.

Departmental Reasonable Accommodation Policy: The Secretary issued a Departmental Reasonable Accommodation policy stating that: "USDA recognizes that all of its employees need the tools necessary to be productive, and that making reasonable accommodations is simply a way of providing the tools needed to accomplish its mission. USDA is committed to a simple and streamlined process for providing reasonable accommodations."

Central Funding: The SACED has established quarterly data collection for review on the amount USDA offices are spending on accommodations to determine costs for Department-wide central funding.

Mentor Program: The SACED established a mentor program targeted for USDA employees with disabilities to expand opportunities for employee development and career advancement.

Communications: The SACED established a SACED home page as a communications vehicle for employees and applicants with disabilities with a contact list, calendar of events, and an extensive resource list for use by committee members, managers, and employees with links to disability information and Internet resources.

Employment: The SACED established an Employment Subcommittee to develop a Department-wide recruitment strategic plan with Departmental employment goals for hiring of persons with disabilities in cooperation with the Presidential Task Force on Employment of Adults with Disabilities.

Department of Agriculture Success Stories

In 1992, USDA established the Technology Accessible Resources Gives Employment Today (TARGET) Center to comply with Section 508 of the Rehabilitation Act. USDA's TARGET Center provides demonstrations of assistive technologies and ergonomic solutions, evaluation of accommodations, and individual and work site needs assessments. USDA has established three TARGET Centers and is preparing for three more nationwide to support the Federal sector as a model employer of people with disabilities.

- ✓ Cited as a best practice in the federal government by the Presidential Task Force on Employment of Adults with Disabilities.
- ✓ Provided services to employees with disabilities nationwide from the seven federal agencies who have provided support to the TARGET Center since 1996.
- ✓ Coordinated the annual Interagency Disability Educational Awareness Showcase (IDEAS) event for the federal government to highlight accessible and cutting-edge technology.
- ✓ Worked to re-accommodate employees whose disabilities change over time to ensure that they can maintain productivity and job performance to meet career goals.
- ✓ Loaned equipment to employees with disabilities nationwide for evaluation at their work site or to attend training.
- ✓ Provided assessments and ergonomic solutions to prevent secondary disabilities from developing due to poor work environment or incorrect positioning.
- ✓ Accommodated Workforce Recruitment Program (WRP) students on first day of employment with high tech, low tech, and low cost solutions to ensure a timely, comfortable, and productive work environment.
- ✓ Conducted sign language classes for managers and co-workers of new WRP students who are deaf to enhance communication and provide a welcoming work environment.
- ✓ Produced or facilitated the production of information in alternative formats such as braille, large print, audio, and video.
- ✓ Educated federal employees through participation in events and presentations on accessibility and ergonomics.
- ✓ Supported technology refreshment of employee accommodations when agencies upgrade their information technology.

Dunham, Nancy

From: Dunham, Nancy
Sent: Friday, July 07, 2000 11:36 AM
To: 'MeganJ.Crowhurst@who.eop.gov'
Cc: Workie, Blane; Brenman, Marc; Rupp, Jeff; McFadden, Nancy; Tochen, David; Day, John
<FTA>
Subject: DOT deliverables

As requested, the following is a list of DOT's anticipated deliverables for the end of July ADA celebration.

a. First, our priority will be to complete Recommendation 12, from the "1999 Recommendations to the President from the PTFEAD." Thus, DOT expects to have an initial "Plan of Action" to comprehensively "address the lack of transportation services and systems for persons with disabilities," especially as it relates to "finding and keeping jobs." At this point, preliminary interagency coordination has been done, and an informal draft Plan has been prepared.

As discussed in the OEOB meeting on 7/5/00, since this is a PTFEAD recommendation, this would likely be one the ADA celebration announcements by the President.

b. Second, we expect to announce the issuance of two new regulations: one on DOT's adoption of the Access Board's Updated Accessibility Guidelines and one extensive supplemental rule on safety standards for platform lifts and for motor vehicles using platform lifts.

c. Third, we will announce the impending issuance of Volume Two of "Designing Sidewalks and Trails for Access: A Best Practices Guide." This highly-anticipated guidance will provide much-needed technical advice on creating and adapting sidewalks and trails for use by all, including persons with mobility impairments, visual impairments, and other disabilities.

d. Last, we are working to complete a number of other deliverables, including, issuance of a Report to Congress on Commercial Drivers Licences for insulin-dependent diabetics; completion of an interagency Air Carrier Access Act outreach plan for travelers with a disability; issuance of a new Departmental policy statement and plan on Section 501 and Affirmative Action for Persons with a Disability; and the announcement of a biennial "Secretary's Excellence in Accessibility Award."

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**PRESIDENTIAL TASK FORCE
ON EMPLOYMENT OF ADULTS WITH DISABILITIES**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DELIVERABLES

POSSIBLE PRINCIPAL ANNOUNCEMENT:

INCENTIVES FOR EMPLOYMENT

HUD provides important incentives for individuals with disabilities who receive certain types of HUD housing assistance to enter the workforce. In a new regulation, finalized in March, HUD:

- excludes from annual income certain funds earned by previously unemployed individuals or individuals previously receiving certain types of public assistance, for individuals living in public housing; and
- provides a deduction to adjusted annual income for families with an individual with a disability and also provides a deduction for certain medical expenses of disabled families and certain expenses necessary to enable employment, for individuals living in public housing as well as individuals receiving assistance under §8 programs.

*Now PH only
will go to §8
income disregarded
100% 1st yr
87% 2nd yr*

HUD proposes to extend these incentives for persons with disabilities to *all* of HUD's housing assistance, including §8 (to the degree not currently covered), §811, §202, the Rental Supplement program, and the Rental Assistance Program. This would be accomplished through regulatory changes and proposed statutory changes.

POSSIBLE HUD ANNOUNCEMENTS:

CONSOLIDATED PLANNING FOR COMMUNITY DEVELOPMENT

HUD is requiring all states and localities that have already developed a Consolidated Plan to create a new plan during the year 2000. To encourage recipients to specifically address assisting adults and families with disabilities in this plan, the Office of Community and Planning Development (CPD) will distribute a publication entitled "Piecing it All Together in Our Community: Learning to Use HUD's Consolidated Plan to Expand Housing Opportunities for People with Disabilities."

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DATA COLLECTION

HUD is modifying its Tenant Rental Assistance Certification System (TRACS) to enable the Department to identify which units of the 30,000 assisted projects in the Department's multifamily inventory are accessible to persons with disabilities. Specifically, the Department will be able to determine which units are accessible to persons with mobility impairments, persons with visual impairments, and/or persons with hearing impairments. This system will become operational during the second quarter of Fiscal Year 2001.

TAX CREDITS (to be announced only in conjunction with Treasury and Justice)

HUD is entering into a Memorandum of Understanding (MOU) with the Departments of Treasury (including the Internal Revenue Service) and Justice that sets forth the reporting and other responsibilities of each Department when a multifamily project constructed and operated using Low-Income Housing Tax Credits (LIHTC) is found to be possibly or actually in violation of the Fair Housing Act.

The MOU encourages substantially equivalent State and local agencies to include State Housing Finance Agencies administering Federal LIHTCs in regularly scheduled fair housing training. Finally, the MOU calls for an annual meeting of interested Federal Departments and agencies to discuss emerging civil rights issues and methods and programs for increasing civil rights compliance in the LIHTC program.

HOMEOWNERSHIP

HUD will send a letter from Assistant Secretary for Housing William Apgar to all approved FHA mortgagees entitled "Single Family Loan Production - Increasing Home Ownership Rates for Persons with Disabilities". This Mortgagee Letter will re-emphasize the Department's commitment to make home ownership a reality for persons with disabilities and encourage its lender partners to make this dream possible through increased, but prudent flexibility when underwriting their loan applications.

OUTREACH AND INFORMATION ON REGULATORY ENFORCEMENT

HUD will issue a notice to reemphasize the responsibility of Community Development Block Grant recipients to further affirmatively fair housing and to assess compliance with the requirements of the Fair Housing Act (the Act) concerning accessible multifamily design and construction. The notice will call upon recipients to give the same attention in their Analysis of Impediments to discrimination based upon disability as they do to other bases of discrimination such as race that have been prohibited by the Act since its inception in 1968. The notice will also encourage local elected officials to examine their building codes for inconsistencies with the design and construction requirements of the Act and find ways to inform builders and architects of the need to comply with those requirements as early as possible in the design phase of a multifamily project.

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HUD will launch a web page that contains technical assistance letters, court decisions, answers to frequently asked questions and other developments in accessibility issues; permits the public to ask questions and receive answers; directs the public to relevant publications or studies; and provides text of particularly important publications.

ACCESS HOUSING 2000 (more to come in consultation with HHS)

HUD is planning to send to its housing and community development partners a joint letter with the Department of Health and Human Services to highlight the importance of the *Olmstead* principle and to encourage its partners to find ways to expand accessible, affordable housing for persons with disabilities. The letter will include a copy of HHS guidance to state Medicaid directors and a copy of a letter Secretary Shalala sent to every Governor.

NEIGHBORHOOD NETWORK CENTERS

Over the next year, HUD will review and modify the current Neighborhood Network Center's evaluation form to include questions regarding the Centers' accessibility and what need there might be to make the Centers accessible.

NATIVE eDGE

HUD has agreed to use its Internet-based Native American community resources to disseminate technical information on job development and employment for Native Americans with disabilities. These systems, the Native American Economic Development Access Center (Native eDGE) which links fourteen federal agencies to entrepreneurs and their partners seeking economic development in Indian Country, and CodeTalk, an interagency website for Native American communities, would facilitate the development of opportunities to employ Native Americans with disabilities, particularly through new business enterprises. Partner agencies would provide resources such as disabilities employment and related training to HUD staff, publications and documents to distribute on the Internet, and when necessary cooperative funding for technical enhancements and/or expansion of the services. To support this project, HUD has completed a technical review of Native eDGE and is now working to make the web site fully compliant with ADA requirements.

Ideally, the services would operate in concert with a new, Inter-Agency American Indian Disability Technical Assistance Center established through a multi-agency agreement. Such a Center would assist the 557 Federally recognized American Indian tribes and Alaska Native Villages examine the implication of, and potential for adoption of, culturally appropriate laws, policies, and programs to assist their members with disabilities in living healthy, productive, and integrated lives within their communities.

SSA Planned Activities supporting the PTFEAD and for announcement as part of ADA celebration:

We are continuing to discuss with OMB some regulatory actions that would:

Annually adjust per the average wage index the earnings guideline that shows whether work done by persons with impairments other than blindness is substantial gainful activity;

Increase (from \$200 to \$530) the earnings amount that shows that a person has used one of his/her a trial work months under SSDI, and then annually adjust the amount per the average wage index;

Increase the maximum monthly (from \$400 to \$1,290) and yearly (from \$1,620 to \$5,200) Student Earned Income Exclusion amounts used in determining SSI eligibility and payment amounts, and then annually adjust these amounts per the consumer price index.

*Jack wants to
deal w/
the all \$
price*

PROPOSED WHITE HOUSE ANNOUNCEMENT ON INCREASING THE FEDERAL GOVERNMENTS' HIRING OF PEOPLE WITH DISABILITIES

Objectives:

- To set a realistic “stretch” goal to increase the number of persons with disabilities hired by Federal department and agencies.
- To increase the representation of persons with disabilities employed at all levels and occupations of the Federal government.

PROPOSED ANNOUNCEMENT

Federal government will hire 100,000 people with disabilities over the next five years

- This represents a **60% increase** in the hiring level of people with disabilities for Federal government
- 100,000 new hires represents **9.2%** of all new Federal hires . . . almost 1 in 10

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BACKGROUND

Current State of Play

- Federal government is our nation's largest employer – 1.8 million employees
- Government hires 200,000 employees each year
- Of those, 12,000 are people with disabilities (5.9%)
- 1,600 are people with targeted disabilities (0.8%)

What Happens If We Do Nothing

- Federal new hires over the next five years will be 1,082,000
- Of these, 62,500 will have a disability (5.8% of all hires)
- Of these, 8,000 will have a targeted disability (.7% of all hires)

MEMORANDUM

TO: Becky Ogle and Marsha Scott

FROM: Bob Williams (ASPE), Henry Claypool (HCFA), Sheila Foran (OCR) and Lorinda Daniel (SAMHSA)

RE: Possible Directives/Announcements from the White House Regarding Actions HHS Will Take to Aid States' Compliance with the ADA and the Olmstead Decision

DATE: July 10, 2000

The purpose of this memorandum is to outline our collective thoughts regarding possible directives/announcements the White House could make regarding actions HHS will take to help states comply with the ADA and the Olmstead decision. This memo incorporates thoughts and ideas from all four HHS components involved in implementing the Olmstead decision and in planning ADA anniversary events (HCFA, OCR, ASPE and SAMHSA).

1. DIRECT HHS TO DEVELOP AND PUBLISH A REGULATION ALLOWING STATES TO USE SECTION 1902(R)(2) TO EXPAND MEDICAID ELIGIBILITY BY PROVIDING MORE LIBERAL INCOME DISREGARDS THAN WOULD OTHERWISE BE ALLOWED. This would help level the playing field between institutional and community services by allowing States to offer community services to those with low to moderate incomes. States already cover those with similar incomes, if they go into a nursing home.

STATUS: Discussion between HCFA and OMB (Tim and Jeanne) are taking place and there is said to be a desire to move ahead. Cost estimate: \$785(?) million over 5.

IMPORTANCE FOR PEOPLE AND STATES: States that take this up would be able to offer people more of a real choice between going into an institution and living in their own homes and communities with needed supports. States like Connecticut and North Carolina have pushed for this change to be made. Absent legislation this is the most this Administration can do to afford States the tools they need and want to offer more people with disabilities of all ages the choice and supports to live meaningful lives in their communities.

2. ANNOUNCE \$50 MILLION TO FUND SYSTEM CHANGE/CAPACITY BUILDING GRANTS TO HELP STATES WORK WITH THEIR DISABILITY/AGING COMMUNITIES TO PURSUE AFFORDABLE STRATEGIES FOR IMPLEMENTING OLMSTEAD. These grants would be the same as those called for in part of MiCASSA.

STATUS: After meeting with ADAPT Nancy Ann forwarded this proposal to Chris and Jeanne. New Spending: \$250 million/5 years. Resources not identified.

IMPORTANCE: These grants would fund States to enhance their capacity to provide by working in close coordination with its disability community to develop and implement a

comprehensive, effectively working plan as encouraged by Olmstead. The disability community recognize that to be effective the grants need to be funded and awarded in FY2001.

3. ANNOUNCE INCREASED FUNDING FOR HHS OFFICE FOR CIVIL RIGHTS ACTIVITIES RELATED TO THE AMERICANS WITH DISABILITIES ACT, INCLUDING THOSE PERTAINING TO THE OLMSTEAD DECISION.

STATUS: OCR's FY 2000 budget is \$22 million, which is the same as OCR's budget was in 1980, when HHS was created, and the same as OCR's budget in 1993, when President Clinton entered office. The FY 1980 budget supported 550 employees nationwide, while today's budget supports 225.

IMPORTANCE: OCR's enforcement responsibilities have increased substantially over the past ten years, with passage of the Americans with Disabilities Act. The Supreme Court's decision in Olmstead has increased OCR's ADA workload exponentially, not only due to a large volume of complaints but because of the comprehensive manner in which OCR is seeking to resolve the complaints. OCR has received more than 120 complaints alleging that states and other public entities have failed to provide services to people with disabilities in most integrated settings. OCR is attempting to resolve these complaints by working with all parties in the states to build comprehensive, effectively working plans for placing qualified persons with disabilities in the most integrated setting appropriate.

The Department has played a key role in the development of Olmstead planning coalitions across the nation. In some states, special governor's commissions have been established to head these coalitions. In others, particular disability groups have taken up the challenge of coalition building. In all, some twenty states are engaged in various stages of Olmstead planning.

4. ANNOUNCE CREATION OF A NATIONAL MENTAL HEALTH COALITION TO PROMOTE COMMUNITY-BASED CARE.

STATUS: SAMHSA will support creation of this coalition. Key organizations and constituencies will come together to work in partnership with the States to develop a plan for the coalition, working with consumers.

IMPORTANCE: This technical assistance effort will link with the Private Industry Councils (PICs), looking at employability, housing authorities, case managers, professional organizations, social security services and others to ensure wrap-around, integrated, community-based services. Particular attention will be paid to including organizations that address the two most critical issues consumers face in trying to live in the community -- finding adequate and affordable housing and identifying employment opportunities.

5. GIVE HIGH VISIBILITY TO THE CHANGES MADE IN MEDICAID POLICY TO BETTER ENABLE STATES TO HELP PEOPLE MAKE A SUCCESSFUL TRANSITION FROM NURSING HOMES AND OTHER INSTITUTIONS INTO THE COMMUNITY.

. STATUS: Changes will be announced in a State Medicaid Director letter. See attached.

. IMPORTANCE: People with disabilities who want to and are able to move out of nursing homes and other institutions often face tremendous barriers to making such a transition. State Medicaid programs face similar barriers of their own. The guidance and policy clarifications in the State Medicaid Directors letters HHS will issue to State Medicaid Director on July xx will help eliminate many of these barriers.

6. GIVE HIGH VISIBILITY TO THE CHANGES MADE IN MEDICAID POLICY TO BETTER ENABLE STATES TO MAXIMIZE THE PERSONAL DIGNITY AND AUTONOMY OF PERSONS WITH DISABILITIES THROUGH SELF DETERMINATION AND CONSUMER DIRECTED SERVICES.

. STATUS: Changes will be announced in a State Medicaid Director letter. See attached.

. IMPORTANCE: Approaches for increasing consumer choice and control over their Medicaid services and supports are having a significant impact on people with developmental disabilities, physical disabilities, and serious mental illness of all ages, including elderly individuals. The new guidance clarifies how all States can use Medicaid to design and implement strategies for enabling people with disabilities to have a say in how the services they support on most to live their lives get provided. THIS IS ALSO LINKED TO THE TASK FORCE'S PROPOSED INITIATIVE ON PEOPLE WITH SIGNIFICANT DISABILITIES AS WELL AS THE PROPOSED ACCESSHOUSING 2000 INITIATIVE.

NOT FOR DISTRIBUTION:

CHANGES AND CLARIFICATIONS HHS IS MAKING IN MEDICAID POLICIES TO HELP STATES CARRY OUT THE SUPREME COURT'S OLMSTEAD DECISION:

In its January letter to States on the Olmstead decision, HHS pledged to begin to review and modify, where necessary, relevant federal Medicaid regulations, policies and previous guidance to assure that they are compatible with requirements of the ADA and facilitate States' efforts to comply with the law.

Toward this end, HHS is issuing two additional letters and related guidance to State Medicaid Directors which provide needed policy clarifications and in some instances, reflect significant changes in policy to support community integration. These letters are responsive to specific issues that have been identified as barriers by both States and the disability community. The letters will support States' efforts:

- . expanding access to home and community based services;
- . assisting people with disabilities make a successful transition from nursing homes and other institutions into the community; and,
- . maximizing the personal dignity and autonomy of persons with disabilities.

Along with the letters, the Department is releasing a set of Questions and Answers regarding the ruling. The Q&A's like the policy clarifications HCFA is issuing are responsive to the questions and concerns that States and the disability community brought to HHS as a result of our invitation to do so in the January letter.

EXPANDING ACCESS TO HOME AND COMMUNITY BASED SERVICES: This letter describes the ways in which States can use the Medicaid program to work toward achieving the following 4 goals:

1. HELPING PEOPLE WITH DISABILITIES MAKE A SUCCESSFUL TRANSITION FROM NURSING HOMES AND OTHER INSTITUTIONS INTO THE COMMUNITY:

People with disabilities who want to and are able to move out of nursing homes and other institutions often face tremendous barriers to making such a transition. State Medicaid programs face similar barriers of their own. The guidance and policy clarifications in the first letter HHS just issued to State Medicaid Director on July xx, will help eliminate many of these barriers.

Accessing Waiver Services: HCFA explains the quickest way a State can begin using Medicaid waiver funds to help a person move out of a nursing home or institution back into their community;

thus cutting down on undue delays.

