



WASHINGTON STATE

METHODS OF ADMINISTRATION

2010 Recertification

**Christine Gregoire, Governor
State of Washington**

**Paul Trause, Commissioner
Employment Security Department**

WIA Partners

Submitted December 2010

Civil Rights Center
U.S. Department of Labor

In accordance with
Section 188 of the Workforce Investment Act of 1998
and
29 CFR Part 37

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2007 Recertification

U.S. DEPARTMENT OF LABOR

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



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JAN 16 2008

Human Resource
Services Division

Governor Christine O. Gregoire
State of Washington
Office of the Governor
P.O. Box 40002
Olympia, Washington 98504-0002

Dear Governor Gregoire:

This is to inform you that the U.S. Department of Labor Civil Rights Center's (CRC) is in receipt of the State of Washington's equal opportunity Methods of Administration (MOA) re-certification request under the Workforce Investment Act (WIA).

The WIA nondiscrimination regulations, at 29 CFR Part 37.55(c) require that every two years each Governor review their MOA and the manner implemented to determine whether any changes are necessary to fully and effectively comply with the WIA nondiscrimination and equal opportunity requirements. If changes are necessary, they are to be submitted in writing to the CRC Director. If no changes are necessary, the Governor is to so certify in writing to the CRC Director. The WIA nondiscrimination regulations, which are interim final regulations, trigger the two-year re-certification from the date of initial submission of the WIA MOA. These regulations are not yet final and it is the decision of the CRC Director to activate the two-year re-certification date from the date of the initial MOA approval, rather than the initial MOA submission. After reauthorization of WIA, new proposed final regulations will be issued and this requirement will be revised accordingly.

Based upon the review of the changes to the MOA indicated in your letter dated November 28, 2007, the Civil Rights Center finds that the amendments and updates do not alter the decision on the initial MOA approval. Accordingly, the CRC finds that the MOA gives a reasonable guarantee of compliance with the nondiscrimination and equal opportunity provision of 29 CFR Part 37, if successfully implemented. This finding is based solely upon the review of the MOA and subsequent changes, and is given without benefit of an on-site examination.

Please be advised that the CRC may periodically review the adequacy of the State of Washington's performance under the MOA for compliance with the requirements of 29 CFR Part 37 and related Federal statutes and regulations. Nothing in this letter limits or precludes the CRC from monitoring directly the State of Washington's programs, or any of its recipients, or from investigating any matter necessary to determine any recipient's compliance with all applicable nondiscrimination and equal opportunity provisions.

2007 Recertification (Cont'd)

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The purpose of the MOA is to ensure the State of Washington has established policies, procedures, and systems in the administration, management, and operation of programs that provide a reasonable guarantee of compliance with Federal nondiscrimination and equal opportunity laws and requirements. Congratulations on the re-certification of your MOA.

Sincerely,



Willie Alexander
Acting Director

cc: Karen T. Lee, Commissioner, State of Washington, Employment Security Department,
PO Box 9046, Olympia, WA 98507-9046

Kintu Nnambi, State Equal Opportunity Officer, Employment Security Department,
Human Resources Services Division PO Box 9046, Olympia, WA 98507-9046



ELEMENT ONE

DESIGNATION OF STATE- AND LOCAL-LEVEL EQUAL OPPORTUNITY OFFICERS (29 CFR 37.54(d)(1)(ii))

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.23 through 37.28. In summary, any individual appointed as EO Officer should have the skill, ability, knowledge and authority to properly oversee and direct the EO program to which that individual has been assigned.

The Governor of Washington State has designated the Employment Security Department (ESD) to administer the implementation of the Nondiscrimination and Equal Opportunity (EO) provisions of the Workforce Investment Act (WIA) of 1998.

The Nondiscrimination and Equal Opportunity provisions contained in 29 CFR 37.23 require that all recipients, except those which are small entities or service providers, designate EO Officers. This requirement also sets forth clear direction on who can serve as EO Officers and what their responsibilities are.

The Commissioner of the Employment Security Department has ultimate responsibility for administration of the Equal Opportunity Program in the department and, on behalf of the Governor, ensures that both the department and the Workforce Investment Act partners comply with the provisions contained in these regulations. The ESD Commissioner reports EO matters directly to the Governor.

Background: WorkSource Washington

WorkSource Washington is Washington State's WIA Title I one-stop service delivery system. It provides a comprehensive and integrated interface that allows both employers and job seekers easier access to workforce services and information through WorkSource Centers and affiliate sites.

WorkSource Washington consists of 12 geographic workforce development areas (WDAs). Each of the WDAs is headed by a Workforce Development Council (WDC), also known as the Local Workforce Investment Act Board (LWIAB): Olympic Consortium, Pacific Mountain WDC, Northwest WDC, Snohomish County WDC, Seattle-King County WDC, Pierce County WDC, Southwest Washington WDC, North Central Washington WDC, South Central WDC, Eastern Washington Partnership WDC,

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Benton-Franklin WDC, and Spokane WDC. For purposes of this document, the local area board will be referred to as "Workforce Development Council (WDC)." Attachment 1C provides a list of the WDCs, their addresses, and the names of the directors.

In 1999 Governor Gary Locke issued Executive Order No. 99-02, in compliance with WIA requirements. Section 1 of the Executive Order directs that: *"The Workforce Board shall act as the Workforce Investment Board for purposes of the federal WIA of 1998."* See Attachment 1D.

In accordance with RCW 28C.18.020, the Workforce Investment Board consists of nine voting members. Each of these board members is appointed by the Governor, with the Senate's consent, and consists of three representatives from each of the following sectors: business, labor, and state government (specifically, the Superintendent of Public Instruction, the Executive Director of the State Board for Community and Technical Colleges and the Commissioner of the Employment Security Department). There are also two nonvoting participants: the Board Chair, who represents the Governor, and one other individual appointed by the chair to represent racial and ethnic minorities, women and people with disabilities. The Board and the 12 WDCs work in partnership in planning and developing the state-unified plan, which was designed to meet WIA implementation requirements.

EO Officer Designation at State Level

Mr. Kintu Nnambi, Equal Opportunity Officer / Diversity Manager, is the designated State Equal Opportunity Officer. Mr. Nnambi is assigned to the Human Resource Services Division. He has oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and equal opportunity requirements under the U.S. Department of Labor regulations, 29 CFR Part 37 and Title VI of the Civil Rights Act of 1964, as amended. (Attachment 1B-1)

Mr. Nnambi reports to Mary Frost, Workforce Readiness and Training Manager. Ms. Frost reports to Peggy Zimmerman, Assistant Commissioner, Human Resource Services Division. On matters related to EO and nondiscrimination, Mr. Nnambi has direct access to the Commissioner, Paul Trause, and the Deputy Commissioner, Joel Sacks. Mr. Nnambi periodically informs the Commissioner and Deputy Commissioner of the status of EO issues through Senior Leadership Team meetings and performance and accountability presentations. As needed, Mr. Nnambi informs the Commissioner or Deputy Commissioner about EO issues by e-mail, phone or personal appointment.

Mr. Nnambi's position description does not include duties and responsibilities that would constitute or appear to constitute a conflict of interest. If instances arise where the appearance of a conflict is presented, the Assistant Commissioner, Human Resource Services Division, will assign the duties to other staff or contract the work out to an



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independent investigator. Examples of potential conflicts of interest include discrimination complaints by HR staff members and discrimination complaints about personnel selections in which the State EO Officer or the Assistant Commissioner, Human Resource Services Division, was involved in the selection process.

Mr. Nnambi's position description reflects duties that ensure Washington State complies with Section 188 of WIA, 29 CFR Part 37 and Title VI of the Civil Rights Act of 1964, as amended. His duties include the following:

- Coordinating state EO responsibilities under 29 CFR Part 37 and Title VI of the Civil Rights Act of 1964, as amended.
- Serving as the state's liaison with the Civil Rights Center.
- Providing technical guidance to local-level EO Officers statewide to ensure compliance with Civil Rights Center and other federal and state laws, regulations, policies, procedures, and directives.
- Monitoring and investigating recipients' activities to ensure compliance with WIA nondiscrimination and EO requirements.

Mr. Nnambi has more than 20 years of experience in equal opportunity / nondiscrimination programs. Mr. Nnambi's experience, as well as his extensive related training, has provided him with a strong background in the areas needed to successfully carry out his assigned duties as the State EO Officer. He has a Masters degree in Public Administration and a Bachelor of Arts degree in Social Sciences.

The Civil Rights Center (CRC) will be promptly notified if the designation of the State EO Officer changes.

Resources in support of Mr. Nnambi are as follows:

- Diversity, Inclusion and EO Specialist: Ms. Altavia Jones was appointed to the Diversity Specialist position on March 1, 2010, and reports to Mr. Nnambi. (Attachment 1B-3)

With regard to WIA Title I and Title VI, the Diversity Specialist's duties are:

- Conduct investigations of discrimination complaints by ESD employees and clients. Notify complainant of receipt of the complaint, determine jurisdiction, explain rights to complainant, and assign mediation, if necessary.
- Provide consultation to ESD staff on equal opportunity in recruiting and other aspects of employment.



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- Prepare and update the department's state-required Affirmative Action Plan.
 - Develop and update the department's equal opportunity policies (discrimination complaint processing, harassment, etc.).
 - Provide training to ESD staff on the department's equal opportunity policies, sexual and other harassment issues as needed.
 - Develop responses to inquiries from, or charges filed with, federal and state civil rights agencies, responding on behalf of ESD to complaints filed with those agencies. Provide discrimination complaint responses to the U.S. Department of Labor Civil Rights Center when needed.
- Compliance Specialist: Karen Huber was appointed to a newly established position as a Compliance Specialist on October 16, 2010, reporting to Mr. Nnambi. (Attachment 1B-2). Ms. Huber's primary duties are:
 - Conduct WDC, Unemployment Insurance (UI) and Wagner Peyser compliance monitoring reviews.
 - Develop and maintain the LEP plan and policy, and update annually.
 - Prepare and submit biennial MOA recertifications .
 - Develop a best-practices manual and other compliance documents.
 - Provide technical assistance and training to WDC EO Officers and ESD staff on compliance issues, as needed.
 - Conduct annual WDC EO Officers meetings.
 - Verify data and train staff on EO data reports.
 - Develop and maintain a project schedule for the assistive technology update project for WS Centers.
 - Administrative Assistant: Mr. Nnambi receives administrative support from an Administrative Assistant shared with the Workforce Readiness and Training unit. (Attachment 1B-4)
 - Program Support: The WorkSource Standards and Integration Division administers WIA Title I. Lisa McCormick is assigned EO oversight from the program office perspective. Ms. McCormick's WIA Title I EO responsibilities include coordinating and referring discrimination complaints to the State EO Officer. She logs and refers the receipt of program complaints to the appropriate WDC, and provides technical assistance, as appropriate. Ms. McCormick reports all EO matters to Mr. Nnambi. (Attachment 1B-6)

Mr. Alberto Isiordia is the State Monitor Advocate. He forwards discrimination complaints from the Monitor Advocate program and the Employment Service program to the State EO Officer and collaborates, when needed, on the investigation. (Attachment 1B-5)



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- UI Division Support: The UI Division administers the unemployment benefits as well as the tax assessment and collections programs.
 - UI EO Oversight, Community Outreach and Coordination Manager: Ms. Sharnelle Moore is in a new position but has years of experience as a TeleCenter Administrator for UI and a regional director for workforce development. She will work closely with existing program staff in referring discrimination complaints to the State EO Officer and assisting with their resolution. She will provide technical assistance relative to customer complaints, expanding UI outreach efforts and identifying ways to expand universal access to UI program services. (Attachment 1B-7)
 - UI Policy Unit EO Coordinator: Alicia Cárdenas-Short is the Communications Consultant for the UI Division. She conducts outreach and uses her expert skills as a certified Spanish language interpreter and translator to translate agency materials in Spanish and coordinate language services. She works with Ms. Moore and coordinates reporting of all EO and nondiscriminatory matters sent to the State EO Officer. She also addresses customer and constituent language service complaints. Ms. Cárdenas-Short is a member of the agency's Diversity Steering Committee. She is one of the UI Policy Unit staff and part of an established three-member team that reviews and interprets the quarterly EO data reports. (Attachment 1B-9).
 - TeleCenter Operations - Paula Lonergan is the Liaison between the UI Division and other ESD Divisions, i.e., Worksource Standards and Integration Division (WSID), Employment and Career Development Division (ECDD). She assists with educating and coordinating with other Divisions on new UI integration initiatives designed to enhance customer service and universal access. (Attachment EB-8)

This structure suits ESD business and organizational needs for equal opportunity, affirmative action and accessibility monitoring, education, complaint and dispute resolution by designating a higher-level officer of the agency with direct access to the Commissioner and Deputy Commissioner, accountable for equal opportunity in agency services and employment practices. This reflects the State of Washington's firm commitment to ensuring accessibility and nondiscrimination in all client services provided under the Workforce Investment Act and all agency employment practices for its own staff.

