

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

This ICR requests a revision to this information collection.

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 Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which contains the statute's nondiscrimination and equal opportunity provisions, and its implementing regulations at 29 CFR Part 38. 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 1973¹, as amended, and DOL's implementing regulations at 29 CFR Part 32;
- The Age Discrimination Act of 1972², as amended, and DOL's implementing regulations at 29 CFR Part 35;
- Title IX of the Education Amendments of 1972³, as amended, and DOL's implementing regulations at 29 CFR Part 36; and
- Title VI of the Civil Rights Act of 1964⁴, as amended, and DOL's implementing regulations at 29 CFR Part 31.

The paperwork burdens imposed by 29 CFR Part 38 and the respective intersecting civil rights laws are:

a. 29 CFR Section 38.25 (Assurances)

This regulatory section requires each applicant for financial assistance under Title I of WIOA to include in its application for financial assistance standard assurance language, set forth in the section itself, affirming that the recipient will comply fully with the requirements of WIOA

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

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

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

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

Section 188, the intersecting civil rights laws listed above, and their corresponding implementing regulations.

In addition, the following Federal nondiscrimination regulations that currently apply to DOL assisted programs and activities require assurances of nondiscrimination from those entities that seek to be awarded financial assistance:

- Department of Justice (DOJ) Title VI coordinating regulations at 28 CFR Sections 42.406(d) and 42.407(b);
- DOJ's Section 504 coordinating regulations at 28 CFR Section 41.5(a)(2);
- DOL's Title VI regulations at 29 CFR Section 31.6;
- DOL's Section 504 regulations at 29 CFR Section 32.5;
- DOL's Age Act regulations at 29 CFR Section 35.23; and
- DOL's Title IX regulations at 29 CFR Section 36.115.

To the extent that an entity is already required to provide the assurance set forth in 29 CFR 38.25, CRC considers that assurance to satisfy the requirements of the other regulations listed above.

b. 29 CFR Sections 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:

- Section 38.41(b) requires 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 WIOA Section 188 and its implementing regulations at 29 CFR Part 38. These requirements include categories of demographic data to be collected regarding specific classifications of individuals. These demographic data categories include race/ethnicity, sex, age, disability status (where known), limited English proficiency (LEP), and preferred language.⁵ Collection of the data required by 29 CFR 38.41(b) is necessary for State Governors and/or CRC to conduct statistical or other quantifiable analyses to identify significant differences in participation by members of protected groups in programs, activities, or employment, and to investigate such differences to determine whether they are caused by discrimination;
- Section 38.41(c) requires recipients to maintain, and to submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on any of the grounds prohibited by Section 188 of WIOA and its implementing regulations. CRC has developed a discrimination complaint form that complainants can use to submit to recipients. Use of the form is optional and recipients are free to modify it to meet their

⁵ Data on LEP status and preferred language are not required to be collected from employees and applicants for employment.

specific needs. CRC has also developed a template log that recipients may use to track complaints;

- Section 38.42(a) requires 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 WIOA Section 188 or its implementing regulations;
- Section 38.42(b) requires each recipient to provide the following information as part of a biennial compliance review or other monitoring activity:
 - the name of any Federal agency (other than DOL) that conducted a civil rights compliance review or complaint investigation and that found the grant applicant or 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 protected basis and that were filed against it during the two years before the grant application was filed or the compliance review or monitoring activity took place.
- Section 38.43 imposes specific recordkeeping requirements on recipients. Records regarding individuals in particular classifications (as defined in 29 CFR 38.4) must be retained for not less than three years from the close of the applicable program year. Where a discrimination complaint has been filed or a compliance review initiated, the recipient must maintain related records for a period of not less than three years from the date of final action related to the resolution of the complaint or compliance review. The three-year record retention requirement is consistent with standard Federal administrative requirements and established DOL audit regulations. *See, e.g.*, 2 CFR 200.334.

Other Federal civil rights regulations that currently apply to all DOL financially assisted programs and activities, and that currently contain requirements similar to those above, are discussed below.