Community Transition Expenses: HCFA details how Medicaid can be used to pay for services and one-time expenses related to assisting a person to move from institution to the community. This can include paying for up to 6 months of case management to identify and obtain needed services for the person by the time he or she leaves the facility; accessibility assessments and modifications to the home or apartment the person is moving into; and a security deposit on an apartment and other typical moving costs.

Avoiding Reinstitutionalization: HCFA will now allow States to use Medicaid to continue to pay for personal care for a period of up to two weeks, while a person with a disability is hospitalized or absent from his or her home. This will enable a State to help individuals avoid losing their attendants and risk unnecessary institutionalization. Doing this extends the policy of making similar payments to retain the bed of a Medicaid nursing home resident who is hospitalized or otherwise absent to those receiving community services.

2. EXPANDING THE AVAILABILITY AND QUALITY OF HOME AND COMMUNITY BASED SERVICES:

The first letter HCFA recently sent to State Medicaid Director also addresses some of the fiscal and programmatic challenges State face in increasing the availability and quality of home and community based services for people with disabilities of all ages. Some of these can only be addressed over the long term by way of the issuance of new regulations and/or changes to the law itself. HHS is committed to working with States and others identifying and giving serious consideration to best way of effectuating such regulatory and statutory reforms. We believe, however, we have identified and made a series of immediate changes in existing guidance or HCFA's interpretation of the Medicaid statute that States and the disability community will find helpful.

Budget Neutrality: This new policy guidance offers States a more effective way of demonstrating the cost-neutrality of providing Medicaid waiver services to individuals with HIV-AIDS and other illnesses that can lead to episodic periods of institutionalization. It does this by allowing States to factor in costs incurred between institutional stays occurring in the same year.

Habilitation: HCFA makes clear that habilitation services can be provided to individuals with the full range of developmental, physical and mental disabilities under a HCBS waiver. This is important because habilitation services focus on assisting individuals to acquire, retain and improve skills important for living in the community. Traditionally, however, only people with developmental disabilities have been seen to be eligible for these very flexible and individualized services. This important clarification, therefore, opens the doors for many more to benefit from such services.

Out of State Services: HCFA explains how a Medicaid program can pay for services provided to one of its beneficiary in another state when it is in the person's best interest to do so. Examples of when a Medicaid program should consider paying for such services would the need to access services in rural or other underserved areas, situations when an individual needs to be near their family and young people with disabilities attending college out of State.

3. REDUCING THE UNNECESSARY MEDICALIZATION OF HOME AND COMMUNITY BASED SERVICES:

Some States have traditionally administered home and community based services in ways that have been unnecessarily medicalized and restricted the personal autonomy of individuals with disabilities.

HCFA's guidance to State Medicaid Directors addresses these barriers to independence and community participation in two key areas:

Home Health: The guidance informs States that they may no longer require that people be "homebound" in order to receive Medicaid home health services. State policies that impose the requirement that one must be homebound to receive Medicaid home health services create unfair barriers to such participation. States can set reasonable limits that do not arbitrarily deny or reduce the amount, duration, or scope of a required service solely because of a person's diagnosis, type of illness, or condition. However, the guidance will ensure that no one loses access to home health services simply by leaving their homes and spending time in their communities.

Nurse Delegation: This guidance makes clear that States may use Medicaid to pay for services provided by qualified individuals under the supervision of a nurse or its nurse delegation law. In other words, States are not required to use nurses to perform health related tasks (e.g., catheter care) which others can be trained to do just as well. The guidance codifies what HCFA has permitted many States to do for years. It is hoped that this can help other States to eliminate a layer of the unnecessary medicalization of people's lives which many find extremely intrusive.

MAXIMIZING THE PERSONAL DIGNITY AND AUTONOMY OF PERSONS WITH DISABILITIES:

The second letter addresses approaches aimed at increasing consumer choice and control in respect to Medicaid services and supports are having a significant impact on people with developmental disabilities, physical disabilities, and serious mental illness of all ages, including elderly individuals. The new guidance clarifies how all States can use Medicaid to design and implement what are alternatively known as self determination, consumer directed or participant driven approaches to enabling people with disabilities to have a say in how the services they support on most to live their lives get provided. This letter contains guidance and policy clarifications in the following 4 key areas:

Person centered planning: The guidance specifies how Medicaid programs can support and pay for person-centered planning, which focuses on identifying the strengths, capacities and needs of the individual, from the perspective of the person often with the assistance of family and friends.

Individual Budget: It clarifies ways in which permits the use of individual budgets controlled by the person with a disability or their representative. The budget is set by the State in consultation with the person and their team based on the cost of service to meet a documented need and must meet other safeguards.

Service Brokerage : The guidance describes how Medicaid can fund the use of support brokers in

consumer- directed service systems. A support broker is a personal agent freely chosen by the individual who provides assistance with person-centered planning and obtaining both Medicaid and non-Medicaid funded services.

Fiscal Intermediaries: The guidance describes how Medicaid programs can use fiscal intermediaries to foster self determination and consumer directed services. In a self-directed service delivery model, Medicaid beneficiaries may hire/fire, schedule, and supervise their providers to the extent permitted a State. Fiscal intermediaries help relieve individuals of a number of bookkeeping tasks which can be time consuming to perform and create unnecessary barriers to persons with disabilities controlling their services and thus their own lives as well.

Such tasks include Medicaid billing, check writing for provider-generated bills, administration of personnel issues (e.g., employer of record services, tax withholding, worker*s compensation, health insurance) and the management of other taxes and benefits. Some individuals may choose to perform these functions themselves (with the exception of making payments to providers) but the State cannot require them to do so.

**Statement by the Department of Transportation
on the National Council on Disability's Report on the ADA**

We appreciate the time and effort spent by the National Council on Disability (NCD) to prepare this important report on the Americans with Disabilities Act (ADA). We will closely review the recommendations in the Report, and take action as necessary.

As the NCD Report noted, this Administration strongly supports the civil rights of people with disabilities. We, at the Department of Transportation, have made and continue to make significant strides to improve transportation opportunities for people with disabilities in all forms of transportation infrastructure and services.

Below are a few examples of the more significant of the Department's recent disability-related accomplishments.

- Issued DOT Final Rule on Over-the-Road buses in September 1999, requiring phased-in accessibility of new Over-the-Road buses and bus service.
- Issued DOT Final Rule in August 1999 eliminating the \$2,500 cap on liability of airlines to passengers for loss or damage to their wheelchairs and other assistive devices.
- Issued DOT 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 travelers with disabilities to accommodate their disabilities and incorporating a general ADA requirement on reasonable accommodations into DOT's Air Carrier Access Act (ACAA) rules.

We realize, of course, that there is more work to do and we are committed to continue exploring ways to make our ADA program even stronger and more effective. The National Council on Disability Report on the ADA will be a guide in that effort. The Department places a high priority on ensuring that the U.S. transportation system in the 21st century is inclusive in service, accessible to all, and provides mobility to all users.

EXECUTIVE ORDER

EMPLOYMENT OF PEOPLE WITH SIGNIFICANT DISABILITIES BY FEDERAL AGENCIES TO SERVE AS HOME-BASED CUSTOMER SERVICE REPRESENTATIVES AND IN OTHER ~~HOME-BASED~~ **REMOTE OFF-SITE WORK STATIONS POSITIONS**

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to promote the employment of people with significant disabilities by Federal agencies to serve as home-based customer service representatives and in other home-based **and off-site** positions, **including expanded federal call/contact center activity**, it is hereby ordered as follows:

Section 1. Policy

(a) Cutting edge telecommunications technology has recently made it possible for customer service call **/contact** centers to transmit voice and data to home-based customer service representatives, who work just as if they were in the call **/contact** center. ~~This~~ Technology also allows other work activities, such as the processing of insurance claims and financial transactions, to be carried out in remote work stations, including the home. Many Federal agencies operate or outsource significant customer service centers and conduct other work activities that may ~~be~~ appropriately **be** carried out by home-based employees.

(b) The ~~percentage unemployment rate~~ of individuals with significant disabilities ~~who are employed~~ is the ~~lowest~~ **highest** of disadvantaged groups in the nation. These individuals are an important, ~~largely~~ untapped resource of talent and skills, **and a key element in sustaining our historic economic growth**. The increasing use of **remote and** home-based employees to carry out significant **and competitive** work activities provides a critical new source of employment opportunities for individuals with significant disabilities.

(c) It is in the interest of the Federal government to utilize the skills of people with significant disabilities by recruiting them for appropriate **off-site**, home-based employment opportunities ~~in with~~ Federal agencies, including employment as home-based customer service representatives linked to Federal customer service call **/contact** centers.

Sec. 2. Implementation

(a) Each head of executive departments and agencies operating **or outsourcing** customer service call **/contact** centers shall examine the feasibility and appropriateness

of using home-based employees as customer service representatives, taking into account the potential **economic independence and social integration** benefits of such employment opportunities for individuals with significant disabilities.

(b) Each head of executive departments and agencies shall also examine the feasibility and appropriateness of using home-based employees to carry out other work activities, such as the processing of insurance claims and financial transactions, similarly taking into account the potential benefits of such employment opportunities for people with significant disabilities.

(c) If the head of a department or agency determines it is appropriate to establish home-based positions pursuant to the examination conducted under paragraphs (a) and (b), such head shall develop and implement procedures that encourage the recruitment and employment of individuals with significant disabilities for such positions

(d) The examinations conducted and procedures established pursuant to this section shall be coordinated through the Secretary of Labor and the Director of the Office of Personnel Management.

Sec. 3. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, its employees, or any other person.

THE WHITE HOUSE

EXECUTIVE ORDER

EMPLOYMENT OF PEOPLE WITH SIGNIFICANT DISABILITIES BY FEDERAL AGENCIES TO SERVE AS HOME-BASED CUSTOMER SERVICE REPRESENTATIVES AND IN OTHER HOME-BASED POSITIONS

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to promote the employment of people with significant disabilities by Federal agencies to serve as home-based customer service representatives and in other home-based positions, it is hereby ordered as follows:

Section 1. Policy

(a) Cutting edge telecommunications technology has recently made it possible for customer service call centers to transmit voice and data to home-based customer service representatives, who work just as if they were in the call center. This technology also allows other work activities, such as the processing of insurance claims and financial transactions, to be carried out in remote work stations, including the home. Many Federal agencies operate significant customer service centers and conduct other work activities that may be appropriately carried out by home-based employees.

(b) The percentage of individuals with significant disabilities who are employed is the lowest of disadvantaged groups in the nation. These individuals are an important, largely untapped resource of talent and skills. The increasing use of home-based employees to carry out significant work activities provides a critical new source of employment opportunities for individuals with significant disabilities.

(c) It is in the interest of the Federal government to utilize the skills of people with significant disabilities by recruiting them for appropriate home-based employment opportunities in Federal agencies, including employment as home-based customer service representatives linked to Federal customer service call centers.

Sec. 2. Implementation

(a) Each head of executive departments and agencies operating customer service call centers shall examine the feasibility and appropriateness of using home-based employees as customer service representatives, taking into account the potential benefits of such employment opportunities for individuals with significant disabilities.

(b) Each head of executive departments and agencies shall also examine the feasibility and appropriateness of using home-based employees to carry out other work

activities, such as the processing of insurance claims and financial transactions, similarly taking into account the potential benefits of such employment opportunities for people with significant disabilities.

(c) If the head of a department or agency determines it is appropriate to establish home-based positions pursuant to the examination conducted under paragraphs (a) and (b), such head shall develop and implement procedures that encourage the recruitment and employment of individuals with significant disabilities for such positions

(d) The examinations conducted and procedures established pursuant to this section shall be coordinated through the Secretary of Labor and the Director of the Office of Personnel Management.

Sec. 3. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, its employees, or any other person.

THE WHITE HOUSE



● J. Eric Gould

07/12/2000 09:38:33 AM

Record Type: Record

To: Marsha Scott/WHO/EOP@EOP, Michelle M. Aronowitz/WHO/EOP@EOP, Lisa M. Brown/OVP/EOP@EOP, Andrea Kane/OPD/EOP

cc: See the distribution list at the bottom of this message

Subject: drafts of proposed executive actions

attached are drafts of executive actions we've discussed. Please review them and get comments back to me as soon as possible. We will concurrently be working with OMB to begin the clearance process.
thanks



eotelecommute.do EO on home based customer service representatives



eoreasonableaccom.d EO Reasonable Accommodation



eoytw.rtf EO Increasing Employment of Young People With Disabilities



EOfederalhiring.do EO Increase the number of people with disabilities employed in the federal government



504memo.do EM 504 memo on renewing the commitment to ensure that federal programs are free from disability based discrimination

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EXECUTIVE ORDER

Notes
10/1/98

REQUIRING FEDERAL AGENCIES TO ESTABLISH EFFECTIVE WRITTEN
PROCEDURES FOR PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

By the authority invested in me as President by the Constitution and the laws of the United States of America, and in order to promote a model Federal workplace that grants: (1) reasonable accommodations for qualified individuals with disabilities in the Federal application process; (2) reasonable accommodations that enable qualified ~~disabled~~ Federal employees to perform the essential functions of the position in question; and (3) reasonable accommodations that enable the qualified ~~disabled~~ Federal employee to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities, as required by the Rehabilitation Act of 1973 as amended and the Americans with Disabilities Act of 1990, it is hereby ordered as follows:

Section 1. Establishment of Effective Written Procedures For Processing Requests for Reasonable Accommodation.

(a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation. The procedures are applicable to all ~~qualified disabled~~ employees within the agency who request a reasonable accommodation. The agency is not required to institute a single agency-wide procedure but may, in their discretion, establish different procedures for different components of their agency.

(b) As set forth in *Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities* (1998), effective written procedures for processing requests for reasonable accommodation are those procedures that:

1. Explain how an employee or job applicant initiates a request for reasonable accommodation. If the agency requires an applicant or employee to complete a reasonable accommodation request form, the form must be provided as an attachment to the written procedures.

2. Specify to whom the request must be submitted and from whom the employee will receive a final decision.

3. Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. If designated time deadlines are not met, responsible agency officials should explain the delay to the employee.

4. Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation.

5. Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace.

6. Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.

7. Provide that reasonable accommodation decisions should be in writing and specify the reasons for denial, when applicable.

8. Provide a "plain English" explanation of certain key legal terms used in the policy (e.g., reasonable accommodations, disability, qualified person with a disability, and undue hardship), and reference applicable statutes and regulations as a source of the actual wording of the terms.

9. Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee to perform the essential functions of his or her current position. In the case of reassignment to a lower graded position, the agency has the option of providing pay retention because the action is not for personal cause.

10. Designate a system of record keeping that tracks the processing of requests for reasonable accommodation and maintains the confidentiality of medical information received in accordance with applicable law and regulations.

11. State in the policy that employees have the right to file a complaint in the event that their requests for reasonable accommodation are denied.

~~12. Clearly and expressly explain the role and responsibility of each agency official or office in the grant or denial of reasonable accommodation requests.~~

Section 2. Submission of agency reasonable accommodation procedures for approval to the EEOC

Each agency shall submit their procedures to the EEOC for ~~review and approval comment.~~ ~~Upon completion of the review the EEOC shall certify the procedures.~~ All agencies must have ~~EEOC certified~~ reasonable accommodation procedures within two years of the effective date of this Executive Order. Agencies must honor their obligations to notify their collective bargaining representative(s) and bargain over such procedures to the extent required by law.

Section 3. Information and training regarding the procedures.

All employees in an agency will receive a copy of the reasonable accommodation procedures. At a minimum all supervisors will receive training on these procedures within one year of the establishment of the ~~EEOC certified~~ **reasonable accommodation** procedures. ~~Each agency shall notify the EEOC when they have completed the training.~~

Section 4. Judicial Review.

This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, its employees, or any other person with this order.

DRAFT JULY 07, 2000

EXECUTIVE ORDER

INCREASE THE number of qualified **[persons or individuals]** WITH DISABILITIES
EMPLOYED IN THE FEDERAL GOVERNMENT

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote an increase in the representation of qualified individuals with disabilities employed at all levels and occupations of the Federal Government, and to support the goals articulated in § 501 of the Rehabilitation Act of 1973 as amended and the Americans with Disabilities Act of 1990, it is hereby ordered as follows:

Section 1. Increase the Number of Hires of Qualified Individuals with Disabilities.

(a) The Federal Government will hire 100,000 new qualified individuals with disabilities over 5 years into all levels and occupations of the Federal Government. To achieve this goal, federal agencies shall:

- (1) use all available hiring authorities, consistent with statute, regulation, and prior executive memoranda;
- (2) expand their outreach efforts, using both traditional and non-traditional methods; and
- (3) increase their efforts to accommodate individuals with disabilities

(b) As a model employer, the Federal Government will take the lead in educating the public about employment opportunities available for qualified individuals with disabilities.

(c) This Order does not impose upon employers a duty to create new positions for individuals with disabilities. In addition, this Order does not change the merit standards of any Federal agency.

Section 2. Implementation.

Each Federal agency shall prepare a plan to increase the number of qualified individuals with disabilities employed in the agency. Each agency shall submit that plan to OPM within 60 days from the date of this Order.

Section 3. Judicial Review.

(a) This Order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

(b) This Order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, its employees, or any other person with this Order.

EXECUTIVE ORDER

EMPLOYMENT OF PEOPLE WITH SIGNIFICANT DISABILITIES BY FEDERAL
AGENCIES TO SERVE AS HOME-BASED CUSTOMER SERVICE REPRESENTATIVES
AND IN OTHER ~~HOME-BASED~~ **REMOTE OFF-SITE WORK STATIONS POSITIONS**

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to promote the employment of people with significant disabilities by Federal agencies to serve as home-based customer service representatives and in other home-based **and off-site** positions, **including expanded federal call/contact center activity**, it is hereby ordered as follows:

Section 1. Policy

(a) Cutting edge telecommunications technology has recently made it possible for customer service call **/contact** centers to transmit voice and data to home-based customer service representatives, who work just as if they were in the call **/contact** center. ~~This~~ Technology also allows other work activities, such as the processing of insurance claims and financial transactions, to be carried out in remote work stations, including the home. Many Federal agencies operate or outsource significant customer service centers and conduct other work activities that may ~~be~~ appropriately **be** carried out by home-based employees.

(b) The ~~percentage unemployment rate~~ of individuals with significant disabilities ~~who are employed~~ is the ~~lowest~~ **highest** of disadvantaged groups in the nation. These individuals are an important, ~~largely~~ untapped resource of talent and skills, **and a key element in sustaining our historic economic growth.** The increasing use of **remote and** home-based employees to carry out significant **and competitive** work activities provides a critical new source of employment opportunities for individuals with significant disabilities.

(c) It is in the interest of the Federal government to utilize the skills of people with significant disabilities by recruiting them for appropriate **off-site**, home-based employment opportunities ~~in~~ **with** Federal agencies, including employment as home-based customer service representatives linked to Federal customer service call **/contact** centers.

Sec. 2. Implementation

(a) Each head of executive departments and agencies operating **or outsourcing**

customer service call /**contact** centers shall examine the feasibility and appropriateness of using home-based employees as customer service representatives, taking into account the potential **economic independence and social integration** benefits of such employment opportunities for individuals with significant disabilities.

(b) Each head of executive departments and agencies shall also examine the feasibility and appropriateness of using home-based employees to carry out other work activities, such as the processing of insurance claims and financial transactions, similarly taking into account the potential benefits of such employment opportunities for people with significant disabilities.

(c) If the head of a department or agency determines it is appropriate to establish home-based positions pursuant to the examination conducted under paragraphs (a) and (b), such head shall develop and implement procedures that encourage the recruitment and employment of individuals with significant disabilities for such positions

(d) The examinations conducted and procedures established pursuant to this section shall be coordinated through the Secretary of Labor and the Director of the Office of Personnel Management.

Sec. 3. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, its employees, or any other person.