Attached are the department's organization chart and the Human Resource Services Division organization chart to show the location of the State EO Officer. (Attachments 1A-1 and 1A-2) Also attached is a job description for the State EO Officer, the Diversity/Equal Opportunity Specialist position, Compliance Specialist, WIA and UI Program Officer duties. (Attachments 1B-1 – 1B-9)



EO Officer Designation at Local Level

In compliance with the nondiscrimination requirements for the MOA, each WDC has a designated local EO Officer: Bob Potter, The Olympic Consortium; Lu Jewell, Pacific Mountain WDC; Dan Vogel, Northwest WDC; Debbie Little, Snohomish County WDC; Kelly Dang, Seattle-King County WDC; Eric Black, Pierce County WDC; Jordana Barclay, Southwest Washington WDC; Dave Petersen, North Central Washington WDC; Terie Dohrman, South Central WDC; Josie Darst, Eastern Washington Partnership WDC; Michelle Mann, Benton-Franklin WDC; and Mark Matke, Spokane WDC. Attached are the names of the designated EO Officers, job descriptions, and percentage of time committed to EO matters (also outlined in the table below). (Attachments 1E-1 – 1E-12) Washington State is addressing, through an evaluation process, designations of EO Officers, potential conflicts of interest and accountability on a case-by-case basis. It continues to be reviewed through the monitoring process by the State EO Officer. To date there have been no conflicts of interest.

Local EO Officers are responsible for, but are not limited to:

- Monitoring and investigating the local area’s activities, and the activities of their recipients who receive WIA Title I funds to ensure compliance with the nondiscrimination and EO obligations under WIA and 29 CFR Part 37.
- Reviewing written policies to ensure that they are nondiscriminatory.
- Developing and publishing procedures for processing discrimination complaints and ensuring adherence to the procedures; promulgating administrative regulations as necessary.
- Coordinating local-level WIA EO responsibilities to include ensuring service providers’ compliance with the nondiscrimination and EO provisions of WIA.

The percentage of time each local-level EO Officer spends on EO-related matters is referenced in the table below:

WDA	Workforce Development Council	EO Officer	% of Time on EO Matters
I.	The Olympic Consortium	Bob Potter	10%
II.	Pacific Mountain WDC	Lu Jewell	10%
III.	Northwest WDC	Dan Vogel	10 – 25%
IV.	Snohomish County WDC	Debbie Little	10%
V.	Seattle-King County WDC	Kelly Dang	30%
VI.	Tacoma/Pierce County Employment & Training	Eric Black	30%
VII.	Southwest Washington WDC	Jordana Barclay	10%
VIII.	North Central Washington WDC	Dave Petersen	35%

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WDA	Workforce Development Council	EO Officer	% of Time on EO Matters
IX.	South Central WDC	Terie Dohrman	25%
X.	Eastern Washington Partnership WDC	Josie Darst	25%
XI.	Benton-Franklin WDC	Michelle Mann	5%
XII.	Spokane WDC Administration	Mark Mattke	10%

Sixty-nine (69) WorkSource Centers and affiliate sites are located within the 12 workforce development areas. All offices refer EO-related matters to their local WDC-designated EO Officer. This ensures nondiscrimination and accessibility in services provided to WorkSource clients. Each WDC will develop a policy to administer this requirement. Attached is a list of the WorkSource Offices and affiliate sites. (Attachment 1F)

Resources and Training

Attachment 1G includes the original letters sent to the 12 WDCs and to Chris Webster, former ESD WIA Manager, regarding identification of individuals designated as the local EO Officers. The same information is collected today when new local EO Officers are appointed. The staff of the WSID WIA unit work closely with the State EO Officer and WDCs to ensure nondiscrimination and EO compliance for Title I WIA Section 188 and 29 CFR Part 37. Attachment 1H identifies the local EO Officers, along with their position titles, telephone numbers, mail and e-mail addresses, and TTY numbers. Job descriptions and organizational charts are included. (Attachments 1E-1 – 1E-12)

The WIA “Equal Opportunity is the Law” posters have been distributed to the local WDCs and partner offices. The posters, which are placed in prominent locations for public viewing, provide all applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public, with the identity of the applicable local EO Officer and State EO Officer, as well as their e-mail and business addresses, and telephone numbers (including TTY). In response to comments received from CRC regarding these posters, the State EO Officer notified all 12 EO Officers that a larger font size was needed on the posters. Labels with a larger font size were sent to all WDCs. See Attachment 2I-1 for a copy of the Equal Opportunity Notice poster.

In addition, the “Discrimination is Against the Law!” posters have also been disseminated to the WDC’s and service providers. Instructions have been given to use these posters to supplement the WIA “Equal Opportunity is the Law” posters. These posters are available on the CRC website at www.dol.gov/oasam/programs/crc/diatl.pdf. They allow for letter-size posters in English and several languages other than English to be used at service provider locations. (Attachment 2K-3)



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Each EO Officer was carefully selected to ensure that the best possible candidate was identified. The State EO Officer and department staff are proactive in providing local EO Officers information in identifying and meeting training needs. New EO Officers are trained using the USDOL MOA training developed by TATC Consulting. (Attachment 2P)

On December 11-13, 2001, a three-day WIA/EO MOA Training Conference was held in conjunction with a team from CRC. The focus was on ensuring that individuals with a critical role in the provision of services understand requirements in the EO regulations. Additionally, the conference helped to ensure that those responsible for developing training have the necessary tools and applications to address the EO and nondiscrimination requirements. CRC staff provided technical assistance and participated in the conference. (Attachment 1J)

On April 28, 2010, EO officers, WorkSource Administrators and other partner staff participated in a WIA/EO Officer's Training, which provided a high-level overview of the nondiscrimination and EO requirements of the WIA regulations. (Attachment 1I) This meeting provided training, best practices and new information for ensuring nondiscrimination in the One-Stop environment to ensure nondiscrimination in its service delivery area. Similar meetings were held in 2002 and 2004. ESD now plans to hold EO Officer meetings annually for informational updates and sharing of best practices. The objective is to move WDCs from simply observing EO compliance to a position of "best practices" so that each WorkSource Center and affiliate will be welcoming to all clients.

A total of six individuals (EO officers, WorkSource Administrators and other partner staff) attended the five-day USDOL National EO Training Symposium held in Bethesda, Maryland, on August 9-13, 2010. The focus was on ensuring that individuals with a critical role in the provision of services understand requirements in the EO regulations. The present State EO Officer has attended conferences since 2002 and has presented workshops at conferences.

With the appointment of a dedicated EO Compliance Specialist under the guidance of the State EO Officer, needed training will be provided for ESD staff and coordinators (including TeleCenter staff) and WorkSource partner staff on elements of the MOA. This effort will ensure that service delivery staff understand the nondiscrimination and EO requirements and that they will provide services to comply with these laws and regulations.

The State EO Officer and EO Compliance Specialist will also provide EO technical assistance and training to the local EO Officers on an ongoing basis.



Documentation

Attachments for Element One

- 1A 1 - ESD Org Chart
- 2 - Human Resource Services Division Organizational Chart
- 1B 1 - Job Description and Organization Chart for Kintu Nnambi, State EO Officer
- 2 - Job Description for Karen Huber, Compliance Specialist
- 3 - Job Description for Altavia Jones, Diversity/Compliance Specialist
- 4 - Job Description for Shannon Masuoka, Administrative Assistant
- 5 - Job Description for Alberto Isiordia, State Monitor Advocate
- 6 - Job Description for Lisa McCormick, WIA EO Coordinator
- 7 - Job Description for Sharnelle Moore, EO Coordination Manager, UI Division
- 8 - Job Description for Paula Lonergan, Cross-Division Coordination/Special Projects Manager, UI Division, TeleCenter Operations
- 9 - Job Description for Alicia Cárdenas-Short, Communications Consultant, EEO UI Policy

- 1C Workforce Development Council List

- 1D Governor's Executive Order No. 99-02

- 1E 1 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Bob Potter
- 2 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Lu Jewell
- 3 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Dan Vogel
- 4 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Debbie Little
- 5 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Kelly Dang
- 6 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Eric Black
- 7 - Job Description, Percentage of Time, Support Staff & Organizational Chart for Jordana Barclay



Documentation

Attachments for Element One - Continued

- 8- Job Description, Percentage of Time, Support Staff & Organizational Chart for Dave Petersen
- 9- Job Description, Percentage of Time, Support Staff & Organizational Chart for Terie Dohrman
- 10- Job Description, Percentage of Time, Support Staff & Organizational Chart for Josie Darst
- 11- Job Description, Percentage of Time, Support Staff & Organizational Chart for Michelle Mann
- 12- Job Description, Percentage of Time, Support Staff & Organizational Chart for Mark Mattke

1F List of WorkSource Centers

1G October 26, 2000, Letters to WDCs and ESD WIA Manager

1H List of WDC EO Officers

1I EO Officer's Training in April 2010

1J WIA/EO MOA Training Conference in Collaboration with CRC, December 2001



ELEMENT TWO

NOTICE AND COMMUNICATION (29 CFR 37.54(d)(1)(iii))

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.29 through 37.36. States should ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of both the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights of members of these groups to file complaints of discrimination.

Background

The State of Washington is committed to providing equal opportunity and ensuring nondiscrimination in employment in the provision of services. The Revised Code of Washington (RCW) 49.60, the Washington Law Against Discrimination, prohibits discrimination on the basis of age, sex, marital status, race, creed, color, national origin, military or veterans status, sexual orientation or gender identity, presence of any physical, sensory or mental disability, and use of a trained dog or service animal by a person with a disability. (Attachment 2A)

In addition, the following Executive Orders and Directives were issued:

- Executive Order No. 93-07 Affirming Commitment to Diversity and Equity in Service Delivery and in the Communities of the State, Re-establishing Affirmative Action and Prohibiting Discrimination in State Workplaces (Attachment 2B).
- Executive Order No. 89-01 Sexual Harassment (Attachment 2D)
- Executive Order No. 96-04 Implementing the Americans with Disabilities Act (Attachment 2E)
- Governor's Directive No. 98-01 Implementation of Initiative Measure 200 (Attachment 2F)

In 1998 Washington State voters approved the passage of Initiative 200, which supports equal opportunity but forbids race, color national origin and sex to be considered in the final selection of candidates for employment. The statute does not impede Washington's ability to comply with federal nondiscrimination provisions or requirements.