Regulations that require recipients to collect and maintain data and, where necessary / appropriate, provide it to CRC or DOL, are:

- 28 CFR Sections 42.406(a) and (b) and 42.410 (DOJ Title VI coordinating regulations);
- 45 CFR Sections 90.42(a) and 90.45 (Department of Health and Human Services Age Discrimination Act coordinating regulations);
- 29 CFR Section 31.5(b) (DOL Title VI regulations);
- 29 CFR Section 32.49 (DOL Section 504 regulations); and
- 29 CFR Section 35.22 (DOL Age Discrimination Act regulations)

28 CFR Section 42.406(d) of DOJ's Title VI coordinating regulations require that applicants and recipients promptly notify agencies enforcing Title VI of any lawsuits alleging discrimination on the basis of race, color, or national origin, and further requires that each applicant include in its application information about any other pending applications for Federal assistance; any other Federal assistance that is being received at the time of the application; and any civil rights compliance reviews conducted during the two years before the application.

c. 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 as defined in 29 CFR 38.4(kkk), including ensuring compliance with the nondiscrimination and equal opportunity provisions of WIOA Section 188 and its implementing regulations at 29 CFR Part 38.

Each governor has established a Nondiscrimination Plan (NDP) for State Programs under 29 CFR Section 38.54. The NDP describes how the governor will ensure that all covered recipients are complying (and will continue to comply) with WIOA Section 188 and its implementing regulations.

Every two years after the initial NDP submission as described in 29 CFR Section 38.55, the governor must review the NDP and the manner in which it has been implemented to determine whether any changes are necessary in order for the state to comply fully and effectively with the nondiscrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38. If changes are needed, the changes must be made and submitted in writing to the CRC Director pursuant to Section 38.55. If no changes are required, the governor must certify to CRC, in writing, that the State’s current Nondiscrimination Plan remains in effect per 29 CFR Section 38.55(c)(2). In addition, if updates to the NDP are necessary at any other point, the governor must make those updates and submit them in writing to the CRC Director at the time the updates are made.

DOL’s Title VI regulations at 29 CFR Section 31.6(b)(2) require that every application by a state or state agency for continuing Federal financial assistance provide “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.” With regard to the latter requirement, however, 29 CFR 38.3(a) states, in pertinent part, that compliance with the requirements of 29 CFR Part 38 will satisfy any obligation of the recipient to comply with 29 CFR Part 31. Therefore, submission of an NDP pursuant to Part 38 will satisfy a recipient’s obligation to comply with 29 CFR 31.6(b)(2).

d. 29 CFR Sections 38.69 (Complaint filing), 38.70 (Required contents of complaint), 38.72 (Required elements of a recipient’s complaint processing procedures), 38.73 (Responsibility for developing and publishing complaint processing procedures for service providers), and 38.74 (Recipient’s responsibilities when it determines it has no jurisdiction over a complaint)

Section 38.69 requires that each discrimination complaint filed with CRC or a recipient be in writing. Section 38.70 specifies the information that each complaint must contain. Section

38.70(e) allows complainants to file a complaint by completing and submitting CRC's Complaint Information and Privacy Act Consent Form (CIF) (Form DL-2014A). A complainant is not required to use the CIF to file a complaint. However, if a complaint is filed with CRC without a Privacy Act consent, CRC will request that the complainant sign and submit this form to indicate whether they consent to the disclosure of their identity to the respondent as part of the complaint investigation.