THE WHITE HOUSE

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

385 Allison Perkins
3262 ~~6/11/13~~ ~~6/11/13~~ ~~6/11/13~~

WZMO - Renew Fed commitment

RECOMMENDATION	FORMAT	STATUS	ANNOUNCE
Vice President of the United States			
White House Conference on Employment of Adults with Disabilities (TF '99)	TBD	TBD	
Increased Funding for HHS/OCR <i>- ask (name who is with OMB had this)</i>	Budget	Discussion - OMB	July 26, 2000
Technology: <i>increase in funding for assistive technology</i> * Development/Adoption of Information and Communication Technologies Used by People with Disabilities (TF '99) <i>~\$100 million</i> <i>Movie to Pres</i> * Technology/General <i>508 EO on technology transfer - GOM</i> * Technology/Section 508 - <i>EO - Curtis asking</i> <i>all in</i>	Budget Proposal Pending - Curtis Pending - Curtis	Pending Pending - Curtis Pending - Curtis	? July 26, 2000 July 26, 2000
Olmstead/Home and Community-Based Services: * Medicaid Income Disregards for HCBS * Systems Change Capacity Building Grants. * Medicaid Technical Assistance Consortia <i>850,000 - want another million from source</i>	Regulation Grant - \$50 Million over 5 Years Partnership - TF, Educ, SAMHSA, HHS/HCFA	Discussion: OMB/HCFA Discussion: Jeanne/Chris Done	July 26, 2000 July 26, 2000 July 26, 2000

- asking

RECOMMENDATION	FORMAT	STATUS	ANNOUNCE
First Lady			
Develop Youth to Work Initiative - DOL, Education, HHS, SSA, OPM, TF and Others (TF '99)	First Lady Initiative		
Develop Proposal to Allow MCH/CSHN Healthy and Ready to Work Services to Cover Youth with Disabilities Age 16 and Older - HHS (TF '99)	Executive Order/ First Lady Initiative ???	DPC	
Guidance on Non-harassment of Students with Disabilities - Education	Dear Colleague Letter from Education	Done	July 26, 2000
HHS Secretary Donna Shalala			
Olmstead/Home and Community-Based Services: * Helping People with Disabilities Transition from Nursing Homes to Communities * Expanding Availability and Quality of Home and Community-based Services * Reducing Unnecessary Medicalization of Home and Community-based Services * Maximizing Personal Dignity and Autonomy of People with Disabilities	Letter to Medicaid Directors - Policy Guidance/clarification	Done	July 26, 2000

RECOMMENDATION	FORMAT	STATUS	ANNOUNCE
<i>No Principal Designated Yet</i>			
Create Office of Disability Policy Headed by Assistant Secretary - DOL (TF '99)	Budget Proposal	Congress	
Strengthen Enforcement of Employment-related Nondiscrimination Provisions of ADA and Rehabilitation Act - DOJ, Labor, EEOC (TF '99)	OFCCP Regulation	OMB	
Direct Education, Labor, HUD, Interior, HHS, and SSA to develop inter-agency American Indian Disability Technical Assistance Center <i>and</i> utilized Internet tools for outreach, training and technical assistance (building on HUD's websites Native Edge and Code Talk)			July 26, 2000
Direct Interior to establish/develop Information Technology Center at the Southwestern Indian Polytechnic Institute to work on digital divide in Indian country	Part of VP's other technology announcements?		July 26, 2000

RECOMMENDATION	FORMAT	STATUS	ANNOUNCE
<i>No Principal Designated Yet</i> (continued)			
Direct Workforce Investment Board liaisons re: * Participation of youth with disabilities on youth councils * Need for states to be aggressive in ensuring that WIA structures address concerns of people with disabilities in their programs * Outreach to, and inclusion of, state MR/DD directors and state Medicaid directors on state WIBs	DOL Guidance (TIEN)		
15% set aside for technical assistance to workforce system promoting employment of people with disabilities at minimum wage or above	Letter from Secretary Herman		
WIA - Competitive grant competition focusing on use of Individual Training Accounts by people with disabilities			

Follow up w/ DOT - will get done

HUD

• Call HUDs council's office - want 2000 dedicated vouchers

• ~~homeownership rule~~ - @ OMB
(more thinking)

rule - 88% public housing
new rule

- Demographic @ HUD

- targeted to people living in an
institution - want 2000

BOB Kennison - HUD council

Date: 06/21/2000 12:06 pm (Wednesday)
Subject: Reasonable accommodation EO -Forwarded

Becky and Bill --

The edits on the attached fall into 3 categories:

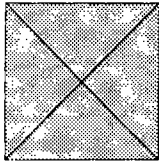
1) the last para - re not creating additional rights is standard language that the Civil Division insists on having

2) we should talk (with Mark) about the EEOC certification issue

3) other things are just improvement edits

Liz

cc: Mark



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

June 22, 2000

MEMORANDUM

TO: Becky Ogle
Executive Director
Presidential Task Force on Employment of Adults with Disabilities

FROM: Louis Lopez
Equal Employment Opportunity Commission

SUBJECT: EEOC Comments on Draft Reasonable Accommodation Executive Order

We have reviewed the draft Executive Order on Reasonable Accommodation and have attached our proposed changes. In brief, the modifications we propose would do the following.

- * Add cautionary language to ensure that the reasonable accommodation procedures developed by the agencies will benefit individuals with disabilities, not tie them up in bureaucratic requirements. We have, for example, added language that stresses that agency procedures must provide for flexibility and authorization of routine accommodations by first-line supervisors; that oral requests must always be considered; and that deadlines for decisionmaking must be as short as reasonably possible. We have also added a requirement that agencies establish an informal process for reconsideration of denials of requests for accommodation that is separate from the EEO complaint process.
- * Modify the section on EEOC review of agency procedures to remove any requirement that EEOC "certify" the procedures. Absent significant additional resources, EEOC does not have the capacity to review and certify the hundreds of procedures that will be developed by agencies for their various components. We also had questions about what certification would mean. It was unclear to us, for example, whether "certification" would provide an agency with any kind of legal defense if the agency's procedures were challenged. In light of these and other questions, we have modified the language to provide for EEOC review, but not certification, of agency procedures.
- * Add additional requirements that agencies both review existing policies that might hamper the agency's ability to provide reasonable accommodations and

consider implementing policies that would affirmatively enhance the agency's ability to grant requests for accommodation.

- * Make other changes necessary for accuracy and clarity. We have, for example, modified sections addressing agency requests for medical information to ensure that they reflect Rehabilitation Act standards. We have also modified the statement that components of agencies could develop their own procedures, based on a concern that this could lead to a proliferation of procedures which would undermine efforts to ensure consistency in agency responses to requests for reasonable accommodation.

If you have questions about any of our proposed modifications, please call Peggy Mastroianni, Associate Legal Counsel, at (202) 663-4609, Doug Gallegos, Attorney-Advisor, at (202) 663-4615 or Jocelyn Samuels, Senior Attorney, at (202) 663-4624.

FEDERAL HEALTHY AND READY TO WORK INTERAGENCY COORDINATING COUNCIL.

(a) ESTABLISHMENT AND PURPOSE.—

(1) IN GENERAL.—The Secretary (HHS) shall establish a Federal Healthy and Ready to Work Interagency Coordinating Council in order to—

- (A) minimize duplication of programs and activities across Federal, State and local agencies, relating to—
 - (i) services for children and youth with special health needs and their families as they transition to all aspects of adulthood, including adult health care, employment and independence.
- (B) ensure the effective coordination of Federal transition programs and policies across Federal agencies
- (C) coordinate the provision of Federal technical assistance and support activities to States
- (D) identify gaps in Federal agency programs and services and
- (E) identify barriers to Federal interagency cooperation.

(2) APPOINTMENTS.—The council established under paragraph (1) (hereafter in this section referred to as the ‘Council’) and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency or program that the member represents.

(f) COMPOSITION.—The Council shall be composed of—

- (1) a representative of the Maternal and Child Health Bureau,
- (2) a representative of the Social Security Administration,
- (3) a representative of the Office of Special Education Programs,
- (4) a representative of the National School-to-Work Program,
- (5) a representative of the Rehabilitation Services Administration,
- (6) a representative of the Administration on Developmental Disabilities,
- (7) a representative of the Health Care Financing Administration,
- (8) a representative of the Substance Abuse and Mental Health Services Administration,
- (9) a representative of the Office of Juvenile Justice and Prevention,
- (10) a representative of the Administration on Children and Families,
- (11) a representative of the National Institute on Disability and Rehabilitation Research,
- (12) a representative of the HIV/AIDS Bureau,
- (13) a representative of the Department of Labor,
- (14) youth with disabilities ages 18 to 25 and parents of children and youth with disabilities (who combined shall constitute at least 20 percent of the members of the Council),
- (15) at least two representatives of State lead agencies for services to children and youth with special health needs, one of whom must be a representative of a State Title V Maternal and Child Health Program and the other a representative of

- a State educational agency,
- (16) a representative of the Association of Maternal and Child Health Programs,
- (17) other members representing appropriate agencies involved in the provision of, or payment for, health and transition related services to children and youth with special health needs and their families, and
- (18) other persons appointed by the Secretary.
- (s) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.
- (t) FUNCTIONS OF THE COUNCIL.—The Council shall—
 - (1) advise and assist the Secretary of Health and Human Services, the Secretary of Education, the Commissioner of Social Security, and the Attorney General of the United States in the performance of their responsibilities related to helping children and youth with special health needs become healthy and ready to work;
 - (2) conduct policy analyses of Federal programs related to helping children and youth with special health needs become healthy and ready to work and their families, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;
 - (3) identify strategies to address issues described in paragraph (2);
 - (4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;
 - (5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved Healthy and Ready to Work programming for children and youth with special health needs and their families;
 - (6) facilitate activities in support of States' interagency coordination efforts.
- (g) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.
- (h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the Council.

Presidential Task Force on Employment of Adults with Disabilities

The following recommendation was included in the Presidential Task Force on Employment of Adults with Disabilities second report, *Re-charting the Course: If Not Now, When?*

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 over the age of 16.

Background:

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 under 16. 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 over the age of 16.

Healthy and Ready to Work Options:

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.



McKinnon William <mckinnon-william@dol.gov>

07/12/2000 08:42:47 AM

Record Type: Record

To: J. Eric Gould/OPD/EOP, Lisa M. Brown/OVP/EOP, Michelle M. Aronowitz/WHO/EOP, Andrea Kane/OPD/EOP

cc:

Subject: RE: Possible directives from the Task Force

<<FW: Possible Executive Orders>> I know this delays the process...for some reason tis was undeliverable last night

Date: Tue, 11 Jul 2000 18:05:12 -0400
From: McKinnon William <mckinnon-william@dol.gov>
Subject: FW: Possible Executive Orders
To: Michelle_M_Aronowitz@who.eop.gov, J_Eric_Gould@opd.eop.gov, Lisa_M_Brown@ovp.eop.gov, Megan_J_Crowhurst@who.eop.gov
Cc: McKinnon William <mckinnon-william@dol.gov>
Message-id: <873601AD5891D311A16E00500483D1BE5FF0EF@ESFPB02>
MIME-version: 1.0
X-Mailer: Internet Mail Service (5.5.2650.21)
Content-type: multipart/mixed; boundary="Boundary_(ID_Ji8oZ4HHYiclJLDilbSsg)"

Hopefully the following will make sense.

I. integr and memo1 relate to the EO on 504

> <<integr~4>> <<memo1>>

>

>

II. eocallc2 refers to the Task Force directive # 13...comments are due to us by COB tomorrow from GSA and OPM.....we don't anticipate any objections since we have already discussed this with OPM and GSA

<<eocallc2>>

III. The following refers to reasonable accomodations across the federal. I included all commentsDOJ comments on the EO for reasonable accomodations, DOJ's actual mark-up is disexecu...OPM commentsEEOC comments with cover memo....the redlinereasonableaccedft-1 is from EEOC...once you have looked at all of these we will pull together everything

> <<redlinereasaccedft_1>> <<disexecu>> <<enclosure>> <<EO on Reas
> Accom Cover Memo>>

IV. OPM Hiring Executive Order

<<Draft Exec Order>>

V. Youth to Work EO... I asked Megan to forward what Curtis Richards sent for the Youth to Work EO.....take a look at HRTWOptions and HRTWcouncil (which refer to Task force recommendation#4 that can be easily be worked into the broader EO

> <<HRTWcouncil>> <<HRTW Options>>



- integr~4.wpd



- memo1



- eocallc2.wpd



- redlinereasaccedft_1.wpd



- disexecu.wpd



- enclosure



- EO on Reas Accommod Cover Memo.wpd



- Draft Exec Order.doc



- HRTWcouncil.wpd



- HRTW Options.doc



DRAFT 7/5/00

EXECUTIVE ORDER

INCREASING EMPLOYMENT OF YOUNG PEOPLE WITH DISABILITIES

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to promote the employment of young people with disabilities, it is hereby ordered as follows:

Section 1. Policy

(a) Over the past twenty-five years, Federal legislation has been enacted to exact changes in how youth with disabilities are educated, engaged in postsecondary education, and prepared for and involved in meaningful employment and independent living. This year, our nation will celebrate the twenty-fifth anniversary of the Individuals with Disabilities Education Act and the tenth anniversary of the Americans with Disabilities Act. Because of these laws, more young people with disabilities are completing high school, going to college, entering the workforce, and participating in lifelong learning. Although these Federal initiatives have resulted in some success, many young people with disabilities remain far behind their peers without disabilities on many measures of success, including graduation rates, and on such postschool outcomes as employment, postsecondary education participation, and independent living.

(b) The transition needs of young people with disabilities are reflected in many factors. School completion rates for students with disabilities are low, while at the same time, national studies report that students with disabilities who complete high school are more likely to be employed, to earn higher wages, and to enroll in postsecondary education and training. The labor market demands higher levels of education and skills, and the completion of high school and further education has become even more critical. Practitioners lack knowledge about integrating service systems to assure a smooth transition from adolescence to adulthood. However, more than 20 years of research and experience has demonstrated that key ingredients to a smooth transition for young people with disabilities include: (1) career exploration and development as an integral part of the educational process; (2) school personnel using contextual teaching and learning methodologies that clearly connect classroom learning with the real world, (3) opportunities to participate in work-based learning activities that tie the world of work back to classroom learning; (4) partnerships between multiple agencies serving young people with disabilities and employers; and (5) facilitating self advocacy, self-determination, family interventions and

independent living.

(c) The unemployment rate of young people with disabilities 16 to 24 years of age is 22.5%, among the highest of disadvantaged groups in the nation. These individuals are an important, untapped resource of talent and skills, and a key element in sustaining our historic economic growth. Improving the postschool, transition, and independent living results provides a critical new source of employment opportunities for young people with disabilities.

Sec. 2. Implementation

(a) Each head of executive departments and agencies shall work with the Presidential Task Force on Employment of Adults with Disabilities to design and coordinate a public awareness campaign to promote high expectations and successful transition of young people with disabilities. This campaign should promote successful examples from local programs, youth, and employers. The campaign will be designed to:

- Educate parents of youth with disabilities of the initiatives and services that will help prepare their children to successfully transition into adult roles.
- Educate business, especially during such a tight labor market, that youth with disabilities can grow up to be productive, contributing adults in the workplace.
- Educate the general public of the strides being made to help prepare youth to be active members of the community and eliminate the stigma associated with disabilities.

djustright

The campaign will create an environment where stakeholders can be well-informed of the services available to improve the transition outcomes of youth with disabilities. In addition, stakeholders should be encouraged to share successful strategies with one another.

(b) Each head of executive departments and agencies shall design and implement an interagency one-stop information center on transition of young people with disabilities. This Center will work with these Federal departments and agencies to create a national information center to provide youth, families, employers, and multiple-agency service providers at the state and local level with one-stop information on a range of transition and post-school services, supports, and best practices issues. The Center will provide coordinated information on resources and options about education, employment, health care, independent living, and other opportunities.

(c) The Departments of Education, Labor, Health and Human Services,

Interior, Justice, the Small Business Administration, and the Social Security Administration shall work with the Office of Management and Budget to issue comprehensive policy guidance on Federal agency programs, purposes, and how they meet transition services planning requirements of the IDEA. This policy guidance will achieve two outcomes: (1) establish clear guidelines on the interpretation of definitions of common terms in Federal law impacting young people in transition; and (2) strengthen interagency coordination in the transition planning process and provision of transition services to young people with disabilities. At a minimum, the guidance should incorporate the key ingredients of a smooth transition outlined in Section (1) (b).

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(d) The National Performance Review shall convene a National Institute of Federal Agencies to focus on the alignment of resources, programs, and services to improve the transition into adult roles for youth with disabilities. The Institute will be to bring together senior level representatives from Federal departments and agencies to develop action plans containing strategies for the creation of a seamless delivery system for youth with disabilities.

(e) The Departments of Education, Labor, Health and Human Services, Interior, Justice, the Small Business Administration, and the Social Security Administration work with the Office of Management and Budget and the Presidential Task Force on Adults with Disabilities in FY 2001: (1) coordinate and implement research activities to identify and synthesize best practices, across agencies and programs, for improving the transition results of young people with disabilities; (2) conduct interagency demonstration programs based on the key ingredients outlined in Section (1) (b) to promote "what works" for young people with disabilities, families, service providers, employers, and decision-makers; and (3) carry out interagency cross-training activities designed to integrate best practices for transitioning youth with disabilities for service providers. While these coordinated activities shall serve all youth, it shall ensure a focus on young people with mental illness, those with the most significant disabilities, and youth from diverse cultures and with limited English proficiency.

(f) The Department of Education shall review and analyze transition planning in postsecondary education and make recommendations to the Presidential Task Force on strategies for making transition services available on college campuses.

Sec. 3. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, its employees, or any other person.

THE WHITE HOUSE

**PROPOSED
EXECUTIVE ORDER**

INCREASING EMPLOYMENT OF YOUNG PEOPLE WITH DISABILITIES

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(b) The transition needs of young people with disabilities are reflected in many factors. School completion rates for students with disabilities are low, while at the same time, national studies report that students with disabilities who complete high school as well as participate in work site learning experiences are more likely to be employed, to earn higher wages, and to enroll in postsecondary education and training. The labor market demands higher levels of education and skills, and the completion of high school and further

education has become even more critical. Practitioners lack knowledge about integrating service systems to assure a smooth transition from adolescence to adulthood. However, more than 20 years of research and experience has demonstrated that key ingredients to a smooth transition for young people with disabilities include: (1) career exploration and development as an integral part of the educational process; (2) school personnel using contextual teaching and learning methodologies that clearly connect classroom learning with the real world, (3) opportunities to participate in work-based learning activities that tie the world of work back to classroom learning; (4) partnerships between multiple agencies serving young people with disabilities and employers; and (5) facilitating self advocacy, self-determination, family interventions and independent living.

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- Educate parents of youth with disabilities of the initiatives and services that will help prepare their children to successfully transition into adult roles.
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Educate the general public of the strides being made to help prepare youth to be active members of the community and eliminate the stigma associated with disabilities.

The campaign will create an environment where stakeholders can be well-informed of the services available to improve the transition outcomes of youth with disabilities. In addition, stakeholders should be encouraged to share successful strategies with one another.

(b) Each head of executive departments and agencies shall design and implement an interagency one-stop information center on transition of young people with disabilities. This Center will work with these Federal departments and agencies to create a national information center to provide youth, families, employers, and multiple-agency service providers at the state and local level with one-stop information on a range of transition and post-school services, supports, and best practices issues. The Center will provide coordinated information on resources and options about education, employment, health care, independent living, and other opportunities.

(c) The Departments of Education, Labor, Health and Human Services, Interior, Justice, the Small Business Administration, and the Social Security Administration shall work with the Office of Management and Budget to issue comprehensive policy guidance on Federal agency programs, purposes, and how they meet transition services planning requirements of the IDEA. This policy guidance will achieve two outcomes: (1) establish clear guidelines on the interpretation of definitions of common terms in Federal law impacting young people in transition; and (2) strengthen interagency coordination in the transition planning process and provision of transition services to young people with disabilities. At a minimum, the guidance should incorporate the key ingredients of a smooth transition outlined in Section (1) (b).

(d) The National Performance Review shall convene a National Institute of Federal Agencies to focus on the alignment of resources, programs, and services to improve the transition into adult roles for youth with disabilities. The Institute will be to bring together senior level representatives from Federal departments and agencies to develop action plans containing strategies for the creation of a

seamless delivery system for youth with disabilities.

