

## **ADDITIONAL GUIDANCE ON THