

**SUPPORTING STATEMENT FOR  
Nondiscrimination Compliance Information Reporting  
OMB CONTROL NUMBER: 1225-0077**

This ICR requests a three-year extension of the information collection under OMB Control No. 1225-0077. The information collection requirements are contained in various locations within 29 Code of Federal Regulations (CFR) Sections 37 and 38.

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Civil Rights Center (CRC) (located within the Department of Labor's (DOL or the Department) Office of the Assistant Secretary for Administration and Management) is responsible for the enforcement of the Workforce Innovation and Opportunity Act (WIOA) Section 188. In addition to WIOA, entities receiving any financial assistance from DOL are subject to four intersecting civil rights laws over which CRC has enforcement authority:

- Section 504 of the Rehabilitation Act of 1973<sup>1</sup>, as amended;
- The Age Discrimination Act of 1972<sup>2</sup>, as amended;
- Title IX of the Education Amendments of 1972<sup>3</sup>, as amended; and,
- Title VI of the Civil Rights Act of 1964<sup>4</sup>, as amended.

The paperwork burdens imposed by 29 CFR Parts 37 and 38 and their respective intersecting civil rights laws regulations are:

**29 CFR Section 37.20 and 38.25 (Assurances)**

These sections require each applicant for financial assistance under Title I of WIOA to include in its application for financial assistance standard assurance language provided by the Department in this part that the recipient will comply fully with the requirements of Section 188 of WIOA and the corresponding implementing regulations.

Federal nondiscrimination regulations that currently apply to DOL financed programs and activities, also require assurances of nondiscrimination from those entities that seek to be awarded financial assistance:

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<sup>1</sup> Public Law 93-112, 87 Statute 394; codified at 29 USC Section 701.

<sup>2</sup> Public Law 94-135, 89 Statute 728; codified at 42 USC Section 6101.

<sup>3</sup> Public Law 92-318, 86 Statute 235; codified at 20 USC Section 1681.

<sup>4</sup> Public Law 88-352, 78 Statute 241; codified at 42 USC Section 2000d.

- Department of Justice (DOJ) Title VI coordinating regulations at 28 CFR Sections 42.406(d) and 28 CFR § 42.407(b) (see attachment 3);
- DOJ's Section 504 coordinating regulation at 28 CFR Section 41.5(a)(2);
- DOL's Title VI regulations at 29 CFR Section 31.6; and
- DOL's Section 504 regulations at 29 CFR Section 32.5.

**29 CFR Sections 38.27 (Covenants), 38.41 (Collection and Maintenance of Equal Opportunity Data and other Information), 38.42 (Information to Be Provided to the Civil Rights Center (CRC) by Grant Applications and Recipients) and 38.43 (Required Maintenance of Records by Recipients)**

These regulations require recipients to collect, maintain, and (under certain circumstances) report information to the Director of CRC as follows:

- Sections 38.37(b), and 38.41(b) require that each recipient collect such data and maintain such records as the Director deems necessary to determine whether the recipient has complied with or is complying with the nondiscrimination and equal opportunity provisions of Section 37 or WIOA and Section 38. These requirements include categories of demographic data to be collected regarding limited English-speaking proficiency and preferred language, and gives recipients two years to begin collecting that data. Data regarding limited English proficiency are already being collected and maintained by recipients for the Employment and Training Administration;
- Sections 38.37(c), and 38.41(c) require recipients to maintain and to submit upon request a log of complaints filed with it that allege discrimination in violation of Section 188 of WIOA or their implementing regulations;
- Sections 38.38(a), and 38.42(a) require that each grant applicant and recipient promptly notify the Director when any administrative enforcement actions or lawsuits are filed against it that allege discrimination on a ground prohibited by Section 188;
- Sections 38.38(b), and 38.42(b) require each grant applicant and recipient to provide the following information:
  - the name of any Federal agency (other than DOL) that conducted a civil rights compliance review or complaint investigation and that found recipient to be in noncompliance during the two years before the grant application was filed or CRC began its examination; and
  - information about any administrative enforcement actions or lawsuits that allege discrimination on any ground protected by Section 188 that were filed against it during the two years before the grant application was filed. The final rule amends 38.42(b) to remove the reference to grant applicants.
- Sections 38.39, and 38.43 require that grant applicants and recipients maintain information required by Sections 37 and 38 for three years

WIOA Section 185 requires that recipients collect and maintain records and other data for various purposes, including showing their compliance with Section 188. Federal civil rights regulations that currently apply to all DOL financial assistance programs and activities and which currently require recipients to collect, maintain and provide data to the CRC are:

- 28 CFR Sections 42.406(a) and 42.410 (DOJ Title VI coordinating regulations);

- 45 CFR Sections 90.42(a) and 90.45 (HHS Age Discrimination Act coordinating regulations);
- 29 CFR Section 31.5(b) (DOL Title VI regulations enforced by CRC); and
- 29 CFR Section 32.49 (DOL Section 504 regulations).

28 CFR Section 42.408(d) of DOJ's Title VI coordinating regulations require that recipients who process complaints of discrimination filed against them, or one of their sub-recipients are to maintain a log of those complaints (see attachments 3). The DOL has developed a prototype log that recipients may use to track complaints.