(e) The Departments of Education, Labor, Health and Human Services, Interior, Justice, the Small Business Administration, and the Social Security Administration work with the Office of Management and Budget and the Presidential Task Force on Adults with Disabilities in FY 2001: (1) coordinate and implement research activities to identify and synthesize best practices, across agencies and programs, for improving the transition results of young people with disabilities; (2) conduct interagency demonstration programs based on the key ingredients outlined in Section (1) (b) to promote "what works" for young people with disabilities, families, service providers, employers, and decision-makers; and (3) carry out interagency cross-training activities designed to integrate best practices for transitioning youth with disabilities for service providers. While these coordinated activities shall serve all youth, it shall ensure a focus on young people with mental illness, those with the most significant disabilities, and youth from diverse cultures and with limited English proficiency.

(f) The Department of Education shall review and analyze transition planning in postsecondary education and make recommendations to the Presidential Task Force on strategies for making transition services available on college campuses.

(g) The Department of Health Services shall convene a Federal interagency Work Group to develop a legislative and budgetary proposal to ensure access to and utilization of Healthy & Ready To Work services by youth with special health needs. The work group shall be composed of: Health Resources Services Administration (HRSA), Health Care Financing Administration (HCFA), Substance Abuse & Mental Health Services Administration, Administration on Developmental Disabilities (ADD) within the Department of Health and Human Services; the Social Security Administration; the Department of Education; the Bureau of Indian Health Services within the Department of Interior; the Department of Labor; the Office of Management & Budget; and other appropriate departments and agencies as well as family and youth representatives. The work group shall submit its recommendations by December 1, 2000.

Sec. 3. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, its employees, or any other person.

THE WHITE HOUSE

RECOMMENDATIONS FOR THE PROPOSED INITIATIVE: ACCESS HOUSING 2000

In response to the Olmstead decision, a proactive initiative that includes a comprehensive and systematic demonstration, technical assistance, policy analysis, and research agenda should be implemented. The initiative is essential to increase the opportunities for economic and community equity by expanding the availability of accessible, affordable housing, home ownership opportunities, and Individual Development Accounts (IDAs) for people with disabilities and their families.

Background: As a federal response to the Olmstead decision, Access Housing 2000 would be a partnership between HUD, HHS, and other agencies as appropriate, aimed at assisting individuals with disabilities to move from nursing homes and other institutions into the community.

This would be accomplished by improving and expanding the availability of accessible, affordable housing, including home ownership opportunities, supporting the use of individual development accounts for low to moderate income individuals with disabilities and their families, and an array of personal assistance and supports necessary to make a smooth and successful transition to living in the community.

HUD and HHS would launch this targeted initiative by:

- Supporting a set-aside by HHS or other public and private organizations of matching money, administrative costs, and research to provide opportunities for 2000 participants in 40 States to establish IDAs. Allowable uses of these savings accounts will include homeownership, post-secondary education, acquisition of technology, making necessary modifications to a home or residence and capitalization of small businesses.
- Supporting a set-aside of 2000 Section 8 certificates by HUD or public housing authorities for use by people with disabilities and families of children with disabilities who currently reside in nursing homes or institutions in select States to rent, lease or purchase accessible and affordable homes and residences.
- Funding a technical assistance exchange that will focus on demonstration, policy analysis, and research at \$750,000-1,000,000 a year for 5 years to assist States and others to support people with disabilities to rent or own homes, establish IDA's, and control the services they receive.
- Collaborating with the Robert Wood Johnson National Program Office who will work in partnership with American Disabled for Attendant Programs Today (ADAPT); National Council on Independent Living (NCIL); World Institute on Disability (WID); and Corporation for Enterprise Development (CFED), and others to carry out this initiative.

- Encouraging other Federal agencies, Fannie Mae, States, the disability community, foundations and others to make specific contributions to the work of Access Housing 2000, especially as it relates to the movement of individuals residing in nursing homes and institutions into community homes and apartments.
- Working with Fannie Mae, Federal Home Loan Banks, and Housing Finance Agencies to provide flexible underwriting criteria; mortgage loans; rehabilitation loans; reduced interest rates; and soft-second loans for down payment, closing cost, and rehabilitation assistance.
- Directing States receiving nursing home transition grants to work with HUD, State and local housing agencies and others to facilitate the use of Section 8 vouchers by individuals leaving institutions.
- Expressly permitting and encouraging States receiving WIIA infrastructure development grants to use a portion of the funds to work with these agencies and others to highlight the uses of Section 8 vouchers and otherwise expand housing, home ownership, and savings opportunities for employed individuals with disabilities.
- Urging State Medicaid Directors and other key stakeholders to tap into the initiative.

AGENDA POTENTIAL YOUTH ANNOUNCEMENTS

- 1) Introductions
- 2) Proposed Executive Order
 - a) Contents
 - Findings
 - Public Awareness Campaign
 - ~~One Stop Information Center~~ *42 million more definite - put*
 - ~~Cross-Agency Policy Guidance~~ *lead lines*
 - ~~Institutes~~ *to board*
 - Coordinated Research
 - Shared Demonstrations
 - Cross-Training
 - b) Resource Commitments
 - c) Timelines for Completion
- 3) Youth Recommendation for a Coordinating Council
- 4) Other Potential Announcements
 - a) WIA Youth Programs Policy Guidance
 - b) TA Guidance to Job Corps and YO programs
 - c) Joint DOL/ED letter on how to access WIA youth programs
 - d) ED's Disability Harassment Guide
 - e) ED's Assessment of Students with Disabilities Q & As
 - f) SSA's Student Earned Income Exclusion Regulations
- 5) Message/Theme
 - Instilling a Strong Work Ethic in our Young People
 - High Expectations
 - Independence Not Dependence
 - "It takes a Village"
 - Interdependence of Agencies
 - All Kids

7 Lifelong Learning

2/13/00

is what was already going



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

GENERAL COUNSEL

July 14, 2000

MEMORANDUM FOR DESIGNATED AGENCY HEADS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Robert G. Damus *RGD*
General Counsel

SUBJECT: Two Proposed Executive Orders Entitled, Respectively, "Increasing the Number of Qualified Individuals with Disabilities Employed in the Federal Government" and "Requiring Federal Agencies to Establish Effective Written Procedures for Processing Requests for Reasonable Accommodation," and Two Proposed Memoranda entitled, respectively, "Employment of People with Significant Disabilities by Federal Agencies to Serve as Home-Based Customer Service Representatives and in Other Remote Off-Site Work Stations" and "Renewing the Commitment to Ensure that Federal Programs are Free from Disability-Based Discrimination"

Attached are two proposed Executive orders entitled, respectively, "Increasing the Number of Qualified Individuals with Disabilities Employed in the Federal Government" and "Requiring Federal Agencies to Establish Effective Written Procedures for Processing Requests for Reasonable Accommodation" and two proposed memoranda entitled, respectively, "Employment of People with Significant Disabilities by Federal Agencies to Serve as Home-Based Customer Service Representatives and in Other Remote Off-Site Work Stations" and "Renewing the Commitment to Ensure that Federal Programs are Free from Disability-Based Discrimination," that were prepared by the White House Office of Domestic Policy.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning these proposals. If you have any comments or objections, they should be received no later than close of business Tuesday, July 18, 2000. Please be advised that agencies that do not respond by the deadline will be recorded as not objecting to the proposals.

Comments or inquiries may be submitted by telephone to Mr. Mac Reed (202-395-3563) of this office or fax to 202-395-7294.

Thank you.

Attachments - Distribution List

Two Proposed Executive Orders and
Two Proposed Memoranda

cc:	Jack Lew	Michael Deich	Jeanne Lambrew	Barbara Chow
	Sylvia Mathews	Wesley Warren -	Dick Emery -	Kenneth Oscar -
	Josh Gotbaum <i>OMB</i>	Joe Minarik -	Michael Barr	Vikki Wachino -
	Sally Katzen <i>"</i>	John Spotila <i>OMB</i>	Anil Kakani -	
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Honorable Janice R. Lachance
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Office of Personnel Management

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Domestic Policy Council

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Council of Economic Advisers

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to the Vice President

Honorable Lisel Loy
Staff Secretary to the President

Honorable Bob Nash
Director of Presidential Personnel

Executive Order

INCREASING THE NUMBER OF QUALIFIED INDIVIDUALS WITH DISABILITIES EMPLOYED IN THE FEDERAL GOVERNMENT

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote an increase in the representation of qualified individuals with disabilities employed at all levels and occupations of the Federal Government, and to support the goals articulated in § 501 of the Rehabilitation Act of 1973 as amended and the Americans with Disabilities Act of 1990, it is hereby ordered as follows:

Section 1. Increasing the Number of Hires of Qualified Individuals with Disabilities. (a)

The Federal Government shall hire 100,000 qualified individuals with disabilities over 5 years into all levels and occupations of the Federal Government, to the maximum extent feasible. To achieve this goal, federal agencies shall:

(1) use all available hiring authorities, consistent with statute, regulation, and prior executive memoranda;

(2) expand their outreach efforts, using both traditional and non-traditional methods; and

(3) increase their efforts to accommodate individuals with disabilities

(b) As a model employer, the Federal Government will take the lead in educating the public about employment opportunities available for qualified individuals with disabilities.

(c) This Order does not impose upon agencies a duty to create new positions for individuals with disabilities. It directs the agencies, within their normal and usual hiring processes and procedures and within their existing authorities, to make concerted efforts to hire

qualified individuals with disabilities for positions in their agencies. This order does not change the merit standards of any Federal agency.

Sec. 2. Implementation. Each Federal agency shall prepare a plan to increase the number of qualified individuals with disabilities employed in the agency. Each agency shall submit that plan to OPM within 90 days from the date of this order.

Sec. 3. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

THE WHITE HOUSE,

Executive Order

REQUIRING FEDERAL AGENCIES TO ESTABLISH EFFECTIVE WRITTEN PROCEDURES FOR PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

By the authority invested in me as President by the Constitution and the laws of the United States of America, and in order to promote a model Federal workplace that grants: (1) reasonable accommodations for qualified individuals with disabilities in the Federal application process; (2) reasonable accommodations that enable qualified disabled Federal employees to perform the essential functions of the position in question; and (3) reasonable accommodations that enable the qualified disabled Federal employee to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities, as required by the Rehabilitation Act of 1973 as amended and the Americans with Disabilities Act of 1990, it is hereby ordered as follows:

Section 1. Establishment of Effective Written Procedures For Processing Requests for Reasonable Accommodation.

(a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation. The procedures are applicable to all disabled employees within the agency who request a reasonable accommodation. The agency is not required to institute a single agency-wide procedure but may, in their discretion, establish different procedures for different components of their agency.

(b) As set forth in *Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities* (1998), effective written procedures for processing requests for reasonable accommodation are those procedures that:

1. Explain how an employee or job applicant initiates a request for reasonable

accommodation. If the agency requires an applicant or employee to complete a reasonable accommodation request form, the form must be provided as an attachment to the written procedures.

2. Specify to whom the request must be submitted and from whom the employee will receive a final decision.

3. Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. If designated time deadlines are not met, responsible agency officials should explain the delay to the employee.

4. Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation.

5. Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace.

6. Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.

7. Provide that reasonable accommodation decisions should be in writing and specify the reasons for denial, when applicable.

8. Provide a "plain English" explanation of certain key legal terms used in the policy (e.g., reasonable accommodations, disability, qualified person with a disability, and undue hardship), and reference applicable statutes and regulations as a source of the actual wording of the terms.

9. Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee to perform the essential functions of his or her current position. In the case of reassignment to a lower graded position, the agency has the option of providing pay retention because the action is not for personal cause.

10. Designate a system of record keeping that tracks the processing of requests for reasonable accommodation and maintains the confidentiality of medical information received in accordance with applicable law and regulations.

11. State in the policy that employees have the right to file a complaint in the event that their requests for reasonable accommodation are denied.

Sec. 2. Submission of agency reasonable accommodation procedures for approval to the EEOC. Each agency shall submit their procedures to the EEOC for comment. All agencies must have reasonable accommodation procedures within two years of the effective date of this Executive Order. Agencies must honor their obligations to notify their collective bargaining representative(s) and bargain over such procedures to the extent required by law.

Sec. 3. Information and training regarding the procedures.

All employees in an agency will receive a copy of the reasonable accommodation procedures. At a minimum all supervisors will receive training on these procedures within one year of the establishment of the reasonable accommodation procedures.

Sec. 4. Judicial Review.

This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any

person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, its employees, or any other person with this order.

THE WHITE HOUSE,

MEMORANDUM FOR THE HEADS OF ALL EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Employment of People with Significant Disabilities by Federal Agencies to Serve as Home-based Customer Service Representatives and in Other Remote Off-site Work Stations

Cutting edge telecommunications technology has recently made it possible for customer service call /contact centers to transmit voice and data to home-based customer service representatives, who work just as if they were in the call /contact center. Technology also allows other work activities, such as the processing of insurance claims and financial transactions, to be carried out in remote work stations, including the home. Many Federal agencies operate or outsource significant customer service centers and conduct other work activities that may appropriately be carried out by home-based employees.

The unemployment rate of individuals with significant disabilities is the highest of disadvantaged groups in the nation. These individuals are an important, untapped resource of talent and skills, and a key element in sustaining our historic economic growth. The increasing use of remote and home-based employees to carry out significant and competitive work activities provides a critical new source of employment opportunities for individuals with significant disabilities.

It is in the interest of the Federal government to utilize the skills of people with significant disabilities by recruiting them for appropriate off-site, home-based employment opportunities with Federal agencies, including employment as home-based customer service representatives linked to Federal customer service call /contact centers.

To promote the employment of people with significant disabilities by Federal agencies to serve as home-based customer service representatives and in other home-based and off-site positions, including expanded federal call/contact center activity, I direct Executive departments and agencies as follows: (a) Each head of executive departments and agencies operating or outsourcing customer service call /contact centers shall examine the feasibility and appropriateness of using home-based employees as customer service representatives, taking into account the potential economic independence and social integration benefits of such employment opportunities for individuals with significant disabilities.

(b) Each head of executive departments and agencies shall also examine the feasibility and appropriateness of using home-based employees to carry out other work activities, such as the processing of insurance claims and financial transactions, similarly taking into account the potential benefits of such employment opportunities for people with significant disabilities.

(c) If the head of a department or agency determines it is appropriate to establish home-based positions pursuant to the examination conducted under paragraphs (a) and (b), such head shall develop and implement procedures that encourage the recruitment and employment of individuals with significant disabilities for such positions.

(d) Each Federal agency shall report back to the Secretary of Labor and the Director of the Office of Personnel Management within 90 days from the date of this order on whether it is appropriate to establish home-based positions pursuant to the examination conducted under paragraphs (a) and (b), and what procedures will be implemented to encourage the recruitment and employment of individuals with significant disabilities for such positions.

(e) The examinations conducted and procedures established pursuant to this section shall be coordinated through the Secretary of Labor and the Director of the Office of Personnel Management.

THE WHITE HOUSE,

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.

THE WHITE HOUSE,



Lynn.Kahn@npr.gov
07/17/2000 12:47:25 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Marsha Scott/WHO/EOP
Subject: RE: ADA event

NPR's work in this area would be part of the speaking points:

1. workers.gov launched on July 10, 2000 has one of 9 core categories devoted to disabilities resources -- our research found over 150 links. This section of workers.gov serves as the foundation for the disAbility.gov being launched on July 26.
2. workers.gov is the first Access America portal to have accessibility needs integrated into initial and evolving design.
3. our e-gov initiative includes outreach and education about access issues.

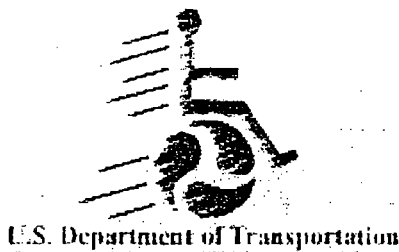
-----Original Message-----

From: Megan_J._Crowhurst@who.eop.gov
[mailto:Megan_J._Crowhurst@who.eop.gov]
Sent: Thursday, July 13, 2000 5:11 PM
To: susan.morris@do.treas.gov; barry.eigen@ssa.gov; juan.lopez@ssa.gov;
ken.mcgill@ssa.gov; mike.greenberg@ssa.gov; mark.l.gross@usdoj.gov;
liz.savage@usdoj.gov; jeanette.harvey@sba.gov; ldaly@doc.gov;
emaxwell@doc.gov; lynn.kahn@npr.gov; gina.pearson@npr.gov
Cc: Marsha_Scott@who.eop.gov
Subject: ADA event

I have not yet received either a deliverable or an accomplishment sheet from the following departments:

Treasury
Labor
Justice
SBA
Defense
Commerce
NPR

I need to receive a deliverable (at least one important step your department has made relating to ADA in the last year) that has not yet been announced for one of the principles to announce at the event on the south



**Celebrating the 10th Anniversary
of the
Americans with Disabilities Act (ADA)
"Yesterday, Today, and Tomorrow"**



Performance by
actress and singer
Anita Hollander

**Friday, July 21, 2000
11:00a.m. - 4:00p.m.**

Music and Entertainment
by:



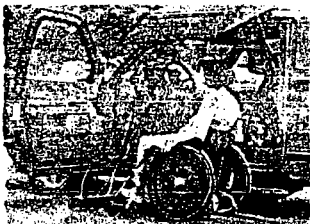
Plaza, DOT Headquarters

Schedule of Events



**11:00 Accessible Transportation and Technology
Exposition**

- See a variety of adapted vehicles, including the Tomco Motorcycle!
- Buy Lunch – visit the food vendors!
- Entertainment by "Oldies 100" WBIG-FM!



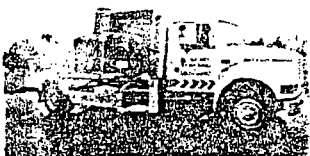
1:00 ADA 10th Anniversary Ceremony

- Speakers Include:
- Secretary of Transportation Rodney E. Slater
- Deputy Secretary Mort Downey
- Former Congressman Norman Y. Mineta



2:00 Reception

- Hosted by American Public Transportation Association (APTA)
- Featured Performer: Anita Hollander



**Buy Lunch!
Food and Ice Cream
Vendors On-Site!**

Room 2230 will be available to
accommodate individuals with
temperature-sensitivity disabilities,
and in case of inclement weather.



June 29, 2000

One pager...for ADA 10th Anniversary Committee...

Department of State

-Subsequent to the Embassy bombings in Africa 2 years ago, Congress has authorized a multi billion dollar allocation to the Department to replace existing facilities that pose severe security threats. The Department is therefore embarking on a major new building program. In the next several years, a significant number of the Departments overseas facilities will be replaced. This is a great opportunity to build new fully accessible facilities.

-The Department is consolidating its considerable in-house resources in order to assess non-compliance of long held facilities, which may not be fully accessible. This activity will help to define where barrier-free accessibility improvements ought to be made. Many of these improvements will be implemented concurrently with needed security improvements.

-The Department has formalized an internal policy to ensure that new and altered facilities are made accessible. A recent analysis of potential conflicts between security criteria and accessibility criteria turned up very few conflicts that cannot be sufficiently resolved.

-The Department recently absorbed the former U.S. Information Agency. The Department recognizes that its facilities serve a number of important users, including Consular applicants and those seeking information concerning U.S. Culture and Trade. The Department resolves to place great emphasis on barrier-free accessibility improvements to those areas of its facilities serving these important groups.

-The Department will strive to make information concerning the accessibility of its facilities more readily available through its extensive web site.

THE WHITE HOUSE
WASHINGTON

These are the packets for the ADA meeting today at 3:30pm. The first is the deliverables and the second is the accomplishments. Please let me know if you have any other questions.

Marsha will not be attending the meeting today.

Megan Crowhurst
X65478

DRAFT

DRAFT

**PRESIDENTIAL TASK FORCE
ON EMPLOYMENT OF ADULTS WITH DISABILITIES**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DELIVERABLES

POSSIBLE PRINCIPAL ANNOUNCEMENT:

INCENTIVES FOR EMPLOYMENT

HUD provides important incentives for individuals with disabilities who receive certain types of HUD housing assistance to enter the workforce. In a new regulation, finalized in March, HUD:

- excludes from annual income certain funds earned by previously unemployed individuals or individuals previously receiving certain types of public assistance, for individuals living in public housing; and
- provides a deduction to adjusted annual income for families with an individual with a disability and also provides a deduction for certain medical expenses of disabled families and certain expenses necessary to enable employment, for individuals living in public housing as well as individuals receiving assistance under §8 programs.