Communication and Notification

Within the WorkSource Washington system, the Employment Security Department and its partner organizations' employees, as well as clients, unions, the public and professional organizations, have been informed of the nondiscrimination and equal opportunity requirements in WIA. WIA Policy Number 3445 on Nondiscrimination and Equal Opportunity is distributed to WorkSource staff and partners when nondiscrimination training is conducted. (Attachment 2G) All ESD employees have also been provided with a copy of the department's Equal Opportunity/Affirmative Action Policy Number 0021 which was revised on September 2009. (Attachment 2H)

Both the WIA and Employment Security Department Nondiscrimination and Equal Opportunity Policies incorporate the following laws and regulations:

- ◆ Title VI and Title VII of the 1964 Civil Rights Act, as amended;
- ◆ Section 504 of the Rehabilitation Act of 1973, as amended;
- ◆ Americans with Disabilities Act of 1990, as amended;
- ◆ The Age Discrimination Acts of 1967 and 1975, as amended;
- ◆ Section 188 of the Workforce Investment Act (WIA) of 1998; and
- ◆ Part 37 of the Code of Federal Regulations, Title 29.

The WIA "Equal Opportunity is the Law" posters and client handouts/notices (in English and Spanish) with the wording specified in 29 CFR Part 37.54(d)(1)(iii) are distributed on 11-inch by 17-inch posters statewide within the WorkSource Washington system. (Attachment 2I-1.1 and 2I-1.2) WDC Directors received additional guidance to ensure that WDCs located throughout the state display these posters. Copies of the November 1, 2000, notice and memorandum, issued by Janet Leach-Ruth, then Acting Assistant Commissioner of the Administrative Services Division, instructing the WDC Directors to place these posters in prominent locations are included in Attachment 2I-2.

A memo was also sent to ESD Assistant Commissioners, along with WorkSource and TeleCenter Administrators, informing them of the requirement to include alternate communication modes when telephone numbers are listed. (Attachment 2I-3) Where telephone numbers are listed, a TTY number will be included. The Washington Relay Service toll-free number can be used in the event a TTY number is not available. A memo was sent to the agency's Communications Director regarding WIA nondiscrimination and EO requirements in notices and communication. (Attachment 2J)



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Notice and communication is discussed during “EO Training for WorkSource Staff and Partners” conducted by WDC EO Officers. It is also monitored for compliance during monitoring reviews.

Efforts are made to ensure that communications with individuals with disabilities are just as effective as communications with others. WDC EO Officers and WorkSource Center Administrators are informed during each monitoring review that they may develop an EO Notice on cassette tape or CDs for individual who are blind or sight impaired.

Posters are now prominently displayed in all WorkSource Centers, WorkSource Affiliate sites, and other service providers, that are part of the One-Stop career system in Washington. During monitoring reviews the EO posters are checked for compliance. Posters are available upon request and can be ordered through the State EO Officer.

The EO notice has been made available to all registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees, unions, and interested members of the public. The poster and forms to file a discrimination complaint are also available online in English and Spanish.

In addition, WIA service providers require registered participants to sign a statement and/or provide acknowledgement indicating they understand their rights and have received the EO handout notice. When signed, a copy of this notice is placed in participants’ files. (Attachments 2K-1 and 2K-2) See Element 7, Attachment A, for the monitoring tool, which addresses adherence to this policy. Also see Element 3, Attachment 3B-2, page 21, for the General Terms and Conditions of Grant Agreements.

The “Discrimination is Against the Law” posters distributed by CRC in 2009 are also available for all service providers to be used to supplement the WIA “Equal Opportunity is the Law” Posters. They are available to be downloaded in letter-size and in various languages as provided by CRC. (Attachment 2K-3)

The department and its partners have included the following tagline language on their official web sites, job announcements, brochures and advertisements:

“WorkSource Washington (or name of recipient) is an equal opportunity employer and provider of employment and training services. Auxiliary aids and services are available upon request to persons of disability.”

In a memo dated December 21, 2000, addressed to the 12 WDC Directors, all grantees are instructed to include the EO tagline in “. . . recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe WIA Title I financially assisted programs or activities. . . .” The tagline language follows.

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(Attachment 3C-1, page 3, in Element 3) Tagline language and instructions are reiterated in the same attachment on page 5, last paragraph, and continued on page 6. Requirements for tagline usage are also spelled out in WIA and ESD EO and Nondiscrimination policies. During each monitoring review, the service providers are checked for compliance.

Tagline language, the Equal Opportunity Notice in English and Spanish and the discrimination complaint procedures are accessible from the Equal Opportunity link at the bottom of the the ESD Internet home page at www.esd.wa.gov. (Attachment 2L)

Attached are sample materials, job announcements, brochures for veterans, and publications which include EO tagline language. (Attachments 2M-1 – 2M-11) As additional materials are produced to market programs and services, the EO tagline language will continue to be used.

The Unemployment Insurance (UI) Policy Unit staffs include the EO tagline on publications and on ESD's website. ESD's Office of Communications, which prepares many of the UI flyers and brochures, complies with agency Policy #0033 – Graphic Standards, which requires the uses of the EO tagline on all publications. This policy also describes the requirements for non-English publications. After the enactment of WIA a memo was issued regarding the tagline requirements. (Attachment 2J)

The UI Claims Kit has been revised to include additional information on filing a discrimination complaint. (Attachment 2M-9) Both the UI Claims Kit and the "What's Next" flyer are translated into Spanish. (Attachment 2M-10 & 2M-11) The new claims kit includes a statement in seven languages other than English, instructing Limited English Proficient persons on how to get help to understand the claims kit. ESD developed the following videos in English, Spanish and Open Caption: How to apply for UI benefits; How to file your weekly claim; How to complete your UI job search log; and, Plan and pay your taxes. A new Training Benefits video launched this fall of 2010 and is currently available online in English, Open Caption and Spanish.



Information Dissemination and Training

Registrants, applicants, eligible applicants/registrants, participants and applicants for employment are made aware of their rights during orientations for WIA services. All eligible participants are provided with the following documents at orientations and/or registration by subrecipients or contractors. Follow-up monitoring is conducted by the WDC to ensure that a copy of these documents is provided for signature:

- Notice of Rights to File a Complaint (Equal Opportunity is the Law Notice)
- Release of Information form
- Complaint and Grievance form

ESD updated its new employee orientation, and it is now available online. All ESD employees are provided with copies of relevant policies and procedures, e.g., the Harassment, Reasonable Accommodation and Nondiscrimination on the Basis of Disability, Discrimination Complaint Procedures, Alcohol and Drug-Free Workplace, and EO Policies and Procedures. Agency staff are also required to review and sign off that they have read these policies, which are listed among those mandated for yearly review. This is not an all inclusive list. Attachment 2Q contains ongoing training. Staff continues to receive training and technical assistance relative to these policies and procedures.

The State EO Officer and department staff are proactive in providing local EO Officers information in identifying and meeting training needs. (Attachment 2O) A matrix/list of the training on nondiscrimination and equal opportunity, as well as other skills training for staff, is included in Attachment 2P.

Additionally, on June 19, 2001, EO Officers, WorkSource administrators and other partner staff participated in a WIA/EO MOA Orientation, which provided a high-level overview of the nondiscrimination and EO requirements of the WIA regulations. A three-day Training Conference was held December 11 – 13, 2001. That conference focused on ensuring that individuals who play a critical role in the provision of services understand the requirements in the EO regulations. The conference also provided the necessary tools and applications to those responsible for ensuring compliance with the EO regulations. (Attachment 1J/Element 1)

Equal Opportunity training is presented on request. The State EO Officer provides periodic EO informational updates, as well as notices of EO-related training sponsored by other sources, such as the annual CRC/National Association of State Workforce Agencies EO Training Conference. The State EO Officer also provides EO technical assistance to the local-level EO Officers on an ongoing basis.



Documentation Attachments for Element Two

- 2A RCW 49.60 Discrimination – Human Rights Commission
- 2B Executive Order No. 93-07
- 2C ESD Diversity Policy – Draft
- 2D Executive Order No. 89-01
- 2E Executive Order No. 96-04
- 2F Governor’s Directive No. 98-01
- 2G Revised Final WIA Policy Number 3445 on Nondiscrimination and EO Requirements
- 2H ESD EO Policy Number 0021 - Equal Opportunity/Affirmative Action
- 2I
 - 1.1- *Equal Opportunity is the Law* Poster in English
 - 1.2- *Equal Opportunity is the Law* Poster in Spanish
 - 2 - November 1, 2000, Memo to WDC Directors
 - 3 - December 22, 2000, Memo to Assistant Commissioners & WorkSource, Job Service, TeleCenter and W-Plex Administrators
- 2J November 27, 2000, Memo to Assistant Commissioner of the Office of Public Affairs
- 2K
 - 1 - “Equal Opportunity is the Law” Notice
 - 2 - Notice of Right to File Complaint or Grievance
 - 3 - Discrimination is Against the Law Posters (in several languages)
- 2L ESD Internet Home Page and the Equal Opportunity Page
- 2M
 - 1 - UI Brochure /“What You Need to Know” (with tagline)
 - 2 - November 19, 2000, Newspaper Ad in The News Tribune (with tagline)
 - 3 - Veterans Brochure and Marketing to Increase Services to Veterans (with tagline)



Documentation

Attachments for Element Two - continued

- 4 - HRC 3 Job Announcement (with tagline)
- 5 - Copies of Ad: Marketing Campaign (with tagline)
- 6 - WorkSource Whatcom "New Services" Brochure (with tagline)
- 7 - SkillSource/On-the-Job Training Brochure from North Central Washington/Columbia Basin WDC (with tagline)
- 8 - SkillSource/Office & Technology Center from North Central (with tagline)
- 9 - UI Claims Kit (in English – with tagline)
- 10 - UI Claims Kit (in Spanish – with tagline)
- 11 - UI "What's Next" Flyer (in English and Spanish - with tagline)
- 12 - [Removed]

2N "Equal Opportunity is the Law" Notice Provided to Governor's Committee on Disability Issues' Mailing List

2O State Operations Plan (July 1, 2007-June 30, 2010)

2P MOA Training for EO Officers and Implementation Staff – Participant Guide

2Q Ongoing Training

2R [Removed]

2S [Removed]



ELEMENT THREE

REVIEW ASSURANCES, JOB TRAINING PLANS, CONTRACTS AND POLICIES AND PROCEDURES (29 CFR 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv))

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.20 – 37.22 and 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv) regarding the review of assurances, job training plans, contracts, and policies and procedures. Additionally, Washington State addresses the procedures it and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded, or training providers, if declared eligible, to comply with WIA Section 188 and 29 CFR Part 37.

Background

The State of Washington does not knowingly do business with any entity that discriminates. It is ESD's policy to include a nondiscrimination and equal opportunity statement in all training plans, contracts and agreements. In addition, policies issued at the state and local levels reinforce the department's commitment to ensure nondiscrimination at all levels.

The state requires all grant applicants and training providers to adhere to the nondiscrimination provisions of WIA Section 188 regarding assurances of nondiscrimination and equal opportunity. The assurance commits the recipient to "comply fully with the nondiscrimination and equal opportunity provisions" of WIA and acknowledges the government's right to seek judicial enforcement of the assurance. The specific language for this assurance is found in 37.20 (a)(1). All recipients of WIA funds and training providers must also ensure that the required EO assurance language is included in all documents. Where necessary, language regarding both programmatic and architectural accessibility to accommodate individuals with disabilities is also included. The agency has issued guidance to the WDCs regarding these requirements, as referenced in the State Operations Plan. See Attachment 20 for Element 2.



Narrative

Within the Budget, Policy and Communications Division of the Employment Security Department, the Contracts Office routinely reviews all contracts and agreements prior to finalization and execution to ensure EO assurances are included and signed off on for each agreement. The agency requires all applications for federal financial assistance under WIA to include EO assurances, committing potential recipients and subrecipients to full compliance with the nondiscrimination and EO provisions of WIA.

The agency's state EO Office works with contracts and WSID program staff to develop language that incorporates affirmative action/nondiscrimination clauses, EO assurances and sanctions in contracts, grant agreements, interagency agreements, personal service contracts, and requests for proposal processes where state and federal funds are expended for services. A contracting guide has been developed and is available online. The assurance language is included. (Attachments 3A and 3B-1 – 3B-2) The Workforce Investment Act Grant Agreements all contain Exhibit A, General Terms & Conditions, Part II, C. Assurances. (Attachment 3B-1) All ESD contracts contain an Exhibit B, General Terms & Conditions, Part II-E, Assurances. (Attachment 3B-2)

The State EO Officer monitors offices through technical assistance visits or desk audits. Onsite structural accessibility, parking for individuals with disabilities, designated restrooms, program accessibility and effective communication with persons with disabilities are some of the elements monitored.

ESD has issued guidance to the WDCs regarding EO assurances. (Attachment 3C-1) Assurance of compliance with these regulations is part of each WDC's local service delivery plan. Each recipient is expected to ensure their training plans, contracts, assurances and similar agreements are consistent with the EO and nondiscrimination provisions of WIA. (Attachments 3C-2 – 3C-3) Additional guidance regarding these requirements is issued by WIA program staff.

Local-level EO Officers are required to monitor facilities for compliance in their respective workforce development areas. WDAs are monitored for compliance by the State EO Officer and/or the Monitoring Unit. The State EO Officer's state oversight Monitoring Review Guide includes specific monitoring review guidelines to ensure that all plans and contracts contain the required assurance language. See Element 7.

The Washington State Employment Security Department and its partners have developed a Methods of Administration detailing the actions that have been taken and will be taken to ensure compliance with 29 CFR Part 37. This document will be updated every two years, and updates will be forwarded to the Civil Rights Center.



Documentation

Attachments for Element Three

3A Contracting Guide (August 2008)

3B 1 - WIA Grant Agreement (used in grants by WDAs)

2 - General Terms and Conditions for Grant Agreements Under WIA

3C 1 - December 21, 2000, Memo to Workforce Development Council Directors
Regarding Updated Language for Operations Plan

2 - Professional Services Agreement from Pacific Mountain Workforce
Consortium

3 - Addendum to the Memorandum of Understanding from the Southwest
Washington WDC



ELEMENT FOUR

UNIVERSAL ACCESS (29 CFR 37.54(d)(1)(v)) (29 CFR 37.42)

Washington State addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 37.42 relating to the provision of universal access to programs and activities.

ONE-STOP CENTERS

Background

Through a \$9 million grant from the United States Department of Labor, Washington State began developing its One-Stop Career Center system prior to the WIA being signed. The core elements of the system were customer focus; integration of services; universal access to the system, and a strong accountability for outcomes. The One-Stop system was designed by a multitude of partners at both the state and local level with oversight by the Executive Policy Council (EPC). The EPC also required One-Stop partners to take into account the needs of the target populations including, at a minimum, dislocated workers, veterans, migrant and seasonal farmworkers, disadvantaged adults and youth, job seekers with disabilities, older workers, and welfare recipients seeking employment. (Attachment 4A-1, pages 1, 6 and 9)

The planning and decision-making process in the development of One-Stop Centers laid much of the groundwork for what is now known as WorkSource Washington. During the implementation of WIA, planning directions were sent to the chief local elected officials. The planning instructions included a required assessment of current and future employment opportunities and skills needs, current and future workforces, current workforce development systems, goals, objectives and strategies. Universal services for WIA Title I-B and other Title I-B funded employment and training services to youth, adults, and dislocated workers were also a requirement to be included in the plan. (Attachment 4A-2, pages 1, 2 and 4)

WorkSource Washington's electronic one-stop workforce system has been developed to reach out universally to all individuals interested in employment and training services. It is a customer service network designed to assist a broad range of job seekers and employers. The web site address is www.go2worksource.com, and includes EO tagline language. We have continued our efforts to ensure the inclusion of the EO tagline



METHODS OF ADMINISTRATION

language in all official web sites, job announcements, brochures and advertisements. See Element 2 for sample publications. Individuals are able to place their resumes on the web site for employers' review; request referrals to listed job openings that are listed; obtain information from classified ads, government jobs, company web sites, and Job Central; and, obtain information about apprenticeship programs, Training Benefits and Labor Market information. The site can be accessed any time. It offers opportunities for targeted populations to utilize and benefit from WIA services. (Attachment 4B-1 and 4B-2)

From this web site, individuals may also access services available locally by clicking on the link to Local Connections. This allows users to find out the name of their local Workforce Development Councils and the WorkSource and/or affiliate sites that operate within their area. Outreach efforts that encourage participation by all segments of the population that may be eligible for services are evident through these web sites. We have made great strides to ensure that most web sites are accessible and contain links to disability information for both job seekers and employers. Many are available in languages other than English and in alternate formats, where applicable. These sites provide notice of employment and training opportunities, upcoming job fairs, and workshops, and an orientation video. Links to partner services help publicize services available to everyone. See web site examples in Attachments 4B-3, 4B-4 and 4B-5.

Where bilingual media is available and its use is appropriate, this resource will also be utilized to reach those who may not know about and/or have access to services. WDCs have been made aware of their obligation to provide appropriate language assistance to individuals with limited English proficiency in order to ensure meaningful access to programs and services in accordance with DOL policy guidance.

TTYs and the 1-800 relay service are available in local offices and in UI Claims Centers to help ensure communication for all.

Service and training providers are co-located at the WorkSource Centers and affiliate sites across the state. This enables workforce customers to have access without having to go to another physical site to secure services. Customers are able to access services through self-service, staff-assisted service, workshops and training classes, and one-on-one staff-directed services. The levels of services are based on the needs of the customer. The criteria for priority of services for the various programs are provided in a nondiscriminatory manner. Staff at the state level has communicated to the WDCs about their obligation to provide universal access and to include both sexes, various racial and ethnic groups and age groups, as well as individuals with disabilities. The WDCs incorporate this information in to their WIA Operations and Strategic Plans. (Attachments 4A-2 and Section Two of 4C-1 and 4C-2)



METHODS OF ADMINISTRATION

Toby Olson, Executive Secretary of the Governor's Committee on Disability Issues and Employment (GCDE), continues to work with the department and its partners to ensure universal access for persons with disabilities and training for staff assisting customers. GCDE operates an information clearinghouse for persons with disabilities and employers; identifies needs, develops programs and resources to provide effective employment and training services for people with disabilities; builds capacity within the WorkSource system to serve job seekers with disabilities. (Attachment 4E-1 and 4E-2) Mr. Olson is also the Executive Secretary of the Northwest Disabilities Business Technical Assistance Center, which provides assistance to Washington, Idaho, Oregon and Alaska.

Within the WorkSource Centers, customers are provided unemployment insurance information and assistance using self-service direct telephone lines. However, since July 2009, WorkSource employees identified as UI Liaisons have received formal classroom training to assist walk-in customers needing basic UI assistance. Many of these claimants are limited in English proficiency and clients with special needs who need assistance with our agency forms and publications. UI claimants also receive assistance in developing training plans and conducting job searches.

Since 1999 the Unemployment Insurance Program has transitioned its primary service delivery into UI Claims TeleCenters for initial claims and adjudication of issues. Claimants call a toll-free number and, after selecting their language and identifying the reason for the call, are connected through an automated call distribution system to an agent .

All agents who work in the UI Claims Center participate in an intensive intake training program. Components include customer service with a focus on how to better serve persons who need language assistance. If needed, staffs at each site use third party telephone interpretation services as well as TTY devices. Calls are routed across the state regardless of the caller's location so customers' wait times are reduced. People needing language assistance, including TTY, are routed to the appropriate agent. Special focus has been placed on publishing forms and scripts used to file claims in plain language.

Ensuring Accessibility

WorkSource Washington is committed to making all services, facilities and information accessible and usable by limited English proficient (LEP) clients. For the purposes of this document, "limited English proficient client" means "a person applying for or receiving department and partner services, either directly or indirectly, who, because of a non-English speaking cultural background, cannot readily speak or understand the English language." In addition, efforts are made to include both men and women, racial and ethnic minorities, and individuals with disabilities. See

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Attachment 2N for an "Equal Opportunity is the Law" notice provided to the Governor's Committee on Disability Issues mailing list.

Where a need has been identified, bilingual positions have been established throughout the Employment Security Department to ensure effective communication with LEP clients. The Employment Security Department's Human Resource Services Division approves the establishment of these positions based on skills and abilities, as well as other identified criteria. ESD currently has more than 110 bilingual staff in the UI Claims Centers to provide Spanish, Vietnamese, Korean, and Russian interpretation as well as access to 13 other languages. When other language needs are identified, interpretive services are arranged at no charge to the client.

Targeted outreach efforts have been underway to promote WorkSource, WorkFirst (Welfare To Work), UI benefits and veterans services. Persons with Disabilities are also one of the targeted outreach group. All of the UI online videos have open caption.

The Employment Security Department formed an LEP Committee to address several key requirements in the LEP interpretive policy guidance issued by the United States Department of Labor/CRC. Individuals on the LEP Committee were charged with:

- Conducting the required assessment of LEP demographics and language needs.
- Designing an agency-wide LEP Plan and Policy.
- Identifying the incidence in population and the kinds of services provided in the local areas.
- Developing the guidance and timetables for local planning.
- Identifying the documents in each program that require written translation, and the priority for completion of written translation into the various required languages.
- Designing the monitoring process.

An LEP plan and policy are in draft form. (Attachment 4I) With the additional capacity in the Diversity, Inclusion and Equal Opportunity Office the Committee will be pulled together again and the department's plan and policy will be finalized by late spring 2011. However, the department and its partners have continually provided meaningful access to LEP customers in the workforce development system.

Census statistics continue to bear out that Spanish is the primary language used among the LEP population in Washington State. Should this change, the LEP Committee will assess and identify the need to serve other significant language groups.