In order to assist recipients to have a viable vehicle to receive complaints, DOL has developed a prototype agency discrimination complaint form. Use of the form is optional and recipients are free to modify it to meet their specific needs.

28 CFR Section 42.406(d) of DOJ's Title VI coordinating regulations requires that applicants and recipients make prompt notification of any administrative complaints and further requires that each applicant include this information in its application (see attachment 3).

The three-year record retention requirement is consistent with standard Federal administrative requirements and established DOL audit regulations.

**29 CFR Sections 38.51 (Governor's Oversight and Monitoring Responsibilities for State Programs), 38.54 (Governor's Obligations to Develop and Implements a Nondiscrimination Plan), and 38.55 (Schedule of the Governor's Obligations Regarding the Nondiscrimination Plan)**

State governors are responsible for the oversight and monitoring of all WIOA Title I-financially assisted State Programs including ensuring compliance with the nondiscrimination and equal opportunity provisions of WIOA and their implementing regulations at 29 CFR Sections 37 and 38.

Each governor has established a Methods of Administration (MOA) under 29 CFR Sections 37 and 38 for State Programs that describes how the Governor will ensure that its WIOA Title I-financially assisted programs, activities, and recipients are complying (and will continue to comply) with the nondiscrimination and equal opportunity requirements of WIOA and their implementing regulations.

After the initial MOA or Nondiscrimination Plan submission as described in Sections 38.55 and 38.55, the Governors must review the MOA or Nondiscrimination Plan and the manner in which it has been implemented every two years to determine whether any changes are necessary in order to comply fully and effectively with the nondiscrimination and equal opportunity provisions WIOA and 29 CFR parts 37 and 38. If changes are needed, the changes must be submitted to the CRC Director pursuant to Sections 38.55 and 38.55. If no changes are required, the Governor must certify to CRC that the State's current MOA or Nondiscrimination Plan remains in effect.

In addition to the MOA or Nondiscrimination Plan, Sections 184(d)(2) of WIOA require recipients to monitor the programs of subgrantees or contractors to which they have provided WIOA funding. Additionally, 28 CFR Section 42.410 of DOJ's Title VI coordination regulations currently require that state agencies administering a continuing state program that receives federal financial assistance establish a Title VI compliance program for themselves and other recipients which obtain federal financial assistance through them. DOL's Title VI regulations at 29 CFR Section 31.6(b)(2) require that every application by a continuing state program "[p]rovide or be accompanied by provision for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part."

**29 CFR Sections 37.73 (What Information Must a Complaint Contain?), 37.74 (Are There Any Forms That a Complaint May Use to File a Complaint?), 38.70 (Who May File a Complaint Concerning Discrimination Connected with WIA Title I?), 38.73 (What Information Must a Complaint Contain?)**

Sections 38.73 and 38.74, and 38.70 require that each complaint filed with CRC or a recipient be in writing and contain the information specified in Sections 38.73(a) through 38.73(d) and Sections 38.70(a) through 38.70(d). Sections 38.74 and 38.70(e) allow complainants to file a complaint by completing and submitting CRC's *Complaint Information and Privacy Act Consent Form*. However, a complainant is not required to use this form. This collection of information is necessary to allow the Department to conduct investigations into complaints of discrimination filed by or on behalf of, individuals who allege their rights under one or more Federal laws enforced by CRC have been violated. In addition, Section 38.73 requires the Governor or the LWDA grant recipient to develop and publish (on behalf of its service providers) complaint processing procedures.

**29 CFR Sections 38.34 (Recipients' obligations to disseminate equal opportunity notice), 38.35 (Equal opportunity notice/poster), 38.36 (Recipients' obligations to publish equal opportunity notice), and 38.38 (Publications, broadcasts, and other communications)**

Sections 38.29 through 38.31 and 38.34 through 38.36 contain the requirement that recipients notify a wide variety of interested persons (i.e. applicants for and participants in their programs as well as employment applicants and employees of their programs) of their rights under Section 188, including their right to file a discrimination complaint. Sections 38.34 and 38.38 require recipients to indicate that they are an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities," in recruitment brochures and other materials that are ordinarily distributed to staff, clients, or the public at large, to describe programs funded under Title I of WIOA or the requirements of participation by applicants and participants. This requirement is placed on recipients to ensure that all individuals, including applicants for program participation or employment, employees and program participants, are aware of the recipient's obligation to ensure nondiscrimination in its

programs and activities, and that they are aware of their right to be free from unlawful discrimination, and their right to file a complaint when they believe discrimination has occurred.

These notification requirements are common among many of the regulations to which recipients are subject. For example, DOJ's Title VI coordination regulation requires that each recipient post in reasonable numbers and places notices that describe the recipient's obligation not to discriminate. Recipients are further required by this section to incorporate into their manuals and other publications made available to the public notice of their equal opportunity obligations. Finally, this section requires recipients to include reference, in public broadcasts, to their equal opportunity obligation. 29 CFR Section 31, DOL's regulation implementing title VI, requires that each recipient make available information regarding the regulations applicable to the program under which the recipient receives federal financial assistance.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information collection contained in OMB Control No. 1225-0077 will be used for the following purposes:

- Assurances: submitted as part of each application for Federal financial assistance and are reviewed by the officials of the grant-making agency and CRC as part of the pre-award review and approval of the application. The assurance notifies the grant applicant that it is aware, and agrees as a condition of receipt of Federal financial assistance, to conform to the requirements of the assurance. Additionally, the assurances serve as a legal basis for Federal administrative or judicial enforcement action, if necessary;
- Data and information collection and maintenance:
  - Equal Opportunity Characteristics Data: Both DOL and the recipient have an obligation to ensure that federally financed programs and activities do not discriminate. The data collected by recipients is vital to this end. For recipients, the data can be important statistical evidence in responding to allegations of discrimination as well as conducting self-assessments. CRC analyzes this data as part of compliance reviews and complaint investigations. A complaint investigation differs from a compliance review in that a complaint investigation responds to specific, individual allegation(s) of discrimination while a compliance review looks at broader issues involving the potential for systemic discrimination. A compliance review may also assess a recipient's compliance with its administrative obligations. Given this difference, the use of data and statistical analysis play a different, but similarly important, role. With a compliance review, which generally focuses on systemic patterns and practices that affect a group or class of individuals, equal opportunity data is the starting point of the investigation. These data are analyzed to identify any significant statistical deviations from averages in rates of services or participation based upon a prohibited ground(s). Significant statistical deviations from the mean can be the

basis for an inference of discrimination. The next steps of the review involve analysis of records, interviews of staff and/or participants, observation of the environment, and facility inspections. These processes assist the reviewer in determining if inferences of discrimination are in fact real instances of discrimination, or explainable identified disparities. A complaint investigation, on the other hand, uses equal opportunity statistical data differently. Complaint investigations begin with a specific allegation(s) of individual discrimination filed with CRC or the recipient by a complainant. The investigation of such a complaint begins with an analysis of the facts surrounding the complainant's allegation. After this analysis has been completed, it is frequently necessary to obtain and analyze equal opportunity data of groups who are in situations similar to that of the complainant. By conducting analysis of this data, meaningful insight into the complainant's allegation may be obtained.

- o Complaint Log: Typically, the recipient's Equal Opportunity (EO) Officer maintains the complaint log. An entry is made for each complaint filed with the recipient at the time the complaint is filed. Upon request, the complaint log is electronically submitted to CRC for evaluation. The log is reviewed by CRC to determine the number and type of complaints, as well as the specific program or activity against which the complaint is filed. This evaluation has two purposes:
  - to identify any patterns of discrimination that may exist within a particular program; and
  - to ensure that individuals who file complaints with the recipient are afforded due process in that the complaint is processed in accordance with the Federal requirements for complaint processing procedures.
- o Complaint Form: To assist the Equal Opportunity Officer obtain information needed for the complaint log from a person alleging discrimination, the CRC developed a sample discrimination complaint form. Individuals use the form, or a similar one developed by the recipient, to allege discriminatory action.
- o Information Regarding Administrative Complaints: This information will be used by DOL to assess the compliance status of a grant applicant or a recipient.
- o Record retention requirement is a standard regulatory obligation of a Federal grant recipient. This requirement is necessary to ensure that the records, paper, film, or electronic documents, are available to respond to allegations of discrimination.
- Methods of Administration: The MOA described in this package, just as those approved by OMB in 1984 as part of State programs under the Job Training Partnership Act and outlined in 29 CFR Part 34.33, are designed to give the Secretary of Labor reasonable assurance that each continuing State program funded under Title I of WIA operates in a nondiscriminatory manner, and that the State and its programs, subgrantees and contractors are able to comply with their equal opportunity and nondiscrimination obligations.
- Complaint Information and Privacy Act Form: The Complaint Information and Privacy Act form (CIF) is used to determine timeliness, jurisdiction, and whether the complaint has apparent merit. In addition, the information may be needed to determine if the complaint should be forwarded to another investigative agency. The CIF is the starting

point for the investigation; and the information helps in determining the appropriate remedy.

- Notices of Rights: The notice requirement contained in Part 37 is designed to ensure that applicants for and participants in WIOA Title I financially-assisted programs, as well as applicants for employment and employees of those programs are aware of their rights under Section 188 of WIOA. These rights include the right to participate and work free of discrimination, as well as the ability to file a complaint if an applicant, participant, or employee believes their rights have been violated. Interested members of the public are also notified, because they represent, provide counsel to, and refer individuals to WIOA programs and activities. These persons can supplement the participants' understanding of their rights and assist them in securing those rights. Notice of rights under Section 188 is particularly important because the bases of prohibited discrimination go beyond those found in the four, cross-cutting civil rights laws that flow from any Federal financial assistance. These protected bases under WIOA are: race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, political affiliation or belief; and for beneficiaries only, citizenship or participation in WIOA Title I financially assisted programs. Recipients are required to incorporate equal opportunity taglines anytime they publish information regarding programs, services, and employment opportunities. Taglines must be included in publications, broadcasts, and other communications that indicate that the recipient is an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities." These taglines are designed to ensure that the general public is aware that such offerings are provided equally and that they will not be subjected to discrimination.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

29 CFR Parts 37 and 38 impose the obligation to collect equal opportunity data from applicants, program participants, and employees. These requirements lend themselves to the use of automated, electronic, mechanical or other technological collection techniques. CRC has made a concerted effort to use improved information technology to minimize the burden. Some examples of their usage of information technology follows:

- Complaint Information Form (Form DL-2014A) is available in an electronic form in English and 10 of the most common non-English languages in the US including Spanish, Arabic, French, Tagalog, Russian, Chinese, and Vietnamese. These forms are compliant with Section 508 of the Rehabilitation Act and are available for download. In addition to submitting the traditional written complaint, CRC has minimized the burden and capitalized on technology by allowing individuals to file complaints alleging discrimination using fillable forms that can be electronically submitted to CRC via email. Links to the Forms are available on CRC's homepage at [www.dol.gov/crc](http://www.dol.gov/crc).
- CRC has made available a Discrimination Complaint Log template in an electronic form

that is compliant with Section 508 of the Rehabilitation Act and downloadable. This effort by CRC reduces the burden on recipients to maintain and transmit complaint log data.

- With respect to the Nondiscrimination Plan (or Methods of Administration under the previous 1999 and 2015 rules), CRC allows States to submit the Nondiscrimination Plan or MOA and/or updates electronically.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.**

- Assurances: The assurance required by Sections 38.20 and 38.25 is unique to the nondiscrimination provisions of WIA and WIOA. There is no other agency that enforces these provisions.
- Data and information collection and maintenance: The data and information requirements of Sections 37 and 38 seek the same information as those of other long-standing civil rights regulations. Over the years, CRC has worked closely with the DOL grant agencies and others to eliminate duplication. For example, in the early 1980's CRC worked with the Job Corps in the design of their Mainstream Report to ensure that it had a reporting mechanism suitable for Equal Opportunity purposes. The final rule adopts a new category for data collection of limited English proficiency and preferred language. Pursuant to existing reporting requirements for DOL's Employment and Training Administration (ETA), programs receiving funding from WIOA formula grant programs are already collecting information from participants in core, intensive, and training services regarding limited English proficiency. Currently, collection of this information is mandated for anyone receiving intensive or training services, and optional for those who receive core services.<sup>5</sup> Thus, this the collection of limited English proficiency data is only a new requirement for WIOA Title I-financially assisted programs that are not WIA formula grant programs, such as unemployment insurance programs. (While the terminology of "core," "intensive," and "training" change with the introduction of WIOA, the collection requirements remain the same.) Moreover, the final rule allows recipients two years to begin collecting data on limited English proficiency and preferred language.

With respect to data and information collection of Unemployment Insurance (UI) registrants and claimants, the reports required by DOL's Employment and Training Administration (ETA), which administers the UI program, generally meet CRC's needs, except data collected regarding limited English proficiency and preferred language. In 2014, CRC worked with ETA to re-issue an Equal Opportunity recordkeeping and reporting directive, thus ensuring that CRC could effectively monitor the Equal Opportunity compliance of State UI programs.

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<sup>5</sup> TEGL, Workforce Investment Act (WIA) Performance Reporting System, August 23, 2013 available at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=4470](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4470).



Complaint log and information regarding administrative complaints: The information required by these obligations is unique to Section 188 and part 38. Information provided by complainants cannot be obtained from any other source.

- - o Equal Opportunity Characteristics Data: Both DOL and the recipient have an obligation to ensure that federally financed programs and activities do not discriminate. The data collected by recipients is vital to this end. For recipients, the data can be important statistical evidence in responding to allegations of discrimination as well as conducting self-assessments. CRC analyzes this data as part of compliance reviews and complaint investigations. A complaint investigation differs from a compliance review in that a complaint investigation responds to specific, individual allegation(s) of discrimination while a compliance review looks at broader issues involving the potential for systemic discrimination. A compliance review may also assess a recipient's compliance with its administrative obligations. Given this difference, the use of data and statistical analysis play a different, but similarly important, role. With a compliance review, which generally focuses on systemic patterns and practices that affect a group or class of individuals, equal opportunity data is the starting point of the investigation. These data are analyzed to identify any significant statistical deviations from averages in rates of services or participation based upon a prohibited ground(s). Significant statistical deviations from the mean can be the basis for an inference of discrimination. The next steps of the review involve analysis of records, interviews of staff and/or participants, observation of the environment, and facility inspections. These processes assist the reviewer in determining if inferences of discrimination are in fact real instances of discrimination, or explainable identified disparities. A complaint investigation, on the other hand, uses equal opportunity statistical data differently. Complaint investigations begin with a specific allegation(s) of individual discrimination filed with CRC or the recipient by a complainant. The investigation of such a complaint begins with an analysis of the facts surrounding the complainant's allegation. After this analysis has been completed, it is frequently necessary to obtain and analyze equal opportunity data of groups who are in situations similar to that of the complainant. By conducting analysis of this data, meaningful insight into the complainant's allegation may be obtained.
  - o Complaint Log: Typically, the recipient's Equal Opportunity (EO) Officer maintains the complaint log. An entry is made for each complaint filed with the recipient at the time the complaint is filed. Upon request, the complaint log is electronically submitted to CRC for evaluation. The log is reviewed by CRC to determine the number and type of complaints, as well as the specific program or activity against which the complaint is filed. This evaluation has two purposes:
    - to identify any patterns of discrimination that may exist within a particular program; and
    - to ensure that individuals who file complaints with the recipient are afforded due process in that the complaint is processed in accordance with the Federal requirements for complaint processing procedures.

- o Complaint Form: To assist the Equal Opportunity Officer obtain information needed for the complaint log from a person alleging discrimination, the CRC developed a sample discrimination complaint form. Individuals use the form, or a similar one developed by the recipient, to allege discriminatory action.
  - o Information Regarding Administrative Complaints: This information will be used by DOL to assess the compliance status of a grant applicant or a recipient.
  - o Record retention requirement is a standard regulatory obligation of a Federal grant recipient. This requirement is necessary to ensure that the records, paper, film, or electronic documents, are available to respond to allegations of discrimination.
- Methods of Administration: The MOA described in this package, just as those approved by OMB in 1984 as part of State programs under the Job Training Partnership Act and outlined in 29 CFR Part 34.33, are designed to give the Secretary of Labor reasonable assurance that each continuing State program funded under Title I of WIOA operates in a nondiscriminatory manner, and that the State and its programs, subgrantees and contractors are able to comply with their equal opportunity and nondiscrimination obligations.
- Complaint Information and Privacy Act Form: The Complaint Information and Privacy Act form (CIF) is used to determine timeliness, jurisdiction, and whether the complaint has apparent merit. In addition, the information may be needed to determine if the complaint should be forwarded to another investigative agency. The CIF is the starting point for the investigation; and the information helps in determining the appropriate remedy.
- Notices of Rights: The notice requirement contained in Part 37 is designed to ensure that applicants for and participants in WIOA Title I financially-assisted programs, as well as applicants for employment and employees of those programs are aware of their rights under Section 188 of WIOA. These rights include the right to participate and work free of discrimination, as well as the ability to file a complaint if an applicant, participant, or employee believes their rights have been violated. Interested members of the public are also notified, because they represent, provide counsel to, and refer individuals to WIOA programs and activities. These persons can supplement the participants' understanding of their rights and assist them in securing those rights. Notice of rights under Section 188 is particularly important because the bases of prohibited discrimination go beyond those found in the four, cross-cutting civil rights laws that flow from any Federal financial assistance. These protected bases under WIOA are: race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, political affiliation or belief; and for beneficiaries only, citizenship or participation in WIOA Title I financially assisted programs. Recipients are required to incorporate equal opportunity taglines anytime they publish information regarding programs, services, and employment opportunities. Taglines must be included in publications, broadcasts, and other communications that indicate that the recipient is an "equal opportunity employer/program," and that "auxiliary aids and services are available upon request to individuals with disabilities." These taglines are designed to ensure that the general public is aware that such offerings are provided equally and that they will not be subjected to discrimination.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This collection will not impact small business or small entities in any significant way. Recipients that are small businesses or other small entities need only keep EO data and records regarding their own WIOA and Title I applicants and registrants. The information collection and reporting burden lies mostly with States which have the obligation to monitor compliance State Program-wide, as well as with counties, cities, and national recipients of financial assistance under Title I of WIOA with individual complainants. However, in order to minimize burden on governmental entities, the Department makes available on its website a MOA Analysis Checklist, a template for the complaint log and a sample discrimination complaint form (see Item 3 in this supporting statement).

**6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

- Assurance: The assurance serves a number of purposes. First, the assurance provides grant applicants and recipients with full and complete information concerning their compliance obligations. Second, the assurance ensures DOL's ability to enforce Section 188 of WIOA and proposed 29 CFR parts 37 and 38. Lastly, the assurance is a pre-award protection for the government that it is not awarding financial assistance to an entity that discriminates or does not have the appropriate mechanisms in place to ensure nondiscrimination and equal opportunity. The assurance is required once for each application. The information cannot be collected less frequently.
- Data and Information Collection and Maintenance:
  - Demographic Data: This collection of information cannot be collected less frequently. The applicant, participants or employee provides data once. A recipient is requested to submit data only when CRC has scheduled a compliance review of that recipient. Failure to collect this information would render CRC unable to assess the programs and activities it funds to determine the extent to which the programs were operating in compliance with their obligation not to discriminate.
  - Complaint log: This obligation requires that the recipient record certain information about complaints filed against it. An entry for each item of information is made a single time. It cannot be done less frequently. CRC's evaluation of the information contained on the complaint log assists in determining if the recipient has complied with its obligation to process complaints filed against it and, more importantly, to identify potential areas of discrimination. Similarly, the filing of complaint information with an agency cannot be done less frequently than once.
  - Information regarding administrative complaints, etc.: This information is gathered and analyzed as an aid in determining whether a grant applicant can conform, or a recipient is conforming, to the requirements of Section 188 and

parts 37 and 38.

- **Nondiscrimination Plan**: Parts 38 require that each State adopt a Nondiscrimination Plan, update it as needed, and every two years re-certify its accuracy. CRC believes that by establishing a two year review cycle, States will make the Nondiscrimination Plan or MOA a living document that serves as a guide for those at the State and local level who have direct equal opportunity responsibilities. Less frequent updates would negatively affect the State's ability to prevent, discover, and remedy discrimination in State Programs.
- **Complaint Information and Privacy Act Form**: The CIF is completed a single time for each complaint. It cannot be done fewer times. The CIF contains information vital to CRC's determination of jurisdiction, as well as provides the information that allows CRC to conduct its investigation into the complaint.
- **Notices**: Failure to provide notice would have a profoundly negative effect upon the knowledge that applicants, participants, and employees need to ensure that their rights are protected. The notice describes the fact that they are protected from discrimination, the bases of discrimination (which, as previously stated, are more expansive than those found in the four cross-cutting civil rights laws), and it provides information about what to do if they believe they have been discriminated against. Further, the election not to inform the general public that programs, services, and employment opportunities are provided in a nondiscriminatory manner would have a chilling effect in many communities across the country.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data**

**security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances regarding this information collection.

**8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The Department published a Federal Register notice on 11/12/2021 (85 FR 71946) to solicit comments regarding to this information collection. No comments were received.

**9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.**

Neither payments nor gifts are provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

The Complaint Information Form provides respondents a notice indicating their rights provided by the Privacy Act. Additionally, the information submitted in the Form is managed in accordance with the Department's Systems of Records titled DOL/OASAM-22 (83 FR 25766). Parts 38 also requires that certain complainant information be kept confidential, in part to prevent retaliation<sup>6</sup>. Moreover, Section 38.41 requires recipients to take specific steps to ensure that medical and disability-related information remains confidential.

<sup>6</sup> 29 CFR Sections 38.37, 38.41 38.45

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

Requirements applicable to States and recipients do not entail the collection of sensitive information. Depending on the level of detail a complainant wishes to provide, some information on the complaint forms could be considered sensitive (e.g., information regarding any actual or perceived disability or religious affiliation); however, such information is needed in order to evaluate a complaint.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

#### **Estimated Annualized Respondent Cost and Hour Burden**

- Assurance: ETA has incorporated the required assurance into all of its grants and

agreements. The requirement to include assurances in grant agreements has been approved under OMB Control Number 1205-0398. Therefore, the hours associated with the assurance relating to ETA’s grant agreements and subsequent agreements by the primary recipient and other sub-recipients do not result in any additional burden hours.

- **Data and Information Collection and Maintenance:**
  - **Equal Opportunity (EO) data collection and maintenance:** Each of the 34,459 recipients is required to collect and maintain Equal Opportunity demographic and disability data for specified applicants for benefits and services, as well as for certain applicants for employment and employees. The number of responses is estimated based on the number of applicants for and/or participants in WIOA Title I programs and the number of applicants for employment and employees in the administration of, or in connection with WIOA Title I programs. The burden hour estimate below is based upon a sample of state recipients. CRC estimates that each applicant requires 20 seconds to record race/ethnicity, sex, age, limited English proficiency, preferred language and/or disability status.

<b>Equal Opportunity Data Collection Burden Hours (Table 1)</b>			
<b>Number of Respondents (1)</b>	<b>Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2)=(3)</b>	<b>Average Burden Hrs. &amp; Cost Per Response<sup>7</sup> (4)</b>
56,355,850	20	1,127,117,000	313,088

- **Collection of employment data:** Recipients already collect and maintain race/ethnicity, sex, age, and disability data for employees and applicants for employment as a result of Title VII of the Civil Rights Act of 1964, as amended and State fair employment practice laws. Therefore, there is no additional burden associated with this requirement to collect employment data other than as already displayed in the table above.
- **Data Maintenance:** CRC recognizes that the three-year record retention requirement imposed by Section 38 is a paperwork burden. However, DOL’s ETA program regulations applicable to program and financial records impose the same three-year retention requirement on recipients. Data is stored and maintained electronically. Any additional storage required by Section 38 is a minimal time and dollar cost and no burden hour estimate is provided.
- **Complaint log:** The table below illustrates CRC’s burden estimate for maintaining a complaint log. This estimate is based upon information provided by State Workforce Agencies and USDOL-operated Job Corps Centers on the number of complaints received annually.

<sup>7</sup> The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures for a GS-13 (Step 10) federal employee in CY2020 ([https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf)). DOL staff estimates that this salary is representative of the average vendor’s employee involvement and compensation for each response. The hourly estimates for salary plus benefits are \$63.95/hour.

<b>Complaint Log Burden Hours (Table 2)</b>		
<b>Number of Complaints Filed (Annual) (1)</b>	<b>Average Time Burden Per Response (minutes) (2)</b>	<b>Total Burden Hours (Annual) (1)*(2)=(3)</b>
34,459	3	1,723

- o Complaint form for Agency: The Department estimates that persons who file a complaint with an agency spend an hour per response, the same as filing a complaint with the CRC.