HUD proposes to extend these incentives for persons with disabilities to *all* of HUD's housing assistance, including §8 (to the degree not currently covered), §811, §202, the Rental Supplement program, and the Rental Assistance Program. This would be accomplished through regulatory changes and proposed statutory changes.

Put
or
Keep

POSSIBLE HUD ANNOUNCEMENTS:

CONSOLIDATED PLANNING FOR COMMUNITY DEVELOPMENT

HUD is requiring all states and localities that have already developed a Consolidated Plan to create a new plan during the year 2000. To encourage recipients to specifically address assisting adults and families with disabilities in this plan, the Office of Community and Planning Development (CPD) will distribute a publication entitled "Piecing it All Together in Our Community: Learning to Use HUD's Consolidated Plan to Expand Housing Opportunities for People with Disabilities."

DRAFT

DRAFT

DATA COLLECTION

HUD is modifying its Tenant Rental Assistance Certification System (TRACS) to enable the Department to identify which units of the 30,000 assisted projects in the Department's multifamily inventory are accessible to persons with disabilities. Specifically, the Department will be able to determine which units are accessible to persons with mobility impairments, persons with visual impairments, and/or persons with hearing impairments. This system will become operational during the second quarter of Fiscal Year 2001.

TAX CREDITS (to be announced only in conjunction with Treasury and Justice)

HUD is entering into a Memorandum of Understanding (MOU) with the Departments of Treasury (including the Internal Revenue Service) and Justice that sets forth the reporting and other responsibilities of each Department when a multifamily project constructed and operated using Low-Income Housing Tax Credits (LIHTC) is found to be possibly or actually in violation of the Fair Housing Act.

The MOU encourages substantially equivalent State and local agencies to include State Housing Finance Agencies administering Federal LIHTCs in regularly scheduled fair housing training. Finally, the MOU calls for an annual meeting of interested Federal Departments and agencies to discuss emerging civil rights issues and methods and programs for increasing civil rights compliance in the LIHTC program.

HOMEOWNERSHIP

HUD will send a letter from Assistant Secretary for Housing William Apgar to all approved FHA mortgagees entitled "Single Family Loan Production - Increasing Home Ownership Rates for Persons with Disabilities". This Mortgagee Letter will re-emphasize the Department's commitment to make home ownership a reality for persons with disabilities and encourage its lender partners to make this dream possible through increased, but prudent flexibility when underwriting their loan applications.

OUTREACH AND INFORMATION ON REGULATORY ENFORCEMENT

HUD will issue a notice to reemphasize the responsibility of Community Development Block Grant recipients to further affirmatively fair housing and to assess compliance with the requirements of the Fair Housing Act (the Act) concerning accessible multifamily design and construction. The notice will call upon recipients to give the same attention in their Analysis of Impediments to discrimination based upon disability as they do to other bases of discrimination such as race that have been prohibited by the Act since its inception in 1968. The notice will also encourage local elected officials to examine their building codes for inconsistencies with the design and construction requirements of the Act and find ways to inform builders and architects of the need to comply with those requirements as early as possible in the design phase of a multifamily project.

Notice in Federal Register

DRAFT

1-20 pp. are compliant
24. plan to make compliant

DRAFT

HUD will launch a web page that contains technical assistance letters, court decisions, answers to frequently asked questions and other developments in accessibility issues; permits the public to ask questions and receive answers; directs the public to relevant publications or studies; and provides text of particularly important publications.

ACCESS HOUSING 2000 (more to come in consultation with HHS)

HUD is planning to send to its housing and community development partners a joint letter with the Department of Health and Human Services to highlight the importance of the *Olmstead* principle and to encourage its partners to find ways to expand accessible, affordable housing for persons with disabilities. The letter will include a copy of HHS guidance to state Medicaid directors and a copy of a letter Secretary Shalala sent to every Governor.

NEIGHBORHOOD NETWORK CENTERS

Over the next year, HUD will review and modify the current Neighborhood Network Center's evaluation form to include questions regarding the Centers' accessibility and what need there might be to make the Centers accessible.

NATIVE eDGE

HUD has agreed to use its Internet-based Native American community resources to disseminate technical information on job development and employment for Native Americans with disabilities. These systems, the Native American Economic Development Access Center (Native eDGE) which links fourteen federal agencies to entrepreneurs and their partners seeking economic development in Indian Country, and CodeTalk, an interagency website for Native American communities, would facilitate the development of opportunities to employ Native Americans with disabilities, particularly through new business enterprises. Partner agencies would provide resources such as disabilities employment and related training to HUD staff, publications and documents to distribute on the Internet, and when necessary cooperative funding for technical enhancements and/or expansion of the services. To support this project, HUD has completed a technical review of Native eDGE and is now working to make the web site fully compliant with ADA requirements.

Ideally, the services would operate in concert with a new, Inter-Agency American Indian Disability Technical Assistance Center established through a multi-agency agreement. Such a Center would assist the 557 Federally recognized American Indian tribes and Alaska Native Villages examine the implication of, and potential for adoption of, culturally appropriate laws, policies, and programs to assist their members with disabilities in living healthy, productive, and integrated lives within their communities.

(b)

HHS/SAMHSA Deliverables for the Anniversary of the ADA

THEME#1: Increasing Health Care Coverage - Insurance coverage plays a critical role in the employability of those with disabilities, an issue that is particularly important to those with substance abuse and mental health disabilities. This issue should be raised and addressed by the President during the July 26 event.

Key Actions/Announcements:

- Federal Employee Benefit Plan- A Parity Model that Works - HHS/SAMHSA is working with the Office of Personnel Management (OPM) to ensure and evaluate mental health parity for Federal employees, demonstrating a model for other employers to emulate. Such information can help educate and inform members of Congress and others of the importance of legislative and policy fixes to promote and ensure mental health and substance abuse parity for all Americans.
- Creating a National Safety Net - Components of HHS are working together in the development of a new safety net initiative, the Community Assistance Program or CAP. CAP is designed to meet the needs of the some 30 million plus uninsured Americans. The objective of this \$25 million initiative is to build comprehensive, integrated health care delivery systems that will offer a seamless continuum of care for the uninsured and underinsured. Special efforts have been made to ensure that substance abuse and mental health services will be included in these systems. Awards will be made to approximately 20 communities.

THEME #2: Improving Employability - We must continue to strive to improve the employment rate for individuals with disabilities, ensuring opportunity, inclusion, and economic self-sufficiency for all Americans.

Key Actions/Announcements:

- Improving Rates of Employment - HHS/SAMHSA is pleased to announce the results from the Employment Intervention Demonstration Program (EIDP), which can be used to educate and inform employers in improving the rate of employment of people with psychiatric disabilities. The EIDP illustrates that, given the right support services, people with mental disabilities can work. Clients of this program worked 793,577 hours and earned \$4.2 million in the first three years of the project. The President can announce the success of this project and release a fact sheet to better inform employers about vocational rehabilitation and employment of individuals with mental disabilities. Application of the lessons learned from EIDP can ultimately help people with serious mental illnesses find and maintain employment by establishing best practices by employers and support services.
- Providing Employers with the Tools and Knowledge - HHS/SAMHSA is planning to conduct a "National Summit on Employment of People with

Psychiatric Disabilities." This summit will provide businesses with the tools and knowledge they need to make informed decisions in increasing efforts to hire people with psychiatric disabilities and implement workplace policies to support such hiring. The summit will include tracks for consumers and employers, to exchange knowledge and information about how to effectively identify, obtain, and maintain appropriate and fulfilling employment. The President could issue an Executive Directive for such a summit, directing HHS/SAMHSA to take the leadership, in collaboration with Department of Labor.

THEME #3: Eliminating Stigma In Order to Reach Families in Need - We must continue to work to eliminate the stigma, discrimination, and prejudice associated with disabilities. Individuals with psychiatric and substance abuse disabilities face the stigma every day.

Key Actions/Announcements:

- Anti-Stigma Campaign - HHS/SAMHSA is working with the *National Mental Health Awareness Campaign* and within its own programming to educate the public, amplify the voices of people with psychiatric disabilities, and eliminate negative images. Anti-stigma posters, fact sheets, and brochures, along with a guide on how to respond to stigma, are being developed. Training and curricula is being offered to help reduce stigmatizing attitudes, behaviors, and practices. These items could be released and illustrated during the July 26 event by Mrs. Gore.
- Vote: It Begins With Me! - HHS/SAMHSA is pleased to announce the development of a manual, created by the National Mental Health Association with SAMHSA's support, to encourage individuals with mental disabilities to exercise their right to vote. This campaign and manual is designed to change the way individuals with mental disabilities see themselves, demonstrating their role as contributors in society. It involves consumers themselves in the promotion of their own voter registration, education, and mobilization. This manual could be released and illustrated during the July 26 event by Mrs. Gore.

THEME #4: Reducing Discrimination - The ADA works to ensure that individuals with disabilities receive equitable and fair treatment across the board. Psychiatric disabilities and substance abuse disorders present unique disability issues for treatment, employability, and appropriate housing.

Key Actions/Announcements:

- Creating a National Coalition - HHS/SAMHSA will support the creation of a **National Mental Health Coalition** to promote community-based care, in compliance with the Olmstead Decision**. Key organizations and constituencies will come together to work in partnership with the States to develop a plan, working with consumers. This technical assistance effort will link with the Private Industry Councils (PICs) looking at employability, housing authorities,

case managers, professional organizations, social security services, and others to ensure wrap-around, integrated, community-based services. The creation of this coalition could be announced by Vice-President Gore at the July 26 event.(September 2000)

**See Also: HHS submission for complete information on Olmstead
Contact: Lorinda Daniel, 301-443-4795

- met w/ Chris Jennings -

NEW RECOMMENDATIONS/HHS

1. HCFA will modify its policies and practices to support the integration of Title XIX beneficiaries with significant disabilities into the American workforce by **issuing new policy guidance** and offering **technical assistance** emphasizing flexible, non-categorical implementation of the Medicaid program to state **Medicaid directors** that:
 - (1). Clarifies and encourages the use of existing medicaid coverage options (such as personal care; clinic services; rehabilitative services; and HCB waiver programs) to be used to finance supported employment and other work related services for working-aged recipients with disabilities; [note: this is a particularly urgent issue for persons with psychiatric disabilities who are receiving title XIX financed intensive community supports; it will also positively affect people with mr/dd.]
 - (2). Explains options available to states to create a special income eligibility category for Title XIX beneficiaries that provides clear and reasonable incentives to engage in work and increase earnings without jeopardizing Medicaid eligibility.
2. HCFA will revise Medicaid **program manual** and issue **policy guidance** to encourage use of individual budgets that enables customer choice and control.
3. HCFA will develop **strategies** to assist states to provide **incentives** for employment by authorizing higher reimbursement rates for integrated employment outcomes.
4. HCFA will add **premium on federal financial participation** in Medicaid reimbursement to states that adopt a **Medicaid buy-in**. [note: premium could be provided in a variety of ways; the group discussed small financial but there are probably others that HCFA could identify].
5. HHS will create an **Olmstead Watch website** (integrated with Access America Web recommended by the Presidential Task Force 2nd report) that informs the public and multiple stakeholders on post-Olmstead activities, including:
 - (1). State compliance plans
 - (2). Status of state efforts to move individuals off waiting lists;
 - (3). HHS and DOJ monitoring activities and findings;
 - (4). Civil rights information on court cases and decisions regarding Section 188 of WIA, Sections 503, 504, 508 of Title IV WIA and Title II of the ADA
 - (5). Civil rights program contacts with state and federal government;
 - (6). Examples of state efforts to redirect resources to support integrated employment;
 - (7). Federal policy across agencies to support choice and individual budgets;
and
 - (8). Other research and related data, as appropriate, in order to effectively disseminate information to enable movement to the community and integrated employment for people with the most significant disabilities.



"Dunham, Nancy" <Nancy.Dunham@ost.dot.gov>
07/13/2000 02:44:49 PM

Record Type: Record

To: Megan J. Crowhurst/WHO/EOP
cc: "Workie, Blane" <Blane.Workie@ost.dot.gov>
Subject:

As requested, here is the reworked deliverable for Presidential announcement:

The Department of Transportation has conducted the initial interagency coordination, and has completed its "Comprehensive Plan of Action," addressing the lack of transportation services and systems for persons with disabilities, as directed by the President and recommended by the President's Task Force on Employment of Adults with Disabilities. The Plan, designed specifically to address barriers to "finding and keeping jobs," will issue shortly.

The remaining items, listed below, are probably not at the principal level, and we will be using them as a part of DOT's ADA event on July 21.

We expect to announce the issuance of two new regulations: one on DOT's adoption of the Access Board's Updated Accessibility Guidelines and one extensive supplemental rule on safety standards for platform lifts and for motor vehicles using platform lifts.

We will announce the impending issuance of Volume Two of "Designing Sidewalks and Trails for Access: A Best Practices Guide." This highly-anticipated guidance will provide much-needed technical advice on creating and adapting sidewalks and trails for use by all, including persons with mobility impairments, visual impairments, and other disabilities.

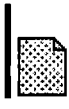
We are working to complete a number of other deliverables, including, issuance of a Report to Congress on Commercial Drivers Licences for insulin-dependent diabetics; completion of an interagency Air Carrier Access Act outreach plan for travelers with a disability; issuance of a new Departmental policy statement and plan on Section 501 and Affirmative Action for Persons with a Disability; and the announcement of a biennial "Secretary's Excellence in Accessibility Award."

I am also attaching our Accomplishments list, which I have previously submitted to your office. It is in the form of a Memorandum from our General Counsel, Nancy McFadden, to the Secretary of Transportation, Rodney Slater. Note that there have been major changes to the laws, strengthening



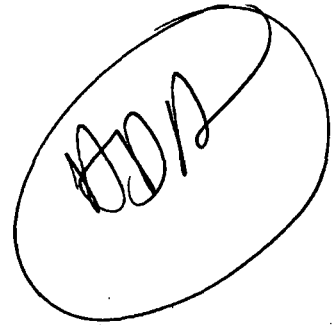
accessibility of transportation modes used to get to work, to participate in business travel, to attend job interviews, and so forth. Also, you already have a separate list of accomplishments from Michael Winter's office at FTA on accessible transit, etc. If you need the FTA report, I can get you another copy.

<<10thmemo.wpd>>



- 10thmemo.wpd

Possible Transportation Deliverables



ADA Enforcement

The June 27, 2000 Report from the National Council on Disability (*Promises to Keep*) was critical of DOT's efforts related to ADA enforcement. Given the timing of the Report, a substantive set of deliverables related to better enforcement would both respond to the Report and reaffirm a commitment to the ADA.

1. The Federal Transit Administration (FTA) should conduct periodic site visits and spot checks to determine level of ADA compliance (*as opposed to total reliance on transit agency self-reporting, which is currently the case*).
2. FTA should require transit agencies to post notices on all mainline and paratransit vehicles that complaints can be made directly to the FTA.
3. FTA should develop publications for riders with disabilities about their rights to transportation services.
4. FTA should conduct extensive public education about accessible transportation.
5. 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.
6. The Office of General Counsel of DOT should convene a Summit in the Fall on improving transportation for people with disabilities, particularly as it relates to employment. This Summit can be co-sponsored with the Task Force, HHS, HUD, Education, and Labor.
7. DOT's Office of the Secretary should engage in strategic planning and evaluation, involving regular consultation with members of the disability community, for improving its ADA enforcement.

Reauthorization of TEA-21

Its current authority extends through 2003. The reauthorization affords a great opportunity to change and add programs. To do so adequately, DOT would need access to better data and would need to engage in in-depth discussions with the provider and advocacy communities.

1. DOT should 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.). This can be done through the Transportation Research Board, perhaps in conjunction with HHS.

2. DOT, through its Access Flagship Initiative, One DOT, or other mechanism, should 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. DOT should establish 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 June 1, 2001, prior to planning for the reauthorization.

4. The Federal Highway Administration should assess the need for additional funding and outreach for sidewalk improvements under the Surface Transportation Program.

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 (an October 1999 GAO Report was very critical of the Council in this respect).

1. DOT and HHS should immediately 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 (*HHS is supportive of this*).

2. The Council should develop a strategy for including people with disabilities in all of its proposed initiatives and activities.

3. The expanded Coordinating Council should 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. These workshops should emphasize local transportation's role in workforce development and the one-stop system.

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. The Department of Transportation should include as a criterion for awarding grants the existence of a plan and financing strategies for including TANF recipients who have disabilities.
 2. The Department of Transportation should require each grant recipient to develop a plan for providing transportation services for TANF recipients who have disabilities.

Other program deliverables:

3. 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.
 4. The Department of Transportation should assess the effects of implementing the proposed Intelligent Transportation Systems (ITS) on the employment of people with disabilities.
 5. The Department of Transportation should 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.
 6. 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.
- 
- 

Dunham, Nancy

From: Dunham, Nancy
Sent: Friday, July 07, 2000 11:36 AM
To: 'MeganJ.Crowhurst@who.eop.gov'
Cc: Workie, Blane; Brenman, Marc; Rupp, Jeff; McFadden, Nancy; Tochen, David; Day, John
<FTA>
Subject: DOT deliverables

As requested, the following is a list of DOT's anticipated deliverables for the end of July ADA celebration.

a. First, our priority will be to complete Recommendation 12, from the "1999 Recommendations to the President from the PTFEAD." Thus, DOT expects to have an initial "Plan of Action" to comprehensively "address the lack of transportation services and systems for persons with disabilities," especially as it relates to "finding and keeping jobs." At this point, preliminary interagency coordination has been done, and an informal draft Plan has been prepared.

As discussed in the OEOB meeting on 7/5/00, since this is a PTFEAD recommendation, this would likely be one the ADA celebration announcements by the President.

b. Second, we expect to announce the issuance of two new regulations: one on DOT's adoption of the Access Board's Updated Accessibility Guidelines and one extensive supplemental rule on safety standards for platform lifts and for motor vehicles using platform lifts.

c. Third, we will announce the impending issuance of Volume Two of "Designing Sidewalks and Trails for Access: A Best Practices Guide." This highly-anticipated guidance will provide much-needed technical advice on creating and adapting sidewalks and trails for use by all, including persons with mobility impairments, visual impairments, and other disabilities.

d. Last, we are working to complete a number of other deliverables, including, issuance of a Report to Congress on Commercial Drivers Licences for insulin-dependent diabetics; completion of an interagency Air Carrier Access Act outreach plan for travelers with a disability; issuance of a new Departmental policy statement and plan on Section 501 and Affirmative Action for Persons with a Disability; and the announcement of a biennial "Secretary's Excellence in Accessibility Award."

Department of Agriculture

The Secretary's Advisory Committee for Employees with Disabilities (SACED) as a best practice that can be replicated at other agencies. The Secretary has approved a full-time staff for the SACED.

- ✓ Established quarterly data collection for SACED review on the amount USDA offices are spending on accommodations, to determine the feasibility of Department-wide central funding. The SACED supports processes to reduce costs and delivery time for employee accommodations.
- ✓ Established a mentor program targeted for USDA employees with disabilities to expand opportunities for employee development and career advancement.
- ✓ Launched a SACED home page as a communications vehicle for employees and applicants with disabilities with a contact list, calendar of events, and an extensive resource list for use by committee members, managers, and employees with links to disability information and Internet resources. The home page offers an easy, accessible method for employees and applicants to contact the committee with their comments and suggestions.
- ✓ Established Employment Subcommittee to develop recruitment strategic plan with Departmental employment goals for hiring of persons with disabilities at all levels in cooperation with the Presidential Task Force on Employment of Adults with Disabilities. Promoted alternative workplace, telecommuting, and work at home programs as a mechanism for accommodating employees with disabilities.
- ✓ Assessed statistical data on representation of employees with disabilities and disabled veterans in the USDA workforce so the SACED can ensure appropriate representation at all levels. Developed and implemented an all-employee survey on employment and service delivery issues that achieved a 30 percent response rate and published a report entitled *Employee Survey on Disability Issues* in January 2000.
- ✓ Held four SACED forums with employees throughout the country to listen to concerns, success stories, and suggestions from the disability community and prepared an action item memo that was signed by the Secretary and distributed to the Subcabinet for action. Periodic progress reports to the Secretary will serve to monitor progress.