This collection of information is necessary to allow the Department and recipients to conduct investigations into complaints of discrimination filed by, or on behalf of, individuals who allege that their rights, or the rights of any specific class of individuals, under one or more Federal laws enforced by CRC have been violated.

e. 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), 38.38 (Publications, broadcasts, and other communications), and 38.9(g)(3) (Babel notice)

Sections 34 through 38.36 contain the requirement that recipients⁶—with the exception of service providers as defined in 29 CFR 38.4(ggg)—notify a wide variety of interested persons and entities (*e.g.*, applicants for and participants in their programs; applicants for employment and employees; unions or professional organizations holding collective bargaining or professional agreements with the recipients; subrecipients; and members of the public) that the recipients do not discriminate on any prohibited basis, and about how to file a discrimination complaint. The required language of the notice/poster is set forth in Section 38.35. Section 38.34(b) requires that recipients take appropriate steps to ensure that communications of the information in the notice with individuals with disabilities are as effective as communications with others, and that the notice is provided in appropriate languages to ensure meaningful access for LEP individuals as described in Section 38.9. Section 38.36 lists minimum locations for posting and methods by which the notice/poster must be disseminated.

Section 38.38(a) requires 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 financially assisted under Title I of WIOA or the requirements for participation by recipients and participants. The obligation to include these notices (informally known as “taglines”) is placed on recipients to ensure that all individuals, including applicants for program participation or employment, employees and program participants, and members of the public are aware of the recipient's obligation to ensure nondiscrimination in its programs and activities, and that such individuals are aware of their rights to be free from unlawful discrimination and to file a complaint when they believe discrimination has occurred.

⁶ Pursuant to Section 38.37, either the Governor or the Local Workforce Development Area grant recipient will be responsible for meeting the notice requirements of Sections 38.34 and 38.35 with respect to such entities.

These notification requirements are common among many of the civil rights regulations to which recipients may also be subject. For example, DOJ's Title VI coordination regulations oblige Federal agencies to require that each recipient post in reasonable numbers and places notices that describe the recipient's obligation not to discriminate. *See* 28 CFR 42.405(c). As a result, DOL's regulations implementing Title VI at 29 CFR 31.5(d) require that each recipient make available information regarding those regulations and their applicability to the program under which the recipient receives federal financial assistance. Again, however, compliance with the notice requirements of the WIOA nondiscrimination regulations will satisfy the notice requirements of 29 CFR Part 31.

Recipients are further required by 28 CFR 42.405(c) to incorporate notice of their equal opportunity obligations in their handbooks, manuals, pamphlets and other material which are ordinarily distributed to the public to describe the federally assisted programs and the requirements for participation by recipients and beneficiaries.

29 CFR Section 38.38(b) requires recipients to include reference, in publications and broadcasts in the news media, to their equal opportunity obligations, including the availability of auxiliary aids and services for individuals with disabilities. A similar obligation appears in 28 CFR 42.405(c).

Finally, 29 CFR Section 38.9(g)(3) requires recipients to include Babel notices in multiple languages, informing LEP individuals that language assistance services are available free of charge, in all communications of vital information. This requirement is imposed in order for LEP individuals to be effectively notified about, and have meaningful access to, covered programs and services.

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 as part of the pre-award review and approval of the application. The assurance requires the grant applicant to certify that it is aware of, and agrees as a condition of receipt of Federal financial assistance to conform to, the requirements of applicable Federal nondiscrimination law. Additionally, the assurance, which constitutes a contractual obligation, serves 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 assisted 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. States are required to analyze this data on an annual basis, and, where the data indicate significant differences in participation in the programs, activities, or employment based on race/ethnicity, sex, limited English proficiency, preferred language, age, and disability status, conduct an investigation in order to determine whether these differences appear to be caused by discrimination.⁷ Similarly, CRC may analyze 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 allegation(s) of discrimination made by individuals or entities outside of CRC, while a compliance review is initiated by CRC based on such factors as the results of routine program monitoring (whether by CRC itself or by other Departmental or Federal agencies), or the nature or frequency of complaints. Either a complaint investigation or a compliance review may examine broader issues involving the potential for systemic discrimination focusing on systemic patterns and practices that affect a group or class of protected individuals. In these cases, equal opportunity data may be analyzed to identify any significant statistical deviations from averages in rates of services, participation, or employment based upon one or more prohibited ground(s). Significant statistical deviations from the mean may be the basis for an inference of discrimination. If an investigation or compliance review discloses such significant deviations, the next steps of the review involve analysis of records, interviews of staff and/or applicants or participants, observation of the environment, and/or facility inspections. These processes assist the investigator or reviewer in determining if the evidence supports a conclusion that unlawful discrimination has taken place, or whether the identified disparities are attributable to lawful factors.