<b>Complaint Information Burden Hours (Table 3)</b>		
<b>Number of Complaints Filed (Annual) (1)</b>	<b>Average Time Burden Per Response (hours) (2)</b>	<b>Total Burden Hours (Annual) (1)*(2)=(3)</b>
34,459	1	34,459

- Nondiscrimination Plan: Table 4 summarizes the hour burden associated with the Nondiscrimination Plan requirement contained in part 38 (or the MOA under the 1999 and 2015 rules). This requirement involves two separate obligations:
  - o This requirement appears in Part 38.55(b). CRC estimates that 1/3 of the States will have changes to the Nondiscrimination Plan that will require updating, and that each update will take 6 hours. Therefore, each State, over the three-year approval of this paperwork package, will average submitting one revision to its Nondiscrimination Plan
  - o The regulations implementing the nondiscrimination and equal opportunity provisions of the WIOA require that the governor's (or the governor's designee) review. If necessary, revision of the State's Nondiscrimination Plan (or MOA) and the manner in which it has been implemented, every two years from the date on which the State's initial Nondiscrimination Plan (or MOA) was submitted to CRC. If changes to the Nondiscrimination Plan or MOA are needed, the governor is required to make the appropriate changes and submit them in writing to the CRC Director. If changes are not needed, the Governor is required to certify to the CRC Director in writing that the previously submitted Nondiscrimination Plan or MOA continues in effect. About half of the States and territories conduct the biannual review each year requiring about 16 hours to complete.

<b>Obligation</b>	<b>Nondiscrimination Plan Burden Hours (Table 4)</b>		
	<b>Number of Complaints Filed (Annual) (1)</b>	<b>Average Time Burden Per Response (hours) (2)</b>	<b>Total Burden Hours (Annual) (1)*(2)=(3)</b>
Update of WIA Nondiscrimination Plan	18	6	108



Biennial Nondiscrimination Plan Review	27	16	432
	45		540

- Complaint Information and Privacy Act Form: Table 5 illustrates the burden hours associated with the complainant’s completion of the CIF. Each year, CRC receives approximately 640 CIFs. CRC estimates that complainants take 1 hour to complete the CIF.

<b>Complaint Information and Privacy Act Form (Table 5)</b>		
<b>Number of Complaints Filed (Annual) (1)</b>	<b>Average Time Burden Per Response (hours) (2)</b>	<b>Total Burden Hours (Annual) (1)*(2)=(3)</b>
640	1	640

- Notices: The Federal government provides the disclosure information in the notice, which generates no burden for this activity. Respondents come from various levels in the business and professional services industry (recipients) or from the general population (complainants). For purposes of this information collection, the Department has estimated the value of respondent time by using median hourly wage rate from the Bureau of Labor Statistics’ Occupational Employment Statistics (OES) program for private, State and local employees in management occupations<sup>8</sup>. This analysis uses the wages of managers. This is based on the assumption that many respondents will be managers. The Department is aware that some respondents may be administrative support workers, but by using the higher wage rate of managers<sup>9</sup>, we account for both. The Department adjusted the wage rates using a loaded wage factor to reflect total compensation, which includes health and retirement benefits. For these State and local sectors, we used a loaded wage factor of 1.34, which represents the ratio of average total compensation to average wages<sup>10</sup>. The Department then multiplied the loaded mean wage factor by the manager wage rate to calculate an hourly compensation rate.  $\$59.15 \times 1.618 = \$95.71$

348,787 hours x \$65.45 = \$22,828,109.

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<sup>8</sup> Department of Labor, Bureau of Labor Statistics, May 2019 National Occupational Employment and Wage Estimates (updated March 2020), [http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)

<sup>9</sup> Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics (May 2019), 11-1021 General and Operations Managers, <http://www.bls.gov/oes/current/oes111021.htm>.

<sup>10</sup> Discerning the number of State and local-sector employees and private-sector employees at the local level is difficult. Therefore, the Department used the State and local-sector loaded wage factor (1.618) instead of the private-sector wage factor (1.424) for all the employees to avoid underestimating the costs. For the State and local multiplier see Department of Labor, Bureau of Labor Statistics, Employer Cost and Employee Compensation (December 2020), <http://www.bls.gov/news.release/ecec.nr0.htm>.

<b>Burden Summary (Table 6)</b>					
<b>Activity</b>	<b>Number of Respondents (1)</b>	<b>Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2)=(3)</b>	<b>Average Burden Hrs. &amp; Cost Per Response<sup>11</sup> (4)</b>	<b>Total Burden Hours &amp; Total Cost (3)*(4)=(5)</b>
<b>Grantee Recordkeeping and Reporting Requirements</b>					
Assurances	34,459	N/A	N/A	0 hrs.; \$0	0 hrs.; \$0
Data/Information Collection and Maintenance	34,459	1,635	56,355,850	20 seconds (0.00558272 hours) \$0.53	313,088 \$30,041,455
Complaint Log	34,459	1	34,459	0.05 hrs.; \$4.79	1,723 hrs.; \$164,904
<b>Sub-total for Grantee Recordkeeping</b>			56,390,309		314,811 hrs.; \$477,996
<b>Nondiscrimination Plan</b>					
Updated on WIOA Nondiscrimination Plan	18	1	18	6 hrs.; \$574	108 hrs.; \$10,332
Biennial Update	27	1	27	16 hrs.; \$1,531	432 hrs.; \$41,337
<b>Sub-total for Nondiscrimination Plan</b>	45		45		540 hrs.; \$51,683
<b>Discrimination Complaints</b>					
Complaints to Agencies	34,459	1	34,459	1 hr.; \$95.71	34,459 hrs.; \$3,298,071
Complaint Information Form (DL-1-2014a)	640	1	640	1 hr.; \$95.71	640 hrs.; \$61,254
<b>Sub-total for Discrimination Complaints</b>	35,099		35,099	1 hr.; \$95.71	35,099 hrs.;
<b>TOTAL</b>	69,603		56,425,453		350,450 hrs.; \$33,541,570