The Secretary's Advisory Committee for Employees with Disabilities (SACED): A best practice that can be replicated at other agencies

Secretary Glickman established the Secretary's Advisory Committee for Employees with Disabilities (SACED) in 1997 to provide input and focus on achieving equal access to affirmative employment, advancement, and services for people with disabilities at USDA. The SACED has expended considerable time and in-house resources to provide outreach, raise awareness, and make USDA a model employer of persons with disabilities. This year, the Secretary approved a full-time staff for the SACED. The committee operates at the highest level of executive leadership and is charged with providing advice and direction to the Secretary to:

- eliminate barriers to equal opportunity for employees with disabilities;
- provide accessible facilities, reasonable accommodations, and equal opportunity in hiring and promotions;
- promote affirmative employment opportunities for disabled veterans and persons with severe (targeted) and other (non-targeted) disabilities; and
- provide effective communication, including information in alternative formats, as needed, to all employees.



SACED has the responsibility of reviewing the Department's progress in achieving results and ensuring accountability. The SACED provides oversight for implementation of recommendations resulting from a series of nationwide listening forums for employees with disabilities. Periodic reports to the Secretary will serve to monitor progress.

Departmental Reasonable Accommodation Policy: The Secretary issued a Departmental Reasonable Accommodation policy stating that: "USDA recognizes that all of its employees need the tools necessary to be productive, and that making reasonable accommodations is simply a way of providing the tools needed to accomplish its mission. USDA is committed to a simple and streamlined process for providing reasonable accommodations."

Central Funding: The SACED has established quarterly data collection for review on the amount USDA offices are spending on accommodations to determine costs for Department-wide central funding.

Mentor Program: The SACED established a mentor program targeted for USDA employees with disabilities to expand opportunities for employee development and career advancement.

Communications: The SACED established a SACED home page as a communications vehicle for employees and applicants with disabilities with a contact list, calendar of events, and an extensive resource list for use by committee members, managers, and employees with links to disability information and Internet resources.



Employment: The SACED established an Employment Subcommittee to develop a Department-wide recruitment strategic plan with Departmental employment goals for hiring of persons with disabilities in cooperation with the Presidential Task Force on Employment of Adults with Disabilities.

**DEPARTMENT OF THE TREASURY
REPORT ON THE WHITE HOUSE INITIATIVE ON THE AMERICANS WITH
DISABILITIES ACT(ADA)**

DELIVERABLES

- The FY 2001 budget proposes tax relief for disabled workers, who may incur significant costs associated with working. Under the proposal, qualified disabled workers could qualify for a tax credit for up to \$1,000.
- The Treasury Department has been working with the IRS and the Presidential Task Force on Employment of Adults with Disabilities to improve the dissemination of information regarding tax benefits available to disabled individuals and their employers. Activities include an article in a forthcoming issue of the *SSA/IRS Reporter* (a newsletter for employers) and a mass mailing to organizations representing the disabled community.
- Three certified Community Development Financial Institutions (CDFIs) have programs that serve the disabled: the Connecticut Housing Investment Fund located in Hartford, CT and the Clearinghouse CDFI located in Orange County, CA administer financing programs for affordable housing; Washington CASH located in Seattle, WA just launched a pilot program partnering with the state's vocational rehabilitation office to provide micro-loans to disabled entrepreneurs. Background information on the CDFI Fund follows:

The Community Development Financial Institutions Fund (CDFI) is a wholly-owned government corporation within the U.S. Department of the Treasury. It's vision: an America in which all people have fair and equal access to capital and financial services. It's mission: promote access to capital and local economic growth by directly investing in and assisting in community development financial institutions (CDFIs) and expanding financial service organizations' lending, investment and services within underserved markets.

The Fund provides financial and technical assistance to many organizations that serve individuals with disabilities and other people lacking adequate access to capital, credit and other financial services.

Access to Capital and the CDFI Program

The CDFI Program has three funding components: Core, Intermediary and Technical Assistance. These three components promote the CDFI Fund's goal, articulated in its strategic plan, of strengthening the expertise and the financial and organizational capacity of CDFIs to address the needs of the communities that they serve. CDFIs include community development banks, community development credit unions, non-profit loan funds, micro-enterprise loan funds, and community development venture capital funds.

The *Core Component* builds the financial capacity of CDFIs by providing equity investments, grants, loans or deposits to enhance the capital base—the underlying financial

strength – of these organizations so that they can better address the unmet community development needs of their target markets. In addition, under the Core Component, the Fund provides technical assistance grants in conjunction with loans and investments in order to maximize the community development impact of the Fund's awards.

The Fund selects awardees that clearly demonstrate private sector market discipline and the capacity to positively impact underserved communities. The Core Component leverage encourages additional private and public sector investments into these same organizations through its one-to-one non-federal match requirement.

The *Intermediary Component* allows the Fund to invest in additional CDFIs indirectly, through intermediary organizations that support CDFIs. These intermediary entities, which are also CDFIs, generally provide intensive financial and technical assistance to small and growing CDFIs, thereby strengthening the industry's financial and institutional capacity.

The *Technical Assistance (TA) Component* of the CDFI Program is the Fund's newest funding program. Introduced in 1998, this component builds the capacity of startup, young and small institutions. The TA Component allows the Fund to direct relatively small amounts of funds to CDFIs that demonstrate significant potential for generating community development impact but whose institutional capacity needs to be strengthened before they can fully realize this potential.

Through the first four rounds of the CDFI Program, the CDFI Fund has made \$215.7 million in investments in CDFIs. These organizations serve both rural and urban areas in local, regional, statewide, and multi-state markets in 46 states and the District of Columbia, Puerto Rico, and the Virgin Islands.

In addition to our CDFI funding programs, the Fund administers a CDFI Certification Program. CDFI certification increases the credibility of community lending organizations in the eyes of potential funders and investors. An organization that is certified is better able to attract private sector investments from local banks, corporations, foundations, and individuals. As of June 30, 2000, the Fund has certified 437 organizations in 49 States plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Wyoming has no certified CDFIs.

POTUS

SSA Planned Activities supporting the PTFEAD and for announcement as part of ADA celebration:

We expect to be able to announce some major regulatory actions that would:

1. Annually adjust per the average wage index the earnings guideline that shows whether work done by persons with impairments other than blindness is substantial gainful activity;
2. Increase (from \$200 to \$530) the earnings amount that shows that a person has used one of his/her trial work months under SSDI, and then annually adjust the amount per the average wage index;
3. Increase the maximum monthly (from \$400 to \$1,290) and yearly (from \$1,620 to \$5,200) Student Earned Income Exclusion amounts used in determining SSI eligibility and payment amounts, and then annually adjust these amounts per the consumer price index.

Numbers 1 and 2 above are appropriate for announcement by the President or Vice President. Number 3 could accompany them, or be packaged for announcement with other youth activities by any of the principals.

ANNOUNCEMENT

EEOC ISSUES GUIDANCE LIMITING EMPLOYER ACCESS TO MEDICAL INFORMATION ABOUT EMPLOYEES

- * Today, the Equal Employment Opportunity Commission issued guidance that explains the kinds of medical information employers may and may not obtain about employees.
- * The Americans with Disabilities Act strictly limits employers' access to medical information about their employees. The reason for this is simple: **Employees should be judged on their actual performance, not on the basis of their medical conditions.**
- * This guidance will help to ensure that qualified workers are not discriminated against because of medical conditions they have or medications they are taking that are unrelated to job performance, or because an employer thinks the worker may acquire some condition in the future.
- * Generally, employers are prohibited from asking employees questions about
 - * whether they have or have ever had a disability;
 - * the kinds of prescription drugs they are taking;
 - * the results of any genetic tests an employee has had.
- * Medical examinations are also generally prohibited.
- * On the other hand, an employer may be permitted to obtain medical information about an employee:
 - * where the employee requests a reasonable accommodation;
 - * if the employer observes performance problems that appear to be the result of a medical condition; or
 - * if the employer needs to verify that the employee is able to return to work.
- * Moreover, the guidance does not affect the ability of employers to offer certain kinds of programs, such as Employee Assistance programs and voluntary health programs that are helpful to employees in dealing with personal and/or health-related problems.

PROPOSED ANNOUNCEMENT

EEOC issues guidance to explain Executive Order prohibition on genetic discrimination in federal employment.

Background

- President Clinton signed EO 13145 on February 8, 2000.

President Clinton expressed the hope that this EO would "set an example and pose a challenge for every employer in America" to adopt a policy not to discriminate on the basis of protected genetic information, "because . . . no employer should ever review your genetic records with your resume."
- EEOC has responsibility for coordinating the policy of the Government to prohibit discrimination based on protected genetic information.
- On June 26, 2000, President Clinton joined Francis Collins and other prominent scientists to announce the completion of a first draft of the human genome.
 - The identification of specific genes heralds tremendous advances in science and medicine but also carries with it tremendous risks of misuse.

Highlights

- The EO protects the federal civilian workforce.
- It prohibits employment discrimination based on genetic test results of the employee, family medical history, and genetic test results of family members.
 - Together, these three types of information are "protected genetic information."
- Federal departments and agencies cannot require genetic testing.
- Federal departments and agencies only may request family medical history from applicants and employees.
 - Departments and agencies are limited to using family medical history only for medical evaluations assessing current ability to do the job.
 - Job-related decisions cannot be based on family medical history alone.
- Federal departments and agencies must follow strict rules about confidentiality and



disclosure of protected genetic information.



**DEPARTMENT OF EDUCATION
ADA ANNIVERSARY
DELIVERABLES
(17 July 00)**

PRINCIPALS:

- 1) **Disability Harassment Guidance:** The Department will issue a "Dear Colleague letter" to offer schools guidance to address student harassment based on disability. July 26th.
- 2) **Information Technology:** The Department will award a contract, in conjunction with the General Services Administration, to create an Information Technology Demonstration Center. This Demonstration Center will provide a forum for industry and disabled technology users to share knowledge about cutting edge information technology products. Mid September.
- 3) **Information Technology:** The Department will award a competitive grant to create an Information Technology Technical Assistance and Training Center. This Center will develop curriculum and training materials to facilitate the implementation of Section 255 of the Telecommunications Act and Section 508 of the Rehabilitation Act. Mid September.
- 4) **Self-Employment Guide:** The Department's Rehabilitation Services Administration will publish a technical assistance Guidance on Self-Employment and Business Ownership for Individuals with Disabilities for vocational rehabilitation agencies. July 26th.
- 5) **Students with Disabilities & Assessment:** The Department will issue guidance in the form of commonly asked questions and answers around the inclusion of students with disabilities in statewide and district assessment. Late July or early August.
- 6) **Disability Community Leadership in a Post-Olmstead Environment:** The Department of Education will fund a



disability community empowerment project, in conjunction with the Department of Health & Human Services and the Task Force. July 26th.

OTHERS

- 1) **High Stakes Testing Guide:** The Department recently published for public comment a guide to high stakes assessment which includes a section that discusses the "Testing of Students with Disabilities." Final version to be published in September.
 - 2) **ADA/504 Success Stories Fact Sheet:** Examples of successful efforts to educate Americans with disabilities.
 - 3) **Charter Schools and Students with Disabilities:** The final report of this study is scheduled for a late summer/early fall release. The study examined, in part, the reasons parents enroll students with disabilities in charter schools, the nature of services provided, and the outcome goals charter schools have for students with disabilities.
 - 4) **Guide to Vocational Rehabilitation:** Publication of a layman's guide to the Federal/state vocational rehabilitation program is anticipated in late July.
 - 5) **Consumer Choice Guidance:** The Rehabilitation Services Administration will issue guidance promoting consumer choice in the vocational rehabilitation program. July.
 - 6) **IEP Guide:** The Department published an easy-to-understand guide on the Individuals with Disabilities Education Act requirements for a student's Individualized Education Program to be used by teachers and parents. Released on July 4th by Secretary Riley.
 - 7) **Youth Leadership Project:** The Department will publish a grant announcement in late August to establish a Youth with
- 



Disabilities Leadership Development project. This project, to be awarded in October, is jointly funded with the Task Force, the Department's of Labor and Health & Human Services, the Social Security Administration, and the President's Committee on the Employment of People with Disabilities and the National Council on Disability.



POTOS

PROPOSED WHITE HOUSE ANNOUCEMENT ON INCREASING THE FEDERAL GOVERNMENTS' HIRING OF PEOPLE WITH DISABILITIES

HHS
Ref.
Cal
Ag
Justice
Energy

Objectives:

- To set a realistic "stretch" goal to increase the number of persons with disabilities hired by Federal department and agencies.
- To increase the representation of persons with disabilities employed at all levels and occupations of the Federal government.

PROPOSED ANNOUNCEMENT

Federal government will hire 100,000 people with disabilities over the next five years

- This represents a **60% increase** in the hiring level of people with disabilities for Federal government
- 100,000 new hires represents **9.2%** of all new Federal hires . . . almost 1 in 10

=====

BACKGROUND

Current State of Play

- Federal government is our nation's largest employer – 1.8 million employees
- Government hires 200,000 employees each year
- Of those, 12,000 are people with disabilities (5.9%)
- 1,600 are people with targeted disabilities (0.8%)

What Happens If We Do Nothing

- Federal new hires over the next five years will be 1,082,000
- Of these, 62,500 will have a disability (5.8% of all hires)
- Of these, 8,000 will have a targeted disability (.7% of all hires)



"Elliot E. Maxwell" <EMaxwell@doc.gov>
07/14/2000 06:25:29 PM

Please respond to EMaxwell@doc.gov

Record Type: Record

To: Megan J. Crowhurst/WHO/EOP

cc:

Subject: re: ADA event

I have attached a draft contribution from DOC that is in clearance. I think the items likely to be of greatest interest are the funding of the Harvard study on disability and employment, the ongoing TOP grant program which the President has proposed tripling in the 2001 budget, and the study designed to increase technology transfer between the federal labs and the assistive technology industry.

Elliot E. Maxwell
Special Advisor to the Secretary
for the Digital Economy
U.S. Department of Commerce

(t) 202-482-0211
(f) 202-501-1173
e-mail: emaxwell@doc.gov
Room 5039
U.S. Department of Commerce
Washington, D.C. 20230
----- Original Text -----

From: <Megan_J_Crowhurst@who.eop.gov>, on 07/13/2000 5:11 PM:

I have not yet received either a deliverable or an accomplishment sheet from the following departments:

Treasury
Labor
Justice
SBA
Defense
Commerce
NPR

I need to receive a deliverable (at least one important step your department has made relating to ADA in the last year) that has not yet been announced for one of the principles to announce at the event on the south lawn on July 26.

In addition, I need a revised list of your departments accomplishments in



"Minton, Michael R" <MintonMR@state.gov>
07/14/2000 09:32:55 AM

Record Type: Record

To: Megan J. Crowhurst/WHO/EOP

cc:

Subject: RE: Deliverables

Megan:

Thanks for the phone message yesterday. The accomplishments that I sent you represent only the Department of State Foreign Buildings Operations progress in our diplomatic missions abroad. Since our focus is on buildings, our mission is to deliver every building, whether newly constructed or renovated, as a fully accessible facility for its workers and visitors alike. This is something we already do and will continue to do. Like security, accessibility for the disabled is a priority in our building program. As noted in our list of achievements, the Department of State continues to demonstrate to the world of our commitment to improving the quality of life for all who work in and visit our diplomatic facilities.

Following recent world events, the Department of State is currently planning for a significant increase in new embassy office building design and construction. All of these new diplomatic facilities will represent America's commitment to leadership in all aspects of design including accessibility.

I hope that you and Marsha will accept this message as the deliverable from the Foreign Building Operations. If you have any questions, please contact me at (703) 516-1740.

Thank you,

Michael R. Minton, Architect
Foreign Buildings Operations
U.S. Department of State

-----Original Message-----

From: Megan_J._Crowhurst@who.eop.gov
[SMTP:Megan_J._Crowhurst@who.eop.gov]
Sent: Thursday, July 13, 2000 5:21 PM
To: schmueckerbl@state.gov; thomassonpl@state.gov;
tomassorj@state.gov; mintonmr@state.gov;
CN=wendell_sutton/OU=pmb/OU=os/O=doi@doi.gov
Cc: Marsha_Scott@who.eop.gov
Subject: Deliverables

Thanks so much for the timely arrival of your list of

A SAMPLE OF ACCOMPLISHMENTS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

At the dawn of the new millennium, America enjoys the greatest prosperity in recent history. Some segments of our diverse national population, however, are being left behind. At HUD, our job is to ensure that all persons including the 50 million Americans with disabilities, have an equal opportunity to fully participate in this economy and all aspects of American life. As we celebrate the tenth anniversary of the Americans with Disabilities Act, the following few pages describe what HUD has been doing to make sure no one is left on the threshold in this new millennium.

I. BUDGET

HUD has increased its funding for fair housing activities and disability-rights related activities dramatically over the last several years. In FY 1998, the budget for fair housing was \$30 million. In FY 1999, it increased to \$40 million (a 33% increase) to its highest level ever. In FY 2000, the Department surpassed even the 1999 level, obtaining a fair housing budget of \$44 million. For FY 2001, HUD has proposed \$50 million for fair housing activities, recognizing that the steady budget increases during Secretary Cuomo's tenure have better positioned the Department to make substantive gains in reducing housing discrimination.

The budget increases over the last several years have benefitted two major HUD programs designed to attack housing discrimination. The **Fair Housing Assistance Program (FHAP)** provides Federal funds to support a network of State and local civil rights agencies that enforce laws that are substantially equivalent to the Federal Fair Housing Act; these agencies process housing discrimination complaints based on race, color, religion, sex, national origin, disability, or family status. The **Fair Housing Initiatives Program (FHIP)** funds fair housing groups and other organizations and agencies that carry out enforcement (including private litigation), provide education and outreach activities, and monitor the activities of developers and real estate companies for compliance with the Fair Housing Act.

As discrimination based on disability continues to be the second most frequent complaint filed with the Department and the substantially-equivalent state and local fair housing agencies, much of this funding goes to promote housing opportunities for people with disabilities. The budget has also supported the following disability-specific activities:

- In FY 1998, the Department provided a set-aside of \$900,000 in the Fair Housing Initiatives Program to fund five organizations whose focus was to pursue fair housing rights and opportunities on behalf of people with disabilities.
- In both FY 1999 and FY 2000, the Department set aside \$750,000 for organizations that

perform education and outreach regarding the requirements of the Fair Housing Act pertaining to individuals with disabilities.

- The Department's FY 2000 FHIP Notice of Funding Availability earmarks \$1 million to fund collaborative activities involving disability rights advocacy groups, housing industry organizations, and other agencies and institutions to encourage the adoption of building codes at the state and local levels that are consistent with the accessibility requirements of the Fair Housing Act.
- The Department has provided a \$1 million grant to fund a two-year pilot program, the Project of Accessibility Training and Technical Assistance, to assist builders, developers, architects, building code officials and others on the accessibility requirements of the Fair Housing Act. The pilot will establish a training and technical assistance center in one region of the country. The Department has proposed \$2.5 million in its FY 2001 budget to expand this program to four regions of the country.
- The Department was authorized in the FY 2000 budget to spend up to 25% of the section 811 budget on tenant-based housing, which resulted in approximately 1800 vouchers for mainstreaming individuals with disabilities. The Department has requested authorization to spend up to 50% of its FY 2001 811 budget on tenant-based housing.

II. Enforcement of Fair-Housing and Disability-Rights Laws

Under the Fair Housing Act, after complaints of race discrimination, complaints alleging housing discrimination on the basis of disability have been the most frequent type of complaint filed with HUD and state and local fair housing agencies with substantially-equivalent authority. HUD and state and local agencies have obtained successful resolutions in disability cases more frequently than in any other category of cases. Since 1997, HUD and substantially-equivalent state and local agencies have obtained over \$7.2 million in over 830 cases it has helped resolve, or, on average about \$8,600 per case.

III. Collaboration with the Department of Justice

HUD and the Department of Justice have worked together in identifying cases where it is alleged that the respondent has built inaccessible housing, in violation of the Fair Housing Act. HUD and the Department of Justice create teams consisting of representatives from both agencies to review complaints filed with HUD to determine which are pattern and practice cases that will be handled by the Department of Justice.