In 2002 the UI Division developed and implemented an LEP Policy, "Unemployment Insurance (UI) Program Policy on Providing Services to Customers with Limited English Proficiency (LEP)," UI Circular 15-02. (Attachment 4J)



METHODS OF ADMINISTRATION

A UI claimant who needs language assistance is helped by bilingual staff or is connected with a language line interpreter. To meet the demand of our customers, the agency continues to recruit additional bilingual staff. The department regularly reviews interpreter service call data to identify our customers' language needs. Claimants can receive free interpretation of any UI documents. Claiming instructions also are provided in several languages including Spanish, Russian, Chinese, and Vietnamese.

UI claims can be filed online at esd.wa.gov. This function is available in English and Spanish and many forms are available in both languages. We currently have online information in 13 languages with calling instructions to get basic information and questions answered about unemployment insurance.

Radio outreach to the Spanish-speaking community has been conducted in selected locations across the state to inform customers about unemployment insurance programs and services. Further outreach has also been conducted in conjunction with community forums sponsored by the Washington State Commission on Hispanic Affairs. These outreach efforts will continue in the future will include television programming for the Spanish-speaking audience.

In March 2010 ESD launched two new videos to explain how to apply for unemployment insurance benefits and submit weekly claims. Another video was added to inform viewers about the agency's work search requirements and proper documentation. These videos are available in the Publications Section of our agency's web site and are available in English, Open caption and Spanish. In September 2010, another video on training benefits was added. By December 2010 the Spanish version of the training benefits video will also be available online.

Appeal information is provided by the Office of Administrative Hearings (OAH), a separate state agency funded by ESD. OAH's booklet, "How to Prepare and Present your Case," is available in thirteen (13) languages: English, Spanish, Vietnamese, Russian, Chinese, Tagalog, Korean, Hungarian, Laotian, Polish, Amharic, Thai, and Cambodian. (Spanish - Attachment 4F)

This agency provides interpreters free of charge to those appealing a decision and requesting assistance in any language. ESD also provides online information on filing an appeal in English and Spanish. This information is available in the local WorkSource Offices. Also available is information on how to contact outside advocacy organizations should a customer seek assistance preparing for and participating in the appeal hearing. (Attachment 4G)



Outreach and Recruitment

Efforts to provide services to a substantial segment of the population are based on census data, labor market analysis, service need assessments, other community and social service organizations, educational institutions, employers, and labor and community service advocates. The Workforce Development Councils (WDCs) are made up of representatives of public and private agencies, educators, employers, and community-based organizations that provide services to the disadvantaged, underserved, underemployed and targeted groups within their communities. They share a mutual interest in improving employment opportunities to meet the needs of employers and in improving the economic conditions in their communities. Through the development of local strategic plans, cooperative efforts are now in place for all partners in the workforce development system. Improvements in communications were made with the business sector and economic development organizations. Better collaborations from these new relationships have created an environment for a stronger, more responsive, and more proactive workforce development system.

Ongoing activities will continue to provide universal access. Samples documenting demographic information can be found in the attached local area Strategic Plan for North Central Washington WDA. The Plan includes samples of data such as Current and Future Workforce; School Dropout Rates; Percent of Population by Gender, Race, and Hispanic Origin; State and County Population by Age; Public/Private School Enrollment by Race/Ethnic Origin; Persons with Disability Status; People of All Ages in Poverty; and other data used by the WDC to help determine program priorities and provide universal access for all. (Attachment 4C-1)

Recipients continue to encourage their service providers and their contractors to provide universal access. Attached are two examples of outreach and enrollments from two contractors of the Yakima Workforce Development Area that focus on providing services to youth. Their outreach plans include public service announcements on community television and radio stations, as well as advertisements in the Spanish language and bilingual media. In addition, outreach and promotional efforts include a campaign to recruit individuals with disabilities. (Attachments 4D-1 and 4D-2)

By the beginning of 2011, ESD anticipates having an updated version of its unemployment insurance (UI) multi-language flyer. The updated version will continue to have instructions on how to contact UI for information or how to file a claim, as well as the number to select for the corresponding language assistance. The new version will include the EO tagline informing customers that language interpretation services are available free of charge to conduct UI business. The tagline will be translated into 13 other languages.

Once the flyer becomes available online, a customer will not only have the option to see the text but will hear a recording of that text in any of the 13 languages. We anticipate



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this tool will be used in local WorkSource offices across the state. A copy of the updated multi-language flyer that tells customers how to contact the Unemployment Claims Center is attached. (Attachment 4H) An EO tagline will continue to be included on this document, as well as in others provided to our customers.

Monitoring

WDCs continue to monitor those being served by comparing the local labor market information for the population to be served with data from their reports. These reports show the characteristics of their participants: i.e., members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. They work with their partners and other community organizations to share information, sponsor job fairs, and continue to focus on providing outreach to target various populations.

To ensure equitable services to all segments of our population, a staff person in the UI Policy Unit is assigned the responsibility of reviewing quarterly EO reports and coordinating access to third party interpreters. This position reports to the UI Benefit Policy and Training Manager. Copies of the EO reports are provided to the State EO Officer.

The efforts demonstrated by ESD and its recipients to broaden the representation of persons for participation in programs and employment monitored and evaluated by the State EO Officer on an ongoing basis through on-site compliance reviews. See Element 7.



Documentation

Attachments for Element Four

- 4A 1 - Washington's One-Stop Career Center System Decisions
- 2 - Local Workforce Development Council Formation and Certification

- 4B 1 - WorkSource Washington Web Site Home Page
- 2 - WorkSource Washington Training Programs Page
- 3 - WorkSource Spokane Web Site (Tagline, Disability, Languages)
- 4 - WorkSource Redmond Web Site (Taglines/Employer Links/Partners/Disability)
- 5 - WorkSource Thurston County (Disabilities/ Partners/)

- 4C Workforce Development Council Strategic Plans
 - 1 - North Central Washington Development Council 2009-2011
 - 2 - Benton-Franklin Workforce Development Council 2009-2014

- 4D 1 - YVOIC Outreach and Enrollment
- 2 - NCAC Outreach and Enrollment

- 4E 1 - RCW 50.12.250 Information clearinghouse to assist in employment of persons of disability
- 2 - GCDE Overview

- 4F OAH's Booklet "How to Prepare and Present Your Case" (Spanish)

- 4G Unemployment Law Project information

- 4H Multi-Language Poster (2010)

- 4I Draft LEP Plan

- 4J UI Circular 15-02 - Unemployment Insurance (UI) Program Policy on Providing Services to Customers with Limited English Proficiency (LEP)



ELEMENT FIVE

COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended, and 29 CFR Part 37 (29 CFR 37.54 (d)(2)(v)) (29 CFR 37.7 – 37.9)

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of the disability related requirements of WIA Section 188; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing regulations, including but not limited to 29 CFR 37.7, 37.8, and 37.9 and Subparts B and C of 29 CFR Part 32; the Americans with Disabilities Act and RCW 49.60.

Background

Washington State is committed to making all services, facilities and information accessible and usable by individuals with disabilities. (Attachments 5A-1 – 5A-4) This applies to all programs, activities, and services provided by or made available within the WorkSource Washington system to potential employees, volunteers, contractors/service providers, licensees, clients, and potential clients.

Washington State ensures nondiscrimination on the basis of disability by:

1. Providing opportunities for participation or benefits equal to that afforded to others;
2. Providing financial aid, benefits, services or training equal to that provided to others;
3. Ensuring that qualified individuals with disabilities are offered the option of participating in the same programs or activities offered to non-disabled individuals.
4. Denying assistance, either directly or through contractual licensing or other arrangements, to any agency, organization or person that discriminates on the basis of disability;
5. Ensuring that licensing and/or certification programs operate in a matter which does not discriminate against qualified individuals with disabilities;
6. Ensuring that eligibility criteria do not screen out individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program, or activity, unless such criteria can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered; and
7. Eliminating barriers to employment and providing accommodations in the workplace.



METHODS OF ADMINISTRATION

Employment practices are evaluated to ensure there are no barriers to employment. The State EO Officer evaluates the process during monitoring reviews. See Element 7.

Washington State is committed to providing reasonable accommodation to qualified individuals with disabilities in all aspects of its programs, services and activities, unless providing the accommodation would cause undue hardship. Accommodations may include, but are not limited to, qualified sign language interpreters, readers, auxiliary aids and alternate formats. Reasonable modifications in policies, practices, or procedures are made, when necessary, to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.

Some steps taken by ESD and WorkSource Washington to ensure services, programs, and activities are readily accessible by individuals with physical, mental, or sensory impairments include the following:

- Policy and Procedure Number 0013-1 - Reasonable Accommodation and Nondiscrimination on the Basis of Disability, indicates the department's firm commitment to providing timely, reasonable accommodations to the known physical, mental or sensory limitations of an otherwise qualified employee or client with a disability. The accommodations may include any adjustments and modifications which allow a person with a disability to perform the essential functions of the job, enjoy the benefits and privileges of employment, or participate in department programs, services and activities. Qualified sign language interpreters, readers, and other auxiliary aids are provided upon request. (Attachment 5B-4)
- WorkSource Washington operates each service, program, or activity so that, when viewed in its entirety, they are readily accessible to and usable by individuals with disabilities. All program services and activities are offered to individuals with disabilities in the most integrated setting appropriate to them. To achieve program and activity accessibility, WorkSource Washington considers the redesigning of equipment, as well as the provision of appropriate auxiliary aids.

The WIA Equal Opportunity and Non-discrimination Policy Number 3445 states that grantees, subrecipients and contractors funded under WIA, whether in whole or in part, are instructed to administer ". . . WIA-funded programs and activities to ensure physical as well as program accessibility to individuals with disabilities, that programs are provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others. For example, where telephone numbers are given, a TTY number or relay service must also be provided. . . ." (Attachment 2G)



METHODS OF ADMINISTRATION

- To ensure program accessibility and technical assistance, Disability Specialists are located in each WorkSource Office. These specialists provide services and technical assistance regarding the needs of individuals with disabilities. The policy and a list of the specialists is attached. (Attachments 5C-1 – 5C-2)
- Building Skills 2010, a training conference for workforce development professionals, was held in October 2010. Disability-related sessions presented were: “Seven Steps to Reasonable Accommodation,” “Assistive Technology: Helping People with Disabilities Perform and Produce in the Workplace,” “Non-Apparent Disabilities and Jobs,” and “About Hidden Disabilities: The Legal, Practical and Human Side of Non-Obvious Disabilities.” (Attachment 5D)
- In 2010 the department determined it would review accessibility at WorkSource Centers to determine if the assistive technology devices and software in place for individuals with disabilities could be updated systemically rather than at individual sites. A team was formed and the status of the assistive technology at each WorkSource Center was surveyed. The team will now analyze costs and feasibility to determine how much, if any, can be updated and/or tracked centrally at the department level.

The DOL Office of Disability Employment Policy's Disability Checklist has been distributed to all WDCs.

Washington State continues in its efforts to assist registrants, applicants, eligible applicants/registrants and participants with disabilities.

- Comprehensive disability accessibility assessments — Assessments have been completed for all WorkSource Centers and eleven Affiliates.
- Individual disability access improvement plans — Developed by each center based on the results of their assessment. Model policies and procedures for serving customers with disabilities have been developed and disseminated.
- Removal of access barriers in the existing Information Technology (IT) infrastructure — more than \$750,000 of assistive technology has been purchased and distributed to centers and affiliates along with training and technical support.
- Staff Training — A disability component was incorporated into the customer service training, which is mandatory for all Employment Security staff. Many WorkSource partner staff have taken the training as well. Training on issues related to serving people with disabilities has been incorporated into all of the major WorkSource conferences and training events held in the state. Two



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WorkSource Centers have instituted a practice of holding a one-hour training session for staff each month on a different disability issue or program. Trainers in the Employment and Career Development Division have developed a "Disability 101" training session that will be offered to Disability Placement Specialists and to other WorkSource staff.