- 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 a recipient has received, as well as the specific program or activity against which complaints have been filed. This evaluation has two purposes:
 - to identify any potential patterns of discrimination that may exist within a particular program; and
 - to ensure that individuals who file complaints with the recipient have their complaints processed in accordance with the applicable (federal) complaint processing procedures.
- o Information Regarding Administrative Actions or Lawsuits: This information will be used by DOL to assess the compliance status of a grant applicant or a recipient.
- o Record retention is a standard regulatory obligation of a Federal grant recipient. This requirement is necessary to ensure that hard-copy or electronic records data, and other documentation are available to respond to allegations of discrimination.

⁷ 29 CFR 38.51(b).

- Nondiscrimination Plan (NDP): As described above in Section (A)(1)(c) of this Justification, the NDP is required by 29 CFR Section 38.54. It is similar to the Methods of Administration (MOA) that was originally approved by OMB in 1984 as part of State programs under an early predecessor of WIOA, the Job Training Partnership Act, and outlined in the regulations implementing the nondiscrimination provisions of that Act at 29 CFR Section 34.33 (1993). Both the NDP and before it, the MOA, were designed to give the Secretary of Labor reasonable assurance that each continuing State program financially assisted under the relevant statute 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: As described above in Section (A)(1)(d) of this Justification, the Complaint Information and Privacy Act form (CIF), is used to assist the complainant in providing, and the recipient or CRC in obtaining, the information needed for a complaint. This information is used by the recipient or CRC 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 requirements contained in Part 38 are 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 apply, participate, and work free of discrimination, as well as the ability of an applicant, participant, or employee to file a complaint if they believe 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. In addition, members of the public who interact with such programs are protected from discrimination during those encounters, and have the right to file complaints if they believe they have been subjected to discrimination. Furthermore, the right to file complaints is not limited to those who believe they have personally been subjected to discrimination; the regulations explicitly provide that "any person . . . who believes that . . . any specific class of individuals" has been or is being discriminated or retaliated against may file a complaint. See 29 CFR 38.69(a).

Dissemination of the notice/poster as required by 29 CFR 38.34 through 38.36 is particularly important because the bases of discrimination prohibited by WIOA Section 188 go beyond those found in the four cross-cutting civil rights laws that apply to recipients of any Federal financial assistance. The protected bases under WIOA are race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or

activity.

Additionally, recipients are required to incorporate equal opportunity taglines in specific types of publications, broadcasts, and other communications regarding programs and services. The taglines state the recipient is an “equal opportunity employer/program” and that “auxiliary aids and services are available upon request to individuals with disabilities.” Similar information must be included where recipients publish or broadcast program information in the news media. These requirements are designed to ensure that the general public is aware that they will not be subjected to discrimination in the programs and services, and that individuals with disabilities will be provided with equally effective communications.

Finally, as described above in Section A(1)(e), Babel notices are used in order for LEP individuals to be effectively notified about, and have meaningful access to, covered programs and services.

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 38.41 imposes the obligation to collect equal opportunity data from specific categories of individuals, including applicants, program participants, and employees. The regulation further requires that the system and format in which the data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient’s compliance with section 188 of WIOA and 29 CFR Part 38. These requirements lend themselves to the use of electronic or other technological collection techniques; CRC’s contact with stakeholders has indicated that the vast majority of them collect the required data electronically.