IV. PUBLIC NOTICE ON ACCESSIBILITY

HUD issued in December 1999 a public notice reminding recipients of Federal funds of their obligation to comply with pertinent laws and implementing regulations which provide for non-discrimination and accessibility in Federally funded housing and non-housing programs for people with disabilities. The notice included information on key compliance elements of the relevant regulations and examples and resources to enhance recipients' compliance efforts.

V. AROUND THE COUNTRY

Florida. On August 2, 2000, in Miami, Florida, HUD is sponsoring a Workshop on Affordable Housing for Citizens with Disabilities. The workshop is geared for non-profits, lenders, developers, and other interested persons. The objectives of the workshop are to: discuss the housing needs of citizens with disabilities; provide information about various housing assistance programs and opportunities for developing affordable housing for people with disabilities; and educate on fair housing requirements.

Kentucky. The Housing Authority of Jefferson County, in partnership with the Center for Accessible Living, operates the Mainstream Housing Opportunities program which provides rental assistance vouchers and supportive services to non-elderly persons with disabilities. This rental assistance promotes affordable and independent living for people with disabilities, a group who has been identified by HUD as having one of the worst-case housing needs of any group in the United States.

Delaware. The Terry Apartments, a housing development in Wilmington, DE, for the elderly and non-elderly persons with disabilities, established a Neighborhood Network computer center in September 1999, out of a partnership among HUD, the Interstate Realty Company, and the University of Delaware. Through a Memorandum of Understanding between HUD and the University of Delaware, graduate students are helping train residents with disabilities on general computer skills and how to use the Internet for job searches and other purposes.

Pittsburgh. HUD's partnership with the REALTORS Association of Metropolitan Pittsburgh is an on going association designed to increase awareness among REALTORS, and housing choices for persons with disabilities. The partnerships has produced a training session, "Opening New Markets - Resources for REALTORS." The event was attended by The Pennsylvania Human Relations Commission, Pennsylvania Housing Finance Agency, Urban Redevelopment Authority of Pittsburgh, Accessibility Development Associates, Inc., HUD Community Builders and a number of officers and members of the REALTORS Association of Metropolitan Pittsburgh. The session focused on identifying, advertising and promoting accessibility features in the sales listings for single family homes. The training also identified sources of home mortgage and home rehabilitation financing for persons with disabilities.

VI. A FEW BEST PRACTICES

- **HUD Work on Uniform Building Codes for Compliance with Fair Housing Accessibility Guidelines:** Reviewed building codes and prepared report regarding their respective consistency with the Fair Housing Act accessible design and construction requirements.
- **Contract with William Worn Architects to Further Design Accessibility Compliance:** Provided technical assistance on how housing providers can achieve compliance with the Fair Housing Act's design and construction requirements.
- **Mississippi Home of Your Own - A Program for Disability Studies at the University of Southern Mississippi:** The program helps counsel and provide financial support to prospective homebuyers with disabilities.
- **Disabled Dealer Magazine of Georgia:** Each issue advertises houses with accessible features and publishes articles on accessible public buildings, vans, meeting spaces, and other information to help people with disabilities fully participate in society.
- **Truckee Meadows Fair Housing - Building Permit Tracking Process:** Sent letters to builders and owners who were preparing to construct new multifamily housing to remind them of their Fair Housing Act obligations to regarding accessibility prior to construction.
- **Massachusetts Housing Finance Agency:** Prepared a program that was later repeated in other parts of the country that educated housing providers on their Fair Housing Act obligations to make reasonable accommodations in rules and procedures for people with disabilities in order to afford those persons equal enjoyment of their housing.

HHS/Substance Abuse and Mental Health Services Administration

Key Accomplishments 10th Anniversary of the ADA

- (1) Ensuring a Voice for the Disability Community: Mental Health Planning Councils - Under SAMHSA's Community Mental Health Services Block Grant authorizing language, mental health planning councils are required to be consulted for use of the block grant funds. Most significantly, those councils are required to have consumer representation, ensuring that consumers have a voice in the direction of the dollars spent.
- (2) Providing Information to Improve Services - SAMHSA regularly releases guidelines, data, and other publications that are disseminated to communities on how to better serve individuals with psychiatric and substance abuse disabilities. For example, SAMHSA released a best practice guideline titled "*Substance Use Disorder Treatment for People with Physical and Cognitive Disabilities*" in January 1999. This "Treatment Improvement Protocol" (TIP) helps guide treatment professionals in the diagnosis, treatment, and accommodation of people with disabilities in need of substance abuse treatment. It emphasizes that treatment programs have a "legal and ethical responsibility" under the ADA to insure appropriate treatment for all clients.
- (3) Supporting Communities and Systems - SAMHSA works through its discretionary programs under its Knowledge Development and Application Grants to improve service delivery for individuals with psychiatric and substance abuse disorders. For example, the Recovery Community Support Program is designed to give persons in recovery a strong voice. The "*Access Now! Recovery Community Alliance Project*" in Tucson, Arizona specifically targets physically and cognitively disabled populations by organizing, training, and educating individuals with disabilities and their families to affect changes in the local treatment system. SAMHSA's program announcements often target high-risk populations, including physically and cognitively disabled clients, in order to better meet and address their special needs.
- (4) Improving Health Care Coverage - SAMHSA collaborates with partners, conducts services research, and informs policy debates to ensure attention to the needs of individuals with psychiatric and substance abuse disorders in health care coverage. SAMHSA's Employee Intervention Demonstration Program (EIDP) found that the availability of health insurance coverage is central to the ability of people with disabilities to return to and retain employment. SAMHSA is beginning to develop reports, information, and projects around these findings to improve employability and insurance coverage. SAMHSA also commissioned a legal issues brief on the ADA, in order to demonstrate the ability of health lawyers to submit legal challenges related to coverage of mental and/or substance abuse disorders in the insurance industry. The brief demonstrates that the ADA can be used to combat the lack of insurance coverage as discrimination.

- (5) Working From Within to Make A Difference - SAMHSA has assessed its own hiring practices and has conducted training and orientation sessions for managers and supervisors on the subject of "reasonable accommodations for all employees. SAMHSA created a disability committee to focus on employment matters within the agency to continue to identify areas of need and make improvements. SAMHSA hosted a Disability Film Fest in recognition of Disability Awareness Month to increase staff awareness of the issues and concerns that affect persons with disabilities.

**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 Agriculture Accomplishments

The Secretary's Advisory Committee for Employees with Disabilities (SACED) is a best practice that can be replicated at other agencies. The Secretary has approved a full-time staff for the SACED. The committee launched a SACED home page and held four SACED forums with employees throughout the country to listen to concerns, success stories, and suggestions from the disability community.

- ✓ Issued Departmental Regulation 4300-8 on reasonable accommodation, which announces a new policy to ensure that all employees have access to the equipment, software, and services they need to be productive.
- ✓ Established quarterly data collection for SACED review on the amount USDA offices are spending on accommodations, to determine the feasibility of Department-wide central funding.
- ✓ Assessed statistical data on representation of employees with disabilities and disabled veterans in the USDA workforce so the SACED can ensure appropriate representation at all levels. Developed and implemented an all-employee survey on employment and service delivery issues that achieved a 30 percent response rate and published a report entitled *Employee Survey on Disability Issues* in January 2000.
- ✓ USDA and GSA, working with the Federal Information Technology Accessibility Initiative, a federal interagency group, are planning to establish accessible technology centers, similar to the USDA TARGET Center, around the nation. The USDA TARGET Center provides demonstrations of assistive technologies and ergonomic solutions, evaluation of accommodations, and individual and work site needs assessments. Current locations under consideration include Georgia, Denver and California.
- ✓ Established a mentor program targeted for USDA employees with disabilities to expand opportunities for employee development and career advancement.
- ✓ Established an Employment Subcommittee to develop recruitment strategic plan with Departmental employment goals for hiring of persons with disabilities at all levels.

TREASURY

ACCOMPLISHMENTS

Tax Policy Initiatives

- The Work Opportunity Tax Credit, enacted in 1995, provides tax credits of up to \$2,400 per worker for businesses that hire individuals from certain targeted groups. One targeted group includes vocational rehabilitation clients who have completed state vocational rehabilitative services programs in accordance with approved individualized written plans for employment. A second targeted group consists of blind or disabled individuals who receive Supplemental Security Income (SSI) benefits.
- Since 1990, small businesses have been able to claim a 50% credit (up to \$5,000) for expenses incurred to comply with the ADA. Other businesses are allowed to expense currently (rather than to capitalize and deduct over time) preferential tax treatment for up to \$15,000 of expenses incurred to remove architectural barriers that impede access by the handicapped and elderly.

Community Development Financial Institutions (CDFI) Fund Initiatives

- **Bank Enterprise Award Program**

The Bank Enterprise Award (BEA) Program is the Fund's primary tool for pursuing its strategic plan goal of expanding banks' and thrifts' community development lending and investment activity. By providing incentives to these mainstream financial institutions, the Fund encourages them to increase their investments in underserved communities. These financial institutions do this in two ways: by providing loans, investments and services directly to the communities in need; and indirectly, by investing in local CDFIs or other community development programs, that then provide financial and development services to the communities.

The leveraging involved in this program is impressive. To date, the CDFI Fund has awarded \$88.6 million to banks and thrifts. This \$88.6 million reflects \$1.8 billion of investments by banks and thrifts in underserved communities. The Institutions awarded have invested \$1.4 billion in direct loans, investments and services in distressed communities, and \$437.4 million in equity investments and financial support to CDFIs.

- **Presidential Awards for Excellence in Microenterprise Development**

The Presidential Awards for Excellence in Microenterprise Development is a non-monetary program created and administered by the Fund at the request of the President. The awards, presented by the President, First Lady and the Secretary of the Treasury in an East Room ceremony, recognize and seek to bring attention to organizations that have demonstrated excellence in promoting micro-entrepreneurship. By recognizing outstanding microenterprise organizations, the Presidential Awards seek to promote sound lending practices and bring wider public attention to the important role and successes of



microenterprise development especially in enhancing economic opportunities among women, low-income people and minorities who have historically lacked access to traditional sources of credit. This program is one of the ways that the Fund is promoting performance best practices in the industry.



Internal Department and Bureau Noteworthy Accomplishments

DEPARTMENT

Treasury provided a recruiter to the President's Committee on Employment of People with Disabilities, and hired four (4) students from the Workforce Recruitment Program for College Students with Disabilities during the summer of 1999.

BUREAUS

- **INTERNAL REVENUE SERVICE (IRS)**

The Chiefs of EEO/Diversity and Communications and Liaison signed a captioning policy memorandum implementing the practice of captioning informational and all-employee broadcasts that originate from the IRS TV studio.

In an effort to improve the method of securing interpreting services, the Servicewide EEO/Diversity Office is conducting a pilot for centrally funded interpreting services.

The Information and Resources Accessibility Program (IRAP) Office was established to ensure employees with disabilities have access to a diverse selection of specialized electronic resources. The goal of the IRAP Office is to choose adaptive technology that will enable employees with disabilities to perform their essential job duties.

A team of managers and national Treasury Employees Union representatives developed a booklet to identify career paths for deaf employees.

The Brooklyn District participated in the Summer Youth Employment Program, affiliated with the Lexington School for the Deaf, by employing two summer interns.

The Disability Program Manager of the Arkansas-Oklahoma District participated in the "Young Adult Forum for Disability Concern and Challenge Air Program. This program assists people with disabilities to pursue college degrees and provides mentors to enhance their leadership qualities and learning skills.

- **THE BUREAU OF PUBLIC DEBT (BPD)**

BPD conducted a "Hidden Disabilities Panel" in which employees with hidden disabilities discussed their disabilities and stressed that not all disabilities are visible.

Department of the Interior
ADA Compliance

- DOI currently employs approximately 634 people with Targeted Disabilities
- The Department has established an aggressive process to hire and place many students identified by the Federal Workforce Recruitment Program for College Students with Disabilities. In 1999 DOI led all non-DOD agencies by hiring 40 students under this program.
- The Fish and Wildlife Service developed a partnership with the California Department of Vocational Rehabilitation to ensure that all employees and applicants receive reasonable accommodations and access to programs, facilities and activities.
- FWS completed construction on fishing piers, parking areas, observation decks, sidewalks and boardwalks to increase accessibility at several National Wildlife Refuges. In addition, several mobile wheelchairs were purchased to assist with movement in other spaces.
- Bureau of Land Management is engaged in identifying and removing barriers that restrict the hiring and placement of individuals with disabilities.
- The Bureau of Reclamation has an innovative program that allows professional staff to instruct at various colleges and universities to identify potential employees. As a result, four college students with disabilities were hired.
- In 1999 the Bureau of Indian Affairs completed the elimination of over 150 barriers to accessibility at a cost in excess of \$1,279,000. Projects included; entrance modifications, plumbing changes, ramps and alarm systems.
- Managers and supervisors of the Minerals Management Service have developed special appointment authorities under the Disability Employment Program.
- OSM (Office of Surface Mining) conducted and completed accessibility compliance reviews at several of their field locations.
- The National Park Service has provided training in accessibility to over 2000 Park and recreation professionals. It has also provided seminars on accessibility issues such as trail access, historic site access and playground design.

- NPS established a telephone HelpLine to provide technical advise to park and recreational professionals seeking to solve access problems.
- There have been a total of 339 projects approved by NPS that included accessibility as at least one of the components of the project. The total amount of funds involved in these projects exceeds \$82,500,000.
- The U.S. Geological Survey has designed and presented seven outstanding conferences featuring various issues related to employing people with disabilities. Some of the information presented included; companion dog program, accessibility technology, legal issues and improved communications.
- USGS has developed a pilot mentorship program that matches Federal employees with disabilities to students with similar disabilities.

SSA Accomplishments supporting the Presidential Task Force for the Employment of Adults with Disabilities (PTFEAD) and for announcement as part of ADA celebration events:

In September 1998 the Department of Labor and SSA entered into cooperative agreements with a total of 18 States to develop innovative projects to increase employment among people with disabilities who want to work. The first annual conference was held in September 1999 and a report was provided to the Presidential Task Force for the Employment of Adults with Disabilities.

In October 1999, SSA joined forces with the U.S. Small Business Administration (SBA) to help improve employment and entrepreneurial opportunities for Americans with disabilities by signing a partnership agreement to coordinate the efforts of SBA's Welfare-to-Work initiative and our Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs.

Beginning January 2000, the Department of Labor, Department of Education, Department of Health and Human Services, the PTFEAD, the President's Committee on Employment of People with Disabilities, the National Council on Disability and SSA have sponsored and continue to sponsor public education forums around the country entitled "Federal Policy - State Opportunities: Models and Strategies for an Inclusive Workforce." These forums focus on Federal and State employment-related policies and programs for people with disabilities.

In January 2000, SSA began a two-State Youth Continuing Disability Initiative that will involve SSI Youth in Maryland and Florida ages 15-16 who have had a continuing disability review performed. The project will assist youth in obtaining the information and services they need to successfully transition to work and will be used to examine the feasibility of such an approach on a nationwide basis.

In May 2000 we awarded funds to the Children's National Medical Center to serve SSI youth with disabilities in the District of Columbia. The project will target preadolescents and adolescents as well as health care professionals to improve post-secondary and employment outcomes for young people with disabilities.

On May 26, 2000, we launched the new Internet web site, *The Work Site*. This site contains important information and support for disability beneficiaries, employers, service providers, youth with disabilities, advocates, and others whose goal is to help those persons with disabilities work. The web site is fully accessible to people with disabilities. This is significant since fewer than 5 percent of all Internet sites are accessible to people who are visually impaired, hearing impaired, or have limited dexterity.

The Department of Labor, the Department of Health and Human Services, and SSA worked together to develop and issue program announcements on grants and

cooperative agreements in May 2000 and to participate in PTFEAD-sponsored bidders conferences in June 2000 on several new programs. The programs will enhance service delivery to people with disabilities in the new One-Stop system; provide benefits planning, assistance, and outreach services to SSDI and SSI beneficiaries who would like to work; and provide funds to States for infrastructure improvements related to Medicaid for workers with disabilities.

Up until 1999, some courts had held that an individual could not claim to be totally disabled in order to obtain benefits from SSA and also bring an ADA action against an employer saying that he would have been able to work if reasonable accommodations were made. In conjunction with DOJ and the EEOC, SSA filed amicus briefs explaining that the two Acts were not inconsistent and that an individual could be disabled within the meaning of the Social Security Act but still be able to work with reasonable accommodation. In 1999, DOJ, SSA and EEOC requested the Supreme Court to review one of these decisions. Thereafter, the Supreme Court issued a decision in *Cleveland v. Policy Management Systems Corp.* which adopted the Government's position and held that the mere fact that a disabled individual had applied for or received Social Security disability benefits did not mean that could not also be a qualified individual with a disability who could work with reasonable accommodation. As a result, disabled individuals were no longer faced with the possibility of losing their right to bring ADA actions against employers who refused to make reasonable accommodation to their handicaps if they chose to apply for Social Security disability benefits.

We are also fully supporting the "**Spirit of ADA Campaign and Torch Relay**" by the personal involvement of Commissioner Apfel and Deputy Commissioner Halter.

EEOC ACCOMPLISHMENTS 10th ANNIVERSARY OF THE ADA

EEOC POLICY DEVELOPMENT UNDER ADA

- Policy guidance, which helps employers and employees understand their rights and responsibilities under the ADA, plays a central role in the Commission's enforcement efforts. The Commission uses policy guidance to instruct Commission staff on what legal principles to apply in investigating, conciliating, and litigating cases, to enhance voluntary compliance by employers, and to shape the development of disability law.
- Since the ADA was enacted in 1990, the Commission has issued a steady stream of policy and technical assistance documents dealing with every aspect of employment discrimination under the ADA.
- In 1991 the EEOC issued both the Final Rule and Interpretive Appendix implementing the ADA.
- In 1992 EEOC issued the ADA Technical Assistance Manual which covers much of the Final Rule's subject matter – but in plain language. It swiftly became an indispensable guide for laypersons needing to know how the ADA affects the workplace.
- Subsequent policy guidances and related documents have filled in the basic framework set forth in the Final Rule. Below are described some of the most significant policy documents.

1. Compliance Manual Section on the Definition of the Term "Disability" (1995):

Published in 1995, this document thoroughly and systematically sets out the manner in which EEOC investigators should approach the most fundamental issue in almost every ADA case – whether a charging party has a "disability" within the meaning of the Act.

2. Preemployment Questions and Medical Examinations (1995): This guidance offers a common-sense approach in "plain English" to issues that are critical in ensuring that people with disabilities are not discriminated against in the hiring process.

3. Effects of Representations in Applications for Disability Benefits on the Determination of Whether an Individual is a "Qualified Individual with a Disability" Under the ADA (1997): This guidance was instrumental in changing the course of judicial decision-making on an issue of paramount importance to many people with disabilities.

- In its guidance, the Commission said that the fact that someone claimed to be disabled for purposes of receiving certain benefits should not automatically prevent him or her from maintaining an ADA suit against a particular employer.

- In *Cleveland v. Policy Management Systems Corp.* (1999), the Supreme Court essentially endorsed the position advanced in EEOC's guidance. The court said that application or receipt of disability benefits would not automatically bar an ADA suit, although the plaintiff would have to explain how the statements in the benefits application could be reconciled with a claim that he or she was "qualified" within the meaning of the ADA.

4. ADA and Psychiatric Disabilities (1997) : This guidance addresses challenging questions about disabilities that are frequently not understood by employers or the general public in a manner that is accessible to the reader. Prior to issuance of the guidance, many people did not even know that the ADA protected individuals with psychiatric disabilities. The guidance was the catalyst for a constructive public discussion about psychiatric disabilities in the workplace, and it has worked to expose many of the myths, fears, and stereotypes surrounding psychiatric disabilities.

5. Reasonable Accommodation and Undue Hardship (1999): This guidance provides clear responses to some of the most commonly-asked questions about reasonable accommodation, and sets out several agency positions on novel or complex issues.