- Technical Assistance — The Employment Security Department, the Governor's Committee on Disability Issues and Employment (GCDE) and the Department of Social Health Services' Division of Vocational Rehabilitation has established a Technical Assistance Clearinghouse. The Clearinghouse serves as a single point of contact on issues related to service to people with disabilities and provides access to information, linkage to useful resources and assistance with creative problem solving.
- Pilot Projects — Through the Workforce Incentive and Disability Program Navigator Initiatives, Washington has made a substantial multi-year investment in building the capacity and competence of the WorkSource system in serving and achieving successful outcomes for job seekers with disabilities.

Architectural Accessibility

State entities and partners are required to follow specific requirements with the Americans with Disabilities Act, as amended (ADA). WDCs have been informed of their obligation to abide by federal EO and nondiscrimination provisions, to include ADA. This has been communicated through the Strategic Plan, the self-assessment process for certification of WorkSource Offices and affiliate sites, and in the assurance language in WIA grant agreements. WorkSource Offices that are not state-owned/leased must abide by local building codes and standards for accessibility, as well.

Some of the steps taken by ESD and WorkSource Washington to ensure all programs and activities are architecturally accessible to individuals with disabilities follow:

- ESD Policy and Procedure Number 0013-1 - Reasonable Accommodation and Nondiscrimination on the Basis of Disability states:

“ . . . The Department shall provide its services and operate its programs and/or activities so that, when viewed in their entirety, they are accessible to qualified persons with a disability.”

“A program must be accessible to clients, or a comparable program must be made available at an alternate site that is accessible.” (Attachment 5B-4)



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- The ESD Facilities Unit inspects ESD's facilities at lease renewal to ensure compliance with requirements of the Americans with Disabilities Act of 1990, as amended. A checklist was developed by the State of Washington, with the help of the Governor's Committee on Disability Issues and Employment, members of the disabled community, and client agencies. This checklist meets the requirements for barrier-free access in Washington State, and is more stringent than federal standards. It is used for the evaluation and selection of new and existing facilities. The evaluation focuses on site access, signage at primary building entrances of inaccessible facilities, interior door and corridor widths, public restroom requirements and other architectural specifications of the ADA Accessible Guidelines for compliance with WAC 51-40-005 of the 1992 Washington State Building Code. (Attachment 5E) Copies of the facility evaluations are maintained in the Facilities Unit. In an effort to ensure compliance, the Facilities Unit has also instituted a new program addressing signage in all facilities. The checklist and sample evaluations are included in Attachments 5F-1 – 5F-3. Upon request, the Facilities Unit provides assistance to the partners.
- The WDCs were given criteria to follow to become certified as a WorkSource Center. Each WDC provided this information in the way that worked best for it. One good example to note is that of the Pacific Mountain WDCs facilities review. The Pacific Mountain WDC chose to have a well-known external expert who works with disabilities issues for clients to conduct its review (Payne & Associates, Inc.). (Attachment 5G)
- During the 2010 EO Officers meeting, the Executive Secretary of the Governor's Committee on Disability Issues and Employment agreed to supply participants with ADA measuring devices – a pressure gauge and an ADA tape measure. The instruments will assist EO Officers in conducting their monitoring reviews and WorkSource Center Administrators in keeping their centers accessible for individuals with disabilities. These have been procured and will be mailed to WDC EO Officers and WorkSource Center Administrators within the next month.

Communication

WorkSource Washington partners take appropriate steps to ensure that communications with applicants, clients, and members of the public with disabilities are as effective as communications with others. Auxiliary aids and/or services are provided, when appropriate and necessary, to afford individuals with disabilities opportunities to participate in and enjoy the benefits of WIA Title I financially assisted programs or activities. TTY or equally effective telecommunications systems to communicate with individuals with impaired hearing or speech are available when needed.



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The WDCs are aware of their obligation to ensure that communications with members of the public, clients, and applicants with disabilities are as effective as communications with others. The WIA Equal Opportunity and Non-discrimination Policy states that grantees, subrecipients and contracts funded under WIA, whether in whole or in part, must ensure that “. . . programs are provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others. For example, where telephone numbers are given, a TTY number or relay service number must also be provided. . . .” (Attachment 2G)

The Department is committed to ensuring that all aspects of its employment practices, services, programs, and activities, when viewed in their entirety, are readily accessible by individuals with physical, mental, or sensory impairments. Where required, qualified sign language interpreters, readers, and other auxiliary aids will be provided. Documents and publications will also be made available in alternate formats.

Records

ESD and the WDCs ensure the confidentiality of information related to an individual's medical condition as noted in 29 CFR Part 32, Subpart B and the Americans with Disabilities Act, as amended. Medical condition information is kept in a single, secured location separate and apart from other files. Electronic systems also support separate recordkeeping for medical condition information. Pre-employment/employment medical inquiries are conducted in accordance with WIA, ADA and Section 504 regulations. Specific guidance is referenced in the recipients' policies and resource sharing and grants agreements. EO monitoring includes adherence to these provisions. See Elements 2, 6 and 7.

ESD's Policy and Procedure Number 0013-1, Reasonable Accommodation and Nondiscrimination on the Basis of Disability, states in the employee section “Upon completing the reasonable accommodation process, all supporting information needs to be forwarded to the Human Resource Services Division. It will be filed in a secure location, separate from an employee's personnel file. Information about an individual's disability is limited to designated personnel and only provided on a need-to-know basis.” (Attachment 5B-4)



Element Five Definitions

Auxiliary aids or services includes: (1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TTY/TDD), videotext displays, or other effective means of making aurally delivered materials available to individuals with hearing impairments; (2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments; (3) Acquisition or modification of equipment or devices; and (4) Other similar services and actions.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment; or a physical, mental or sensory impairment that is abnormal, and medically cognizable.

Employment practices means a recipient's practices related to employment, including but not limited to: (1) Recruitment or recruitment advertising; (2) Selection, placement, layoff or termination of employees; (3) Upgrading, promotion, demotion or transfer of employees; (4) Training, including employment-related training; (5) Participation in upward mobility programs; (6) Deciding rates of pay or other forms of compensation; (7) Use of facilities; or (8) Deciding other terms, conditions, benefits and/or privileges of employment. Employment-related training means training that allows or enables an individual to obtain employment.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase "real or personal property" in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

Fundamental alteration means: (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or (2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include: (a) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance, for the modification; (b) The overall financial resources of



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the facility or facilities involved in the provision of the modification, including: (i) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and (ii) The effect the modification would have on the expenses and resources of the facility or facilities; (c) The overall financial resources of the recipient, including: (i) The overall size of the recipient; (ii) The number of persons aided, benefited, served, trained, or employed by the recipient; and (iii) The number, type and location of the recipient's facilities; (d) The type of operation or operations of the recipient, including: (i) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and (ii) Where the modification sought is employment-related, the composition, structure and functions of the recipient's workforce; and (e) The impact of the modification upon the operation of the facility or facilities, including: (i) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and (ii) The impact on the facility's ability to carry out its mission.

Qualified individual with a disability means: (1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question; (2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary.

Reasonable accommodation: (1) The term "reasonable accommodation" means: (i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or (ii) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. These modifications or adjustments may be made to: (A) The environment where work is performed or aid, benefits, services, or training are given; or (B) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given; or (iii) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities. (2) Reasonable accommodation includes, but is not limited to: (i) Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and employees readily accessible to and



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usable by individuals with disabilities; and (ii) Restructuring of a job or a service, or of the way in which aid, benefits, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities. (3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

Undue hardship means, with regard to reasonable accommodation of individuals with disabilities, significant difficulty or expense incurred by a recipient, when considered in light of the factors set forth in paragraph (ii). (ii) Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include: (A) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation; (B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including: (1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities, and (2) The effect the accommodation would have on the expenses and resources of the facility or facilities; (C) The overall financial resources of the recipient, including: (1) The overall size of the recipient, (2) The number of persons aided, benefited, served, trained, or employed by the recipient, and (3) The number, type and location of the recipient's facilities; (D) The type of operation or operations of the recipient, including: (1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient, and (2) Where the individual is seeking an employment-related accommodation, the composition, structure and functions of the recipient's workforce; and (E) The impact of the accommodation upon the operation of the facility or facilities, including: (1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties, and (2) The impact on the facility's ability to carry out its mission.



Documentation Attachments for Element Five

- 5A
 - 1 - RCW 50.12.210 Employment Services for Handicapped
 - 2 - Title 162 WAC Human Rights Commission (Applicable Chapters)
 - 3 - Disability Access Information on the Web Site
 - 4 - Executive Order No. 96-04 Implementing the Americans with Disabilities Act and Superseding 93-03

- 5B
 - 1 - Workforce Diversity Program - Affirmative Action Planning Guidance
 - 2 - Identifying Essential Job Functions
 - 3 - [Removed]
 - 4 - Policy and Procedure Number 0013-1: Reasonable Accommodation and Nondiscrimination on the Basis of Disability
 - 5 - Disability Placement Services Design Document
 - 6 - Testing Services for Persons with Disabilities

- 5C
 - 1 - Disability Placement Services Policy #4040
 - 2 - List: Local Disability Placement Specialists
 - 3 - [Removed]

- 5D Building Skills 2010 Agenda

- 5E WAC 51-40-005 Uniform Building Code Requirements

- 5F
 - 1 - Barrier-Free Access/A Checklist for State Leased Facilities
 - 2 - ADA Checklist Evaluation Report/Aberdeen Career Development Center (Sample of Office Checklist)
 - 3 - ADA Checklist Evaluation Report/Goldendale (Sample of Office Checklist)

- 5G Certification Criteria for Pacific Mountain Workforce Development Area II



ELEMENT SIX

DATA AND INFORMATION COLLECTION AND MAINTENANCE

(29 CFR 37.54(d)(1)(iv) and (vi))
(29 CFR 37.37 – 37.41 and 29 CFR 37.53)

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.37 through 37.41 related to data and information collection and maintenance.

Background

Washington State has ensured that policies and procedures for data collected for job seekers, employers and agency employees are established and maintained for all WIA Title I financially assisted state programs. ESD also maintains and annually updates a Data Information/Technology Security plan through the Department of Information Services. This plan ensures that data collected is secure and provides contingency plans for unexpected failures. The Washington State Employment Security Department currently maintains two data systems that capture, store and report information considered confidential and fall under the guidelines and requirements for our policy and procedures, as well as the Technology Security Plan.

Data Collection

All agency systems have been modified to meet the requirements for capturing and reporting EO data elements. UI EO data reports are still produced quarterly from the General Unemployment Insurance Development Effort (GUIDE) system and standardized WorkSource reports are available from the Services Knowledge Information and Exchange System (SKIES).