With regard to other collections of information, CRC has made a concerted effort to use improved information technology to minimize the burdens. For example:

- CRC has made the CIF (Form DL-2014A) available on its website at <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/external/how-to-file-complaint> in an electronic, fillable format that that can be submitted to CRC via email. The form is compliant with Section 508 of the Rehabilitation Act and is available in English and ten of the most common languages in the US, including, for example, Spanish, Arabic, French, Tagalog, Russian, Chinese, and Vietnamese. CRC also processes complaints submitted via email by complainants who do not use the CIF.
- CRC encourages States to submit their Nondiscrimination Plans, or updates to their NDPs, 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 29 CFR Section 38.25 is unique to the nondiscrimination provisions of WIOA. There is no other agency that enforces these provisions. As noted above in Section A(1)(a) of this justification, to the extent that an entity is required to provide this assurance, CRC considers the assurance to satisfy the similar requirements of the six sets of other regulations listed.
- Data and information collection and maintenance: The WIOA nondiscrimination regulations explicitly state that “The [CRC] Director will not require submission of data that can be obtained from existing reporting requirements or sources, including those of other agencies, if the source is known and available to the Director.”

The data and information requirements of Part 38 sometimes seek data and information similar to those required by other long-standing civil rights regulations. Over the years, CRC has worked closely with DOL grant agencies and others to eliminate duplication, or to consider trying to conform these data and information requirements, when possible.

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. In addition, in 2020, CRC again worked with ETA to issue changes to a previous directive regarding providing services and information to protected groups, including LEP individuals. This directive advised state UI programs of their obligation to record the LEP status and preferred language of each LEP claimant/beneficiary.⁸

- Complaint log and complaint form: The information required by the Complaint Log requirement is unique to WIOA Section 188 and Part 38. The information obtained from complainants through the Complaint Form cannot be obtained from any other source.
- Information regarding administrative actions or lawsuits: As noted above in Section A(1)(b) of this justification, 28 CFR Section 42.406(d) of DOJ’s Title VI coordinating regulations imposes a similar requirement. To avoid duplication, CRC considers information submitted to it pursuant to the DOJ requirement to satisfy the requirement imposed by the WIOA nondiscrimination regulations.
- Nondiscrimination Plan: As described above in Section A(1)(c) of this justification, both DOJ’s Title VI coordination regulations at 28 CFR Part 42 and DOL’s Title VI implementing regulations at 29 CFR Part 31 require establishment of compliance programs similar to the NDP. To avoid duplication, CRC considers submission of an

⁸“ Unemployment Insurance Program Letter No. 02-16, Change 1, available at <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-02-16-change-1> (most recently visited June 24, 2023).

NDP pursuant to 29 CFR Part 38 to satisfy the requirements of 29 CFR Part 31.

- Notices of Rights: As discussed above in section A(2) of this justification, the bases of discrimination prohibited by WIOA Section 188 go beyond those found in the four cross-cutting civil rights laws that apply to recipients of any Federal financial assistance. In addition, unlike some other civil rights laws, WIOA Section 188 and its implementing regulations prohibit discrimination on most bases not just against applicants, participants, and employees, but “against any individual in the United States.” The requirement to disseminate the specific language of the notice/poster set forth in 29 CFR 38.35 ensures that interested persons and entities are informed of these unique requirements.

With regard to the Babel notice requirement, CRC is unaware of any other Federal laws that are applicable to recipients under WIOA Section 188 and that impose similar requirements. However, other Federal agencies have issued guidance documents recommending the use of similar notices. *See, e.g.*, U.S. Department of Justice, “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,” 67 Fed. Reg. 41455 (June 18, 2002), at 41465. The WIOA nondiscrimination regulations do not require the use of specific text in Babel notices, as long as the notices contain the required elements: translation into multiple languages, informing the reader that the communication contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages. Babel notices that satisfy these requirements are likely to comply with the recommendations in the guidance documents issued by other Federal agencies.