<sup>11</sup> The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures for a GS-13 (Step 10) federal employee in CY2020 ([https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf)). DOL staff estimates that this salary is representative of the average vendor's employee involvement and compensation for each response. The hourly estimates for salary plus benefits are \$63.95/hour.

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

- **The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

The Department does not foresee any capital or start-up costs related to this information collection nor does the Department foresee any requisite purchase of equipment or contracted services outside of normal business activities.

**14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.**

Federal costs for the ICR are based on a GS12-Step 4 in the Washington, DC area earning \$45.96 per hour (fully loaded \$74.36 after 1.618 factor adjustment for benefits and overhead) performing the work. See [Salary Table \(2021\)](#) Office of Personnel Management.

$\$45.96 * 1.618 = \$74.36$

- Assurances: CRC estimates de minimis cost to the federal government to review assurances, as each applicant for financial assistance under Title I of WIOA includes in its application for financial assistance standard assurance language that it will comply fully with the requirements of Section 188 of WIOA and its implementing regulation.
- Equal Opportunity Data and Information Collection and Maintenance: CRC estimates that the total cost to the federal government of this requirement is \$20,518.40 per year. This estimate is based upon the number of compliance reviews to be conducted each year (16) multiplied by the amount of time required to review the data (20 hours), and further multiplied by the average hourly wage of the individual reviewing the Equal Opportunity data. 16 reviews x 20 hours x \$74.36 = \$23,795.
  - o Complaint log: CRC estimates that the total cost to the federal government of this requirement is \$5,647 per year. This estimate is based upon the number of complaint logs to be reviewed each year (181) multiplied by the amount of time required to review each complaint log (30 minutes), and further multiplied by the average wage of the individual reviewing the complaint log. 181 reviews x 0.5 hours x \$74.36 = \$6,730.
  - o Review of notification of administrative complaints: CRC estimates that the total cost to the federal government of this requirement is \$64.12 per year. This estimate is based upon the number of notifications estimated to be reviewed each year (2) multiplied by the amount of time required to review each notification (30 minutes), and further multiplied by the average wage of the individual reviewing the notification. 2 reviews x 0.5 hours x \$74.36 = \$74 (rounded).

Review Activity	Annual Instances	Time per Activity (Hours)	Total Time (Hours)	Hourly Rate	Total Federal Time Value
Equal Opportunity Data	16	20	320	\$74.36	\$23,795
Complaint log	181	0.5	90.5	\$74.36	\$6,730
Notification of administrative complaints	2	0.5	1	\$74.36	\$74
<b>Unduplicated Totals</b>	199		411.5		\$30,599

- Nondiscrimination Plan: The Department estimates that the total cost to the federal government of this requirement is \$40,154 per year. This estimate is based upon the number of Nondiscrimination Plans or MOAs to be reviewed per annum (27) multiplied by the amount of time required to review each Nondiscrimination Plan or MOA (20 hours), and further multiplied by the average hourly wage of the individual reviewing the Nondiscrimination Plan or MOA. 27 Nondiscrimination Plan Reviews x 20 hours x \$74.36 = \$40,154.

- **Complaint Information and Privacy Act Form:** The Department estimates that the total cost to the federal government of this requirement is \$95,181 per year. This estimate is based upon the number of forms to be reviewed each year (640) multiplied by the amount of time required to review each form (2 hours), and further multiplied by the average wage of the individual reviewing the form. 640 reviews x 2 hours x \$74.36 = \$95,181
- **Notices:** there are no costs to the federal government related to this requirement.

Review Activity	Annual Frequency	Time per Activity (Hours)	Total Time (Hours)	Hourly Rate	Total Annual Federal Cost
Assurance	De Minimis	De Minimis	De Minimis	\$62.40	De Minimis
Equal Opportunity Data and Information Collection and Maintenance	199		411.5	\$74.36	\$30,599
Nondiscrimination Plan	27	20	540	\$74.36	\$40,154
Complaint Information and Privacy Act Form	640	2	1,280	\$74.36	\$95,181
Notices	0	0	0	\$0	\$0.00
<b>TOTAL COST</b>	866		2,231.5	\$64.12	\$165,934

Total Annualized Cost to the Federal Government: \$165,934.

**15. Explain the reasons for any program changes or adjustments.**

There are no changes to reporting or recordkeeping requirements in this information collection request.

**16. For collections of information whose results will be published, outline plans for tabulations, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

There are no tabulating, statistical, tabulating analysis, or publication plans for the collection of information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

Not applicable. The CRC will display the expiration date of this information collection.

**18. Explain each exception to the certification statement.**

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.**