ESD data, including employee information, are captured in the following systems:

GUIDE	General Unemployment Insurance Development Effort, for tracking unemployment insurance benefits and claimant activities. (Questions asked - Attachment 6C; EO data report for UI claimants - Attachment 6A-3)
HRMS	Human Resources Management System, for capturing and maintaining records for agency employees. (Attachment 6E)



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SKIES Services Knowledge and Information Exchange System (SKIES), an MIS system for tracking WIA Title I and TAA/NAFTA participants, and a case management tool for the One-Stop WorkSource statewide structure for Washington State. This is a job matching, case management and information-tracking system that supports the collection of data used for reporting purposes. The SKIES application has been developed to meet the EO reporting requirements identified in 29 CFR 37.37 through 37.41. (WIA EO Data Report - Attachment 6A-1; Labor Exchange EO Data Report - Attachment 6A-2)

Washington State's WorkSource delivery system is compliant with 29 CFR 37.37 through 37.41 in the collection of the required EO statistical data at the point at which the job seeker/client is "registered" or the person hired becomes an employee of the agency or its partnerships. (Attachments 6P-1 and 6P-3)

Policies, procedures and security plans are in place to safeguard collected information pertaining to specific job seekers, program participants, enrollees, benefit claimants, employers and agency/partnership employees. These policies, procedures and plans are reviewed and modified, if necessary, on an annual basis. Data is accessible only to program managers, program monitors, case managers, and a limited number of other "authorized" personnel needing access to these systems to provide direct services. (Attachments 6D and 6M)

The GUIDE system, which is used to process unemployment insurance claims, collects demographic information as required by the Civil Rights Center. This information includes the following about each claimant:

- Race/ethnicity
- Sex
- Age
- Disability status
- Veteran status

This information is confidential and is used for the purposes of recordkeeping and reporting and determining program compliance with nondiscrimination requirements. Information about race, sex, age and disability is obtained from UI applicants at the time they file for benefits. This information is entered into an automated applicant tracking system and is provided on a voluntary basis by claimants.

Claimant information is automatically transferred to our job registration system unless the claimant requests to be excluded. Access to this information is limited to those



persons with a legitimate business need to access the systems. Access and use of information maintained by the Employment Security Department is covered in the following Policies and Procedures:

- ESD Policy and Procedure Number 0006, Request for Public Records/Disclosure and Privacy of Information and Records (Attachment 6L-2.1);
- ESD Policy and Procedure Number 0029, Online or Bulk Data/Information Policy, covering the confidentiality of information obtained by the Employment Security Department (Attachment 6L-2.2);
- ESD Policy and Procedure Number 1016, Employee Conduct (Attachment 6M); and
- ESD Policy and Procedure Number 2010, Automated System Security (Attachment 6L-2.3).

ESD Policy and Procedure Number 1016, Employee Conduct, page 8, states that the penalty for failure to comply with the requirements for confidentiality of data will be grounds for nothing less than disciplinary action, up to and including dismissal. (Attachment 6M)

Data Storage and Reports

Since the inception of WIA on July 1, 2000, state administrators and the 12 Workforce Development Councils have had two access portals to information to analyze compliance with 29 CFR Part 37. SKIES described above can produce several reports, including EO reports. In addition, an Agency Data Warehouse has extracted and archived participant data that includes the required EO data elements. These are organized by the U.S. DOL Workforce Investment Act Standardized Record Data standards. (Attachment 6I)

The data stored is designed to allow CRC to conduct specific statistical/quantifiable data analyses upon request. Administrative management uses the data monthly to monitor participant activity. The data is reported to the U.S. DOL quarterly according to the individual program's reporting requirements. The public and employers can also access nonconfidential consolidated information for use in complaint or eight-point affirmative action analysis. Samples are included in the documentation for Element 7.

UI Division staff use automated statewide equal opportunity reports about individuals by race/ethnicity, gender, age, and disability status to determine whether groups are represented substantially in the same proportion after decision points, such as denials for benefits. When there are instances of disparities in representation, the disparities are discussed with UI program management and shared with the State EO Officer. Claimant ethnicity is included in these reports. (Attachment 6A-3)



Self-Service and Monitoring

Clients who use only the self-service features of the WorkSource System are not registered. WorkSource Washington has a business need to know if clients who utilize only self-service activities find jobs. Additionally, there is concern about whether or not clients are experiencing barriers (e.g., language barriers, physical barriers, etc.) and whether or not the clients' right to privacy is maintained. These clients are asked to voluntarily provide their names and social security numbers in order to cross-match use of self-service with wage records to determine if clients have entered employment as a result of self-service. The request for this minimal information is consistent with the Governor's Executive Order that Washington State agencies respect clients' privacy and ask for the least amount of personal information possible while still providing services. (Attachments 6G and 6H)

Local EO Officers observe self-service activity, meet with and interview staff members regarding their observations and review, and identify corrective action, if necessary. The State EO Officer, in conjunction with the local EO Officers, will also monitor self-service. See Element 7.

Logs

Each local area and the state maintain a log of complaints filed that allege discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, belief, citizenship and/or participation in a WIA Title I financially assisted program or activity. See Attachment 6F-1 for a sample copy of a log. These records are maintained for a period of three (3) years. Instructions are incorporated into policy directions and are included in Attachments 6F-1 and 6F-2. Also see Element 8.

Records

Records, particularly those containing medical condition information, are secured and kept separate and apart from other information and, in addition, are kept confidential. Samples of instructions for collection and separation are included in the Assurances section. See Elements 3 and 5. Also see Attachment 2O in Element 2, State Operations Plan, regarding "Maintenance of Records"; Element 5 for the Reasonable Accommodation Policy; and State Policy Guidelines. (Attachments 6G, 6H, 6I, 6J-1, 6J-2, 6K, 6L-1, 6L-2, and 6P-2)

Records are maintained for at least three years, in compliance with state and federal regulatory requirements. Audit standards and OMB A133 compliance requirements ensure that records are maintained for the correct amount of time and meet the



confidentiality requirements of the CRC. Audit reports are reviewed as a supplement to the regular monitoring and oversight. If an entity were found to be out of compliance, corrective administrative actions would be required. (Attachments 6J-1, 6J-2, and 6K)

Enforcement Actions

The Director of CRC will be informed of all administrative enforcement actions or lawsuits that allege discrimination on one or more of the bases outlined above and prohibited by WIA Section 188.



Documentation

Attachments for Element Six

- 6A 1 - SKIES WIA EO Data Report
- 2 - SKIES Labor Exchange EO Data Report
- 3 - GUIDE EO Data Report for UI Claimants

- 6B 1 - WIA and Welfare-to-Work Registration Form and Instructions, pages 1-11/Copy of the Report
- 2 - SKIES Management Report – WIA EO Report

- 6C IVR Questions for Data Collection /Unemployment Insurance

- 6D Claimant Data Sharing Notice/Unemployment Insurance

- 6E HRMS Data Analysis for an Employee

- 6F 1 - Discrimination Complaint Log
- 2 - Instructions

- 6G Governor's Executive Order No. 00-03 Public Records Privacy Protection

- 6H Agency's Response to Public Records Privacy Protection

- 6I ESD Data Warehouse

- 6J 1 - Records and Reports: Sample of Local Partner Ordinance on Record Retention
- 2 - RCW 50.13 Records and Information – Privacy and Confidentiality

- 6K WIA Policy Number 3415, Revision 1, Records: Retention and Public Access

- 6L 1 - Revised Code of Washington (RCW) Chapter 40.14 RCW – Preservation and Destruction of Public Records
- 2.1 ESD Policy and Procedure Number 0006, Request for Public Records/Disclosure and Privacy of Information and Records



Documentation

Attachments for Element Six - continued

- 2.2 ESD Policy and Procedure Number 0029, Online or Bulk Data/Information Policy, covering the confidentiality of information obtained by the Employment Security Department
- 2.3 ESD Policy and Procedure Number 2010, Automated System Security

6MESD Policy and Procedure Number 1016 – Employee Conduct

6N [Removed]

6O [Removed]

- 6P 1 - SKIES – Seeker Program – Enrollment Validation
- 2 - SKIES – Assessment, includes Health Instructions, page L131
- 3 - SKIES – Core Services



ELEMENT SEVEN

MONITOR RECIPIENTS FOR COMPLIANCE (29 CFR 37.51 – 37.54)

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(ii). The State is required to establish procedures to monitor periodically all aspects of the recipient's compliance with WIA Section 188 and 29 CFR Part 37.

The State EO Officer in the Human Resource Services Division is responsible for monitoring the WDCs on a periodic basis in order to assess their compliance with the nondiscrimination and EO provisions of WIA Section 188 and 29 CFR Part 37. The State EO Officer provides training and technical assistance to local EO Officers regarding their monitoring responsibilities and activities. The State EO Officer reviews the effectiveness of WDC monitoring tools as part of the state-level compliance review.

The WIA Monitoring Unit within ESD's WorkSource Standards and Integration Division (WSID) conducts on-site program monitoring reviews of local WDCs and selected subrecipients to determine compliance with WIA requirements. Each Workforce Development Area (WDA) is reviewed by the WIA Monitoring Unit at least once a year. When Monitoring Unit staff conduct the WIA program monitoring visits, they work in conjunction with the State WIA EO Coordinator in reviewing and identifying EO compliance (e.g., posters, facilities). EO issues and findings are included in the Monitoring Unit's exit interview. When EO issues are identified in WIA monitoring reports, copies of these reports are forwarded to the State EO Officer. The State EO Officer reviews the reports and determines whether or not follow-up, technical assistance and/or an in-depth EO review is necessary. The in-depth EO monitoring review is conducted by the State EO Officer. (Attachments 7B-1, 7C-1 – 7C-3)

Each local EO Officer monitors the activities in his/her WDC and the activities of its contractors and WorkSource operations to ensure EO compliance. Each WDC develops procedures and monitoring tools for monitoring their sub-recipients' compliance with Section 188 of the Workforce Investment Act, 29 CFR Part 37 and applicable WIA state policies. The monitoring and oversight requirements for EO compliance reviews, together with EO monitoring instruments, are the methods and processes used to conduct and organize the review, as specified in 29 CFR Part 37. Policies and procedures regarding monitoring and oversight requirements for compliance reviews have been disseminated at the state and local levels. See Attachment 7B-1.



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The Washington State Employment Security Department is the largest one-stop partner and is also a contractor through the WSID. As such, it is required to have its own EO Officer and monitoring policies and procedures. The State EO Officer is a staff member of the Human Resource Services Division. The State EO monitoring visits include, but are not limited to: a review of job orders, interviews with staff and customers, a review of EO reports, data analysis, and a check for accessibility and display of posters. Following the monitoring review, the State EO Officer conducts an exit meeting with the appropriate manager to discuss the findings. Each facility is reviewed at least once every two years (more if warranted) for factors such as repeat findings, failure to come into compliance by stipulated timeframes, failure to monitor its subrecipients, discrimination complaints or deficient statistical reports, etc. Offices are monitored by on-site reviews or desk reviews. (Attachment 7A-1 and 7A-2) Follow-up monitoring may be scheduled if deficiencies are found or corrective action is needed. The State EO Officer is responsible for developing a report of each visit. This report is forwarded to the Workforce Development Council EO Officer, the WIA Monitoring Unit and the Employment and Career Development Division.

The WorkSource Centers and/or affiliate sites that have a significant number of farmworkers in their area also conduct quarterly self-monitoring reviews of the services provided to Migrant and Seasonal Farmworkers. The self-monitoring reports are submitted to the State Monitor Advocate for review and analysis. The State Monitor Advocate is located within the Employment & Training Division of ESD. The Monitor Advocate shares and consults with the State EO Officer to ensure EO compliance.