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 applicants and registrants for, participants and terminees in, and applicants for employment and employees with, their own WIOA Title I-financially assisted programs and activities. In addition, service providers, as defined at 29 CFR 38.4(ggg), need not develop or publish their own complaint processing procedures. Thus, the information collection and reporting burden lies mostly with States, which have the obligation to monitor compliance State Program-wide, as well as with Local Workforce Development Area grant recipients. Either the latter entities or State Governors must develop and publish complaint processing procedures on behalf of their service providers, as provided in the State’s NDP. The service providers must then follow those procedures. National recipients of financial assistance under Title I of WIOA must also monitor their subrecipients to ensure that they are complying with their equal opportunity obligations, explicitly including those related to data collection. *See* 29 CFR 38.31(b). However, to minimize burden on these entities, CRC makes available on its website a discrimination complaint form (see Item 3 in this supporting statement) and downloadable copies of the WIOA nondiscrimination notice/poster, translated into ten languages that stakeholders have reported are most frequently encountered. As previously mentioned, CRC has also partnered with DOL’s

ETA to issue guidance documents to assist covered recipients in understanding their information collection and reporting obligations.

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 29 CFR 38. Lastly, the assurance is a pre-award protection for the government to place appropriate mechanisms for enforcing nondiscrimination and equal opportunity requirements. The assurance is required once for each application. The information cannot be collected less frequently.
- Data and Information Collection and Maintenance:
 - Demographic Data: This information cannot be collected less frequently. In the vast majority of cases, the applicant, registrant, or employee provides data once. The only exceptions of which CRC is aware are cases in which an individual develops a disability, or transitions sex/gender, after they first provide the relevant data; in such instances, they may request that their data records be updated. A recipient is requested to submit data only when CRC requests it. Failure to collect this information would render CRC unable to determine whether a recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIOA and its implementing regulations.
 - 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 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, actions or lawsuits: 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 Part 38.
- Nondiscrimination Plan: Part 38 requires 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 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 10/13/2023 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). 29 CFR Sections 38.37, 38.41, and 38.45 also requires that certain complainant information be kept confidential, in part to prevent retaliation. Moreover, Section 38.41 requires recipients to take specific steps to ensure that medical and disability-related information remains confidential.

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 facts relevant to a claim of sexual harassment); 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 39,970 recipients (or Respondents) are required to collect and maintain Equal Opportunity demographic and disability data for specified applicants/registrants 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. CRC estimates that each applicant requires 20 seconds to record race/ethnicity, sex, age, limited English proficiency, preferred language and/or disability status for each response.

Equal Opportunity Data Collection Burden Hours (Table 1)			
Number of Respondents (1)	Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Total Burden Hours (4)
39,970	561.5	22,443,155	134,659 hours

- o Collection of employment data: Recipients already collect and maintain race/ethnicity, sex, 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.
- o Data Maintenance: CRC recognizes that the three-year record retention requirement imposed by 29 CFR part 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 Part 38 is a minimal time and dollar cost and no burden hour estimate is provided.
- o Complaint Log: The table below illustrates CRC’s burden estimate for maintaining a complaint log based on metrics internally maintained by CRC.

Complaint Log Burden Hours (Table 2)		
Number of Complaints Filed (Annual) (1)	Average Time Burden Per Response (minutes) (2)	Total Burden Hours (Annual) (1)*(2)=(3)
868	10 minutes	8,680 minutes or 144.67 hours

- o Complaint Form for Agency: The Department estimates that persons who file a complaint with an agency spend 0.5 hours (or 30 minutes) per response in reaching out to the CRC OEE external inbox to lodge a complaint.

Complaint Information Burden Hours (Table 3)		
Number of Complaints Filed (Annual) (1)	Average Time Burden Per Response (hours) (2)	Total Burden Hours (Annual) (1)*(2)=(3)
868	0.5 hours or 30 minutes	434 hours

- Nondiscrimination Plan: Table 4 summarizes the hour burden associated with the Nondiscrimination Plan requirement contained in 29 CFR Part 38. This requirement involves two separate components as delineated in the chart below for annual updates to a

WIOA Nondiscrimination Plan and for biennial Nondiscrimination Plan submissions for review.

Obligation	Nondiscrimination Plan Burden Hours (Table 4)		
	Number of Updates Filed (Annual) (1)	Average Time Burden Per Response (hours) (2)	Total Burden Hours (Annual) (1)*(2)=(3)
Updates of WIOA Nondiscrimination Plans	9	6 hours	54 hours
Biennial Nondiscrimination Plan Review and Submission	26.5	16 hours	424 hours
	35.5		478 hours

- 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 303.8 CIFs. CRC estimates that complainants take 0.5 hours (or 30 minutes) to complete the CIF.