6. Instructions to Field Offices on Analyzing ADA Charges After Supreme Court Decisions Interpreting "Disability" and "Qualified" (1999): Issued only one month after three Supreme Court decisions interpreting Title I of the ADA, this document provided EEOC investigators with critical guidance on evaluating ADA charges involving people who use medications or assistive devices to eliminate or reduce the effects of an impairment. Application of the Instructions has demonstrated in many instances that charging parties who use mitigating measures still have disabilities, and therefore, are protected by the ADA.

ADA LITIGATION HIGHLIGHTS

- EEOC has sought through litigation to strategically enforce all aspects of the ADA provisions prohibiting disability discrimination, including issues such as coverage, reasonable accommodation and egregious discrimination.
- EEOC has filed dozens of briefs as a friend of the court, confronting fundamental issues on how the ADA should be applied, including the critical issue of who should be protected by the Act. Consistent with the intent of Congress when drafting the Act, EEOC has argued that the ADA should be applied expansively.
- EEOC filed numerous briefs arguing that individuals who seek disability benefits are not estopped from claiming they are qualified individuals with disabilities within the meaning of the ADA. This position was ultimately ratified by the Supreme Court in *Cleveland v. Policy Management Systems Corp.*, 526 U.S. 795 (1999).

- In *EEOC v. The Kroger Company*, the Commission sought the removal of physical barriers that prevented a cashier with **paraplegia** from using defendant's restroom or break room because they were located down a flight of stairs. After he filed a discrimination charge with EEOC, the company built an accessible restroom and break room, which he could reach in his wheelchair. The defendant further agreed to provide the cashier with \$225,000 in compensatory and punitive damages.
- Some barriers are embedded in the way a job is done. Often people with disabilities can work productively with simple and inexpensive accommodations. In *EEOC v. Bloomingdale's, Inc.*, the Commission challenged the defendant's refusal to allow an employee to **sit on a stool 5 to 10 minutes per hour** when she became fatigued by her **systemic lupus**. The defendant settled the suit by providing her with \$75,000 in monetary relief and by agreeing to train its managers on the requirements of the ADA.
- In *EEOC v. United Public Workers, AFSCME, Local 646*, the Commission sought the provision of **sign language interpreters** at union meetings for two union members who are deaf. The union has now agreed to provide interpreters for hearing impaired members and accommodations for its members who have other disabilities. The union also provided the two union members with nearly \$50,000 in monetary relief.
- The Commission's litigation also has been directed at eliminating the barriers that exist only in the minds of people. Employers often operate on the basis of misapprehensions about individuals with disabilities. For example, in the very first lawsuit filed by EEOC under the ADA, *EEOC & Charles Wessel v. AIC Security Investigations, Ltd, et. al.*, EEOC won a jury verdict finding the defendant had unlawfully fired its Executive Director because he had **terminal brain cancer**. The former director was awarded \$222,000.
- In *EEOC v. Showbiz Pizza Time Inc., d/b/a Chuck E' Cheese*, EEOC claimed that a district manager fired a **developmentally disabled** custodian because the company did not employ "those type of people." A jury awarded the custodian back pay, \$70,000 in compensatory damages for emotional distress, and \$13 million in punitive damages (the punitive damages award was later reduced to \$230,000 because of the statutory cap on damages). The judge also ordered the company to give the custodian his job back.
- In *EEOC & John Doe v. Campbell University, Inc.*, the Commission successfully challenged the university's termination of a physical education instructor because he had **AIDS**. At the outset of the lawsuit, the court ordered the defendant to continue paying the instructor's health insurance benefits, pending trial. The university later agreed to provide the instructor with continued employment, salary and benefits, and with \$325,000 in monetary relief.
- In *EEOC v. Chomerics, Inc., et al.*, the Commission claimed that a chemical worker's coworkers and supervisor harassed and mocked him because of his disability (**cerebral**

palsy). The company agreed to provide the worker with \$98,000 in back pay and compensatory damages.

- In *EEOC v. Wal-Mart Stores, Inc.*, a jury found the store's hiring official had illegally asked a job applicant about his disability (**amputated arm**) in a job interview and then refused to hire him. The applicant was awarded \$7,500 in compensatory damages and \$150,000 in punitive damages. The judge also ordered the company to stop questioning applicants about their disabilities.
- In *EEOC v. Southwestern Bell Telephone Co.*, EEOC alleged that the company refused to allow an air conditioning specialist to return to work following his treatment for **depression**. The company agreed to give the specialist his job back, restore his seniority rights and benefits, and pay him over \$24,000 in monetary relief. In addition, the company agreed to improve its assessment of each employee's ability to resume work after a medical leave of absence.

EEOC ADA CHARGES

- From the ADA's enactment through September 30, 1999, parties have filed 125,946 charges with EEOC alleging disability discrimination.
- From FY 1993 (the first full year of ADA enforcement) through FY 1999, ADA receipts were 21.4% of total receipts.
- In FY 1999 ADA charges were 24.4% of total pending inventory. From FY 1993 through FY 1999 ADA charges averaged 23.3% of total pending inventory.
- From July 26, 1992, when the ADA first went into effect, through FY 1999, a total of \$261,296,676 in monetary benefits was awarded under the Act. During the same period, a total of 19,490 individuals received monetary benefits, an average of \$13,407 per person benefitted.
- In FY 1993 monetary benefits in ADA charges were \$15,946,811, 12.6% of total monetary benefits obtained by EEOC. By FY 1999, ADA monetary benefits increased to \$49,879,456, 23.7% of the total.
- Over \$18.5 million was awarded in compensatory and punitive damages.
- Since FY 1992, in addition to persons receiving monetary benefits in ADA charges, 10,023 individuals received non-monetary benefits as well.

EEOC ADA MEDIATION ACTIVITY

- During FY 1999, EEOC mediated approximately 1,813 ADA charges, and had a success

rate of 63%.

- In FY 1999, more than 24% of the cases mediated in EEOC's overall ADR program involved the ADA. Of those mediations, 22% involved the issue of reasonable accommodation, 4% involved the issue of hiring, 28% involved the issue of discharge, 8% involved the issue of harassment, and 10% involved the issue of terms and conditions of employment.
- During the two-year life of the mediation program, a total of \$17,182,754 in monetary benefits have been awarded through mediation in ADA cases. This is an average of \$11,231 for each of the 1,530 persons benefitted monetarily. In FY 1999, average mediated monetary benefits in ADA charges were \$11,172.
- Often ADA charges involve non-monetary relief, and 46% of ADA charges that were resolved through mediation involved a non-monetary benefit such as reasonable accommodation, rehire, policy change or training, for example.
- When mediated, the average charge processing time for ADA complaints is nearly cut in half; that is the time from the charging party walking in the door of EEOC to the time of resolution or impasse. On average, ADA charges take 286 days to reach a determination in EEOC's administrative process; while the processing time for mediated ADA charges took 151 days which results in a final resolution of the matter.
- In 1997, EEOC resolved a class disability claim affecting 27 individuals who had complained that a pre-placement health-screening questionnaire violated the ADA by requiring them to disclose medical conditions. In the settlement, the company agreed to stop using the questionnaire, offered the 27 individuals an opportunity to be reconsidered for employment under a modified application process, paid \$950,000 to the individuals, and augmented an internal training program, procedures, to ensure compliance with the ADA.
- Another EEOC mediation resolved a case involving a charging party who alleged that when an employer learned of his disability, cancer, it fired him. As a result of the mediation, the charging party was reinstated to his former position, with back pay. He also was given a reasonable accommodation of time off to attend any future chemotherapy treatments.
- Another mediation involved a charging party who had a serious health condition of congestive heart failure and was on a medical leave of absence. She filed a charge concerning her employer's alleged failure to reasonably accommodate her when she attempted to return to work. The charging party, who was no longer interested in returning to work for the employer, settled her charge for long term disability benefits and \$65,000.

EEOC OUTREACH

- EEOC conducted 3,439 outreach and education activities in which the ADA was the principal topic during the period 1991-1998.
- In FY 1999, EEOC field offices conducted 119 outreach events for disability rights audiences of nearly 7,000 persons. These included 63 oral presentations, 11 training sessions and 18 "stakeholder input" meetings where information was obtained on issues concerning this constituency.
- In 1999, EEOC conducted 2,550 field outreach events covering all laws enforced by the Commission. In approximately 24 % of those events, major topics of discussion were the ADA and "reasonable accommodation."
- Through a little over three quarters of FY 1999, EEOC conducted over 30 Technical Assistance Seminars, addressing topics on the ADA that included reasonable accommodation, psychiatric disabilities, leave issues, policy guidance, and a host of others. In those seminars EEOC reached over 5,000 participants all across the country.

DEPARTMENT OF EDUCATION
ADA-RELATED
ACCOMPLISHMENTS
(12 July 00)

- Through reform efforts such as Goals 2000, the Department has promoted a national commitment to enabling *all* students to learn to high standards. Programs that direct elementary and secondary school reforms positively impact students with disabilities as well as their peers. Initiatives like Class Size Reduction, Smaller Learning Communities and 21st Century Community Learning Centers help create opportunities for individual attention and a learning environment conducive to multiple learning styles and a diverse student body. Title I funds served over 1 million children with disabilities in the 1996-97 school year. Further, the Department has raised public awareness about the needs for school construction and renovation, including addressing facilities and technology accessibility issues.
- Learning Disabilities One-Stop Learning Centers Project: This initiative provides the latest diagnostic, assessment, instructional strategies, and research findings to assist adults with learning disabilities.
- Collaborating with the Department of Justice in a five year project for Youth with Disabilities: The program focuses on three broad areas of prevention programs, education programs, and reintegration and transition programs for youths between the ages of 16 and 22 who are in county, state or federal correctional facilities.
- Collaboration with the National Institute for Literacy on the Welfare-to-Work System for Learning Disabled Adults: One product of this effort is *Bridges to Practice*, a comprehensive research-based guide to serving adults with Learning Disabilities (LD). In addition, four LD hubs have been funded that provide training and technical assistance in the use of *Bridges to Practice* as a tool for improving services and results. Thus far 37 States and District of Columbia have been trained.
- Initiated a new demonstration program designed to increase college graduation rates of students with disabilities through improved faculty

development.

- Developed a Resource Bulletin and other targeted resources for School-To-Work and youth with disabilities.
- Worked with Department of Labor to develop a manual on disability issues in Welfare-to-Work.
- “Applying Federal Civil Rights Laws to Public Charter Schools: Questions and Answers” was recently published by the Department of Education's Office for Civil Rights (OCR) and is available at <http://www.uscharterschools.org>. These Q&As were developed, with input from the Department of Justice's Civil Rights Division, as part of our continuing effort to support innovation and choice within the public school system and in response to increasing requests for technical assistance regarding charter schools.
- **The reauthorization of the Individuals with Disabilities Education Act (IDEA):** With the signing of the 1997 amendments to the IDEA, the focus of IDEA changed from one that merely provided children with disabilities access to an education to one that improves results for all children in our educational system. The IDEA '97 strengthens the role of parents in educational planning and decision making on behalf of their children. It focuses the student's educational planning process on promoting meaningful access to the general curriculum. The new law also reduces the burden of unnecessary paperwork for teachers and school administrators. All of this was accomplished without compromising the Clinton/Gore Administration's fundamental principle of protecting the basic rights of children with disabilities to a free appropriate public education. Through Part D of IDEA four partnership projects were funded to assist educators, parents, and policy makers in the implementation of the re-authorized law.
- **The revamping of the Administration's approach to monitoring the regulatory and statutory requirements of the IDEA:** Over the past five years, OSEP has worked with States, parents, advocates and other key stakeholders to shape its accountability work in a way that drives and supports improved results for infants, toddlers, children and youth with

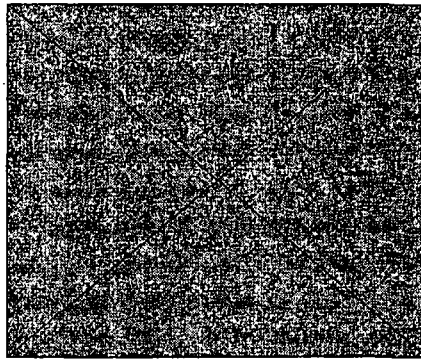
disabilities., without sacrificing protection of individual rights. In order to ensure compliance with IDEA 97 that supports positive results for children with disabilities, OSEP designed a continuous improvement monitoring system that includes:

- Increased collaboration between the Department of Education, State Educational Agencies and special education stakeholders
 - Providing ongoing technical assistance to the State to support the process
 - A State self-assessment
 - Increased stakeholder involvement in the process including parents, students, and advocacy organizations
 - Continued on-site review of State and local programs
 - An improvement planning process that is driven by the unique needs of the State
- **Expansion of the Part C Infants and Toddlers Program:** The last eight years have seen a dramatic expansion in services to infants and toddlers with disabilities and their families. Since the program is predicated on the belief that earlier intervention leads to better child outcomes, it is especially gratifying that the number of infants and toddlers served has shown steady growth and there is increasing evidence that infants and toddlers are being identified for services at an earlier age. Recognizing the interagency nature of services for young children with disabilities and their families, Congress established a Federal Interagency Coordinating Council (FICC) to coordinate and mobilize all available resources to assure appropriate services for the nation's infants and young children with disabilities and their families. This was done as a part of the reauthorization of P. L. 99-457, which became the Individuals with Disabilities Education Act Amendments (IDEA) of 1991
- **Sustained and effective support of IDEA through the Part D National Activities:** Part D National Programs continue to enhance the capacity of states to develop infrastructures to support the full and effect implementation of IDEA through a variety of strategies including: research, personnel preparation, technical assistance and dissemination, technology, and studies and evaluations. Activities under Part D have improved results for children with disabilities as well as their non-

disabled peers in families and schools throughout the United States and abroad. Three areas of significant investment are access to the general curriculum, inclusion in assessments and behavior. Investments in **access to the general curriculum** include a newly funded technical assistance center and a number of useful publications including: A Guide to the Individualized Education Program, A synthesis of the Literature that Informs Best Practices about Inclusive schooling and a series of synthesis on Improving instructional Practices for Students with Learning Disabilities. Our major investment in **assessment and accountability** is the funding of the National Center on Educational Outcomes. This Center conducts research and provides technical assistance on a variety of issues surrounding the assessment of children with disabilities. Several Part D investments have addressed **behavior** issues. These investments have resulted in improved outcomes for both students with disabilities as well as their non-disabled peers. The Center on Positive Behavioral Support offers technical assistance to states and districts helping to create safe effective learning environments. Notable publications in this area include the Early Warning Timely Response Guide and The Early Warning Action Guide both published in collaboration with the Department of Justice and Education and distributed nationwide. An additional technical assistance publication, Applying Positive Behavioral Support and Functional Behavioral Assessment in Schools has also been widely distributed.

- Completed reauthorization of the Rehabilitation Act which increased focus on consumer choice and involvement in the vocational rehabilitation process, incorporated automatic eligibility for SSDI and SSI recipients, and provided for increase collaboration with generic employment and training programs (August 1998).
- Release of final regulations implementing standards and indicators for the state vocational rehabilitation program focusing on quality employment outcomes and access to services for underserved populations (June 2000).
- Release of proposed rulemaking soliciting comment on a proposal to eliminate "extended employment" as a successful outcome under the vocational rehabilitation services program (June 2000).

- Issued joint letter with Department of Labor to provide guidance to the field on vocational rehabilitation involvement on State Workforce Boards.
- Sponsored, with Task Force, the very successful National Transition Summit "Bridging Systems to Improve Transition Results" (June 2000).
- Secretary Riley establishes (1993) a Disability Work Group on the Recruitment, Advancement and Access for People with Disabilities to conduct an evaluation of ED's policies and practices for compliance with Section 504 and make modifications, based on recommendations of the Work Group, if current policies and practices are in need of modification(s). (Co-chaired by Assistant Secretary/OSERS).
Outcomes: Many recommendations were made and implemented to strengthen policies covering accessibility, facilities, alternate formatting of materials, technology, training, etc.
- Establishment of a 504 coordinator position for the Department and subsequent hiring of a 504 coordinator in the Office of Management. Assistant Secretary (OSERS) was primary catalyst.
- Establishment of a Department managed Alternate Format Center to provide employees and customers with print materials in alternate format (brailling).
- Establishment of a Department wide (annual) central pool of funds to directly support reasonable accommodations hires for individuals with disabilities.
- Development of a Department wide disability awareness training course for all employees that has become part of the Department's 20 hours of core curriculum training for managers.
- Development of Department guidelines and requirements covering information technology accessibility in compliance with section 508 of the Rehabilitation Act.
- Development of a handbook and policy guide for employees and



U.S. Department of State
Foreign Buildings Operations

Accomplishments Sheet

The U.S. Department of State Office of Foreign Buildings Operations is responsible for the design and construction of new U.S. embassies, consulates and embassy staff housing worldwide. In addition, FBO is responsible for renovating existing diplomatic facilities in order to bring them into current code and Department standards.

In 1998, FBO adapted the Policy and Procedures Directive entitled **Barrier-Free Accessibility Action Plan and Policy Implementation Plan** that provides guidance on barrier-free accessibility requirements.

All of FBO's designs for new and renovated diplomatic facilities represent and outreach to all Americans with disabilities and demonstrates to the world that we are committed to advancing the quality of life for all who work in and visit our diplomatic facilities.

Some of FBO's recent accomplishments in providing fully accessible buildings worldwide include:

Recently Completed New Embassy Office Buildings

Ottawa, Canada
Moscow, Russia

Recently Completed Ambassador's Residence Renovations

Ljubljana, Slovenia
London, England
Havana, Cuba
Berlin, Germany

New Embassy and Consulate Office Buildings Under Design or Construction

Istanbul, Turkey

Zagreb, Croatia

Dar Es Salaam, Tanzania

Nairobi, Kenya

Tunis, Tunisia

Kampala, Uganda

Doha, Qatar

Luanda, Angola

Embassy Staff Housing Facilities:

Rome, Italy

New Delhi, India

Paris, France

Kuwait City, Kuwait

Barrier Free Accessibility Action Plan

Where functional renovations of existing facilities are not planned, FBO has developed a Barrier-Free Accessibility Action Plan that identifies those facilities in need of fundamental accessibility improvements and investigates opportunities for continued progress in providing accessible facilities.



COMMERCE DEPARTMENT ACTIVITIES TO ASSIST PEOPLE WITH DISABILITIES

The Department is:

- Conducting an assessment to identify which resources of the Federal laboratory system can be matched to the needs of the assistive technology industry. Matching specific assistive technology companies with specific Federal laboratories will begin in the Autumn.
- Funding, with the Department of Labor, a Harvard study which will develop a methodology for accurately determining the number of people with disabilities in the workforce. This will include both those currently employed and those seeking employment.
- Funding programs to assist those with disabilities through the Technology Opportunity Program (TOP). TOP has contributed funding to eleven projects over the past year that improve the accessibility of people with disabilities. A list of these projects is attached.
- Developing, with Stanford University, assistive technology that more quickly returns injured or disabled workers to work in the "Archimedes Project." This new technology is portable, enabling employees with disabilities greater mobility to change work stations rather than being restricted to particular upgraded ones. (Featured at the July 25 demonstration)
- Creating an accessibility page on the Department's web site on which will be published accessibility research and activities.
- Establishing a central capability to aid bureaus in providing accessible technology to individuals with disabilities.
- Serving as an advisor to GSA and its contractors in the development of testing procedures to determine compliance with section 508 accessibility standards.
- Investigating overseas markets for US assistive technology exports. US assistive technology exports will drive down the cost of these products and stimulate the development of more assistive technology.

The Department has:

- Developed a low cost prototype as a possible alternative to conventional electronic Braille readers, spending about \$200 on materials for the machine. Braille readers typically carry price tags ranging from \$10,000 to \$15,000.
 - Developed an electronic book reader and constructed a prototype. This research led to the filing of a patent application, "Modular Electronic Book". Under the Department's
- 



1996 TOP Grant

Madison, WI

Total Project Cost \$78,945

Federal Share \$37,505

Using a planning grant funded by TOP, Society's Assets goal was to determine the most cost effective technological approach to Connect American Sign Language (ASL) users with interpreters through the use of video teleconferencing. The VITAL (Video Interpreting Transmission Access Link) project could serve approximately 3,000 persons with hearing impairments. The VITAL project could investigate innovative ways to apply information technology to the needs of ASL users. This project can provide significant potential for replication in other communities across the country.