The Unemployment Insurance Division reviews the EO and Language Preference Reports at least quarterly to identify any potential issues regarding service delivery, makes recommendations to division management to resolve these potential issues, and works with staff to implement and monitor corrective action. The division EO Coordinator provides a copy of these statistical reports to the State/ESD EO Officer on a quarterly basis. See Element 6. With the addition of a Compliance Specialist, the State EO Officer will conduct in-depth monitoring of the UI Benefit program for compliance with Section 188 of the WIA and Title VI of the Civil Rights Act of 1964, as amended.

Monitoring Elements

All three levels of recipient monitoring and oversight activities utilize the following models and guides. Recipients, as defined in 29 CFR Part 37.4, include state and local Workforce Investment Boards, One-Stop operators, service providers and vendors, as well as other types of individuals and entities. Recipients are monitored on their compliance regarding:



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- **Assurances** (29 CFR 37.20 - 37.22)
Review training plans, contracts, agreements, and policies and procedures to ensure compliance.
- **EO Officer Designation** (29 CFR 37.23 - 37.28)
Ensure that EO Officers have been appointed, training is ongoing, assigned EO duties do not constitute a conflict of interest, EO duties are being carried out, and the name of the EO Officer is identified. This list is not inclusive.
- **Notice and Communication** (29 CFR 37.29 - 37.36)
Ensure that "Equal Opportunity is the Law" posters have been distributed and posted in prominent locations for public viewing and that recruitment, brochures, and other materials include the EO tagline language and a TTY number or an equally effective means of communication for individuals with disabilities. Additionally, any written materials (policies, notices, checklists, brochures, etc.) are reviewed to ensure the requirement has been met.
- **Data and Information Collection and Maintenance**
(29 CFR 37.37 - 37.41)
Ensure the collection and maintenance of records or data necessary to determine compliance: e.g., memos, EO recordkeeping procedures, policy issuances, reports, complaint logs, etc.
- **Universal Access** (29 CFR 37.42)
In their recruitment efforts, recipients ensure that materials, brochures, and public service announcements are aimed at broadening the pool of those considered for employment or participation in programs and activities to include members of both sexes, various racial/ethnic groups, various age groups, and individuals with disabilities. They also ensure compliance in services provided to persons with limited English proficiency.
- **Complaint Processing Procedures** (29 CFR 37.70 - 37.89)
Ensure that the discrimination complaint procedures are adhered to and that complaint logs are maintained.
- **Development of a Monitoring System** (29 CFR 37.62 – 37.69)
Ensure that monitoring tools and program policies are developed to ensure their programs and activities are operating in a nondiscriminatory way.
- **Compliance with Section 504 of the Rehabilitation Act** (29 CFR 37.57 – 37.9)
Ensure compliance with the disability-related requirements of WIA Section 188 and Section 504 of the Rehabilitation Act.



EO Data

The ESD Labor Market and Economic Analysis Unit assists program staff in collecting and analyzing the EO data by race/ethnicity, sex, age and disability status for programs, employment activity, placements and terminations. This unit also collects and prepares statistical information for all state agencies in the preparation of their affirmative action plans. (Attachment 7D)

Sanctions

If deficiencies are identified, on-site technical assistance is provided and a corrective action plan may be necessary to ensure that the processes and procedures are in place to take appropriate steps in order to achieve voluntary compliance. The State and local EO Officers may continue to provide technical assistance in this process. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. See Element 9.



Documentation

Attachments for Element Seven

- 7A 1 - Washington State ESD and WDC EO and Nondiscrimination Monitoring Guide
- 2 - State EO Monitoring Review Schedule

- 7B 1 - Monitoring and Oversight Requirements for Compliance Reviews, Policy Number 3425
- 2 - [Removed]
- 3 - Sample of a Monitoring Report for a Local Area
- 4 - Sample of a Review Response from a Local Area

- 7C 1 - Pacific Mountain WDC Monitoring Schedule
- 2 - WorkSource Standards and Integration Monitoring Schedule
- 3 - State Monitoring Processes and Flowchart

- 7D - [Removed]



ELEMENT EIGHT

COMPLAINT PROCESSING PROCEDURES (29 CFR 37.54(d)(1)(vii)) (29 CFR 37.76 – 37.79)

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.76 through 37.79 regarding complaint processing procedures.

Background

Consistent with 29 CFR Part 37.76 through 37.79, ESD and its partners maintain compliance with the WIA requirements regarding the processing of discrimination complaints.

Every recipient under WorkSource Washington adheres to WIA Policy Number 3450 - Discrimination Complaint Processing Policy and Procedures, and uses the attached USDOL/CRC Complaint Information Form. Recipients are responsible for developing their own discrimination complaint and/or grievance policies and procedures for matters other than those covered under 29 CFR Part 37. (Attachment 8A)

ESD maintains a separate discrimination complaint procedure for employees and clients arising in its departmental programs. See ESD Policy and Procedure Number 0013 - Discrimination Complaint Processing. (Attachment 8B)

Process

It is the policy of the state to advise WorkSource clients and employees of their right to file a discrimination complaint. Any person who believes that s/he has been discriminated against has the right to file a complaint on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief. In addition, clients may file on the basis of participation in a WIA Title I program or on the basis of citizenship. Complaints must be filed within 180 days of the alleged discrimination. Complainants may file with the local WDC EO Officer if applicable, with the State EO Officer or with the Director of the Civil Rights Center. If the complainant is at least 16 years old but less than 18 years old, the complainant's parent or legal guardian signs the written complaint.



METHODS OF ADMINISTRATION

The discrimination complaint process provides for prompt and equitable resolution of complaints and includes the following elements:

- Initial, written notice;
- An acknowledgement of receipt;
- Notice of right to representation;
- Issues raised in the complaint;
- A period of fact-finding that includes alternative dispute resolution (ADR) or mediation; and
- A written Notice of Final Action.

Upon receipt of a complaint, EO Officers are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the complaint:

- The fact that the complaint has been filed;
- The identity of the complainant(s);
- The identity of individual respondents to the allegations; and
- The identity of any persons(s) who furnished information or assisted in a complaint investigation.

If the State or local EO Officer determines that another entity has jurisdiction and it is appropriate to refer a complaint, the EO Officer promptly refers the complaint to that entity, properly informs the complainant of this decision in writing, and explains why.

A separate system is maintained both locally and at the state level for logging, tracking and reporting discrimination complaints. This log should contain (1) date complaint was filed, (2) name and address of complainant, (3) basis of complaint, (4) description of complaint, and (5) disposition of complaint.

Recipients are monitored to ensure they are complying with the complaint process.

Responsibilities

The State EO Officer has overall responsibility for developing and implementing complaint procedures, and ensures agency and partner staff are provided the training required by 29 CFR Part 37. The State EO Officer provides oversight, monitoring and technical consultation for the processing of all discrimination complaints regarding WIA Title I services, including provision of the ADR/mediation services required under 29 CFR Part 37.

Local-level WDC EO Officers are responsible for:



METHODS OF ADMINISTRATION

- Adopting, publicizing and implementing the state discrimination process in their area, in accordance with Part 37;
- Assisting local WorkSource clients in filing a complaint;
- Providing oversight and monitoring for logging, tracking, reporting and processing of all discrimination complaints filed against any local WorkSource partner or local Workforce Development Area recipient or subrecipient regarding WIA Title I services; and
- Providing local intake services for discrimination complaints to determine if the complaint is covered by 29 CFR Part 37, resolving jurisdictional issues and, if appropriate, routing the complaint to the appropriate WorkSource partner or WDA recipient/subrecipient for processing.

The local EO Officer confers with the State EO Officer promptly upon receipt of the complaint, prior to determining jurisdiction over the matter.

Local EO Officers provide training within their respective areas.

Communication

Information about the complaint process is available to department and partner staff, as well as clients. We display posters informing and instructing applicants on discrimination complaint procedures throughout the WorkSource Washington system to recipients, subrecipients, affiliates and co-location sites. During the initial applicant intake interview, an explanation of the full range of services available, including the complaint system, is provided to applicants. Applicants also receive a handout or brochure that explains department and partner services and the WIA Title I complaint procedure. This handout has been translated into Spanish. The handout is accessible to clients needing other formats or additional assistance upon request. All ESD staff members are provided with a copy of the complaint procedure.

UI claimants that apply for benefits receive a copy of the Unemployment Claims Kit mailed to them. This claims kit includes information on how to file a discrimination complaint. A copy of the claims kit is attached. (Attachment 2M-9)

The ESD Internet site contains a link to the EO pages where the WIA and ESD discrimination complaint procedures and complaint forms are located. See Elements 2 and 7.



Documentation

Attachments for Element Eight

8A WIA Policy Number 3450, Revision 1 - Discrimination Complaint Processing Policy and Procedure and attached USDOL/CRC Complaint Information Form

8B ESD Policy and Procedure Number 0013 - Discrimination Complaint Procedures including Complaint Form (for ESD employees and clients)



ELEMENT NINE

CORRECTIVE ACTIONS/SANCTIONS (29 CFR 37.54(d)(2)(C)(vii))

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(C)(vii).

Background

ESD will seek corrective action from a WIA recipient if a violation is identified in the following circumstances:

- The State EO Officer's periodic monitoring identifies a technical deficiency, a failure to follow through on written assurances, a barrier to universal access to, or disparate impact in, programs or services.
- The assessment of the circumstances surrounding a discrimination complaint and/or the use of desk audits, on-site reviews, investigation or other fact-finding tools in conjunction with the assessment process, reveals barriers to equal opportunity or access to WIA, ES or UI services.
- A WIA recipient refuses to implement voluntary corrective action, submit requested data or documentation, or provide access to premises or records during a compliance review.

The Employment Security Department has notified its recipients of their responsibility through issuance of WIA Title I-B Policy Number 3445 – Equal Opportunity and Nondiscrimination. (Attachment 2G) Local Workforce Development Councils are required to establish policy and procedures for obtaining prompt corrective action or, as required, applications of sanctions when a training provider or other recipient is not in compliance with the nondiscrimination and EO provisions of WIA or Title VI or related laws.

Voluntary Compliance

If the need for corrective action is identified by the State EO Officer, s/he notifies the recipient in writing of the violation(s), along with recommendations for corrective action.



METHODS OF ADMINISTRATION

The entity is given the opportunity to initiate voluntary corrective action. The State EO Officer provides technical assistance and consultation on the specific action(s) to correct the violation(s). The entity and the State EO Officer enter into a conciliation agreement, specifying the commitment the office will undertake to correct the violation(s), behavior and/or practice. The entity reports back to the State EO Officer upon completion of the corrective action and at any intermediary times specified in the conciliation agreement. The State EO Officer or designee conducts follow-up visits, monitoring, etc., if required, to ensure that the violation(s) does/do not recur.

Corrective action should be completed within 45 days from the date of initial notification of the violation.

Final Determination

After all efforts for voluntary compliance have been exhausted, the State EO Officer notifies the ESD Commissioner in writing. The final determination specifies the following:

- Efforts made to achieve voluntary compliance, along with the areas of disagreement (if known);
- The apparent violation(s) and pertinent nondiscrimination EO provision(s) of 29 CFR Part 37; and
- The corrective action the recipient must take to address the violation(s).

The ESD Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. The ESD Commissioner considers sanctions only if the recipient does not agree to take voluntary corrective action. Sanctions that may be imposed include, but are not limited to:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.

WDCs model these procedures for ensuring compliance with their subrecipients and service providers.



Documentation

Attachments for Element Nine

9A - [Removed]



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