Complaint Information and Privacy Act Form (Table 5)		
Number of Complaints Filed (Annual) (1)	Average Time Burden Per Response (hours) (2)	Total Burden Hours (Annual) (1)*(2)=(3)
304	0.5 hours or 30 minutes	152 hours

- 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).

Table 6: Burden Summary

Activity/Collection Instrument/Standard	Number of Respondents	Frequency	Total Annual Responses	Time Per Response (hours)	Total Annual Burden (hours)	Hourly Rate	Annual Cost
Grantee Recordkeeping and Reporting Requirements							
Data/Information Collection and Maintenance	39,970	561.5	22,443,155	0.006	134,659	\$30.21	\$4,068,048.39
Complaint Log	868	1	868	0.5	434	\$30.21	\$13,111.14
Nondiscrimination Plan							
Updates to WIOA Nondiscrimination Plan	9	1	9	6	54	\$30.21	\$1,631.34
Biennial Update	26.5	1	26.5	16	424	\$30.21	\$12,809.04
Discrimination Complaints							

Complaint Information Form (DL-1-2014a)	304	1	304	0.5	152	\$30.21	\$4,591.92
Unduplicated Total			22,444,362. 5		135,723	\$30.21	\$4,100,191.83

The estimated hourly cost (\$30.21) provided in this Table 6 is based on the salary figures for a “23-2011 Paralegals and Legal Assistant” per the most recent U.S Bureau of Labor Statistics Occupational and Wages Report found at [Paralegals and Legal Assistants \(bls.gov\)](http://bls.gov). DOL estimates that this salary is representative of the average vendor’s employee involvement and compensation for each response.

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. Since there are only few non-electronic methods of delivery, the postage delivery cost is negligible.

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.

Table 7: Federal Government Cost Estimates

Activity/Collection Instrument/Standard	Number of Respondents	Frequency	Total Annual Responses	Time Per Response (hours)	Total Annual Burden (hours)	Hourly Rate	Annual Cost
Grantee Recordkeeping and Reporting Requirements							
Complaint Log	868	1	868	1.5	1302	\$56.52	\$73,589.04
Nondiscrimination Plan							
Updates to WIOA Nondiscrimination Plan	9	1	9	5	45	\$56.52	\$2,543.40
Biennial Update	26.5	1	26.5	15	397.5	\$56.52	\$22,466.70
Discrimination Complaints							
Complaint Information Form (DL-1-2014a)	304	1	304	3	912	\$56.52	\$51,546.24
Unduplicated Total			1,208		2,657	\$56.52	\$150,145.38

The hourly rate provided in this Table 7 is based on the salary of a GS-13, Step 1 Federal employee in the Washington, D.C. locality pay area per the 2024 Pay Tables: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/DCB_h.aspx. This \$56.52 hourly rate is used in Table 7 above.

There is no additional operational cost.

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

Burden hours have decreased from 350,450 to 135,723 due primarily to reconstructed and updated data to calculate the burden hours from internal review. Responses have also decreased from 56,425,453 to 22,444,363 due primarily to reconstructed and updated data to calculate burden hours from internal review.

This is a revision because there are form changes. Minor changes to the form will not alter the completion time estimates above.

The minor changes include solely: changing the pronouns “he or she” to “they” prior to question 3 on the CIF, deleting “the Workforce Investment Act” from the checkboxes in question 5 as an outdated statute, and slightly re-ordering the checkboxes in question 6 to align with the White House’s “Recommendations on the Best Practices for the Collection of Sexual Orientation and

Gender Identity Data on Federal Statistical Surveys” found at <https://www.whitehouse.gov/wp-content/uploads/2023/01/SOGI-Best-Practices.pdf>.

The annual cost burden (\$1,034,459) was inaccurately reported in the previous submission. This amount should have been \$0.

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.

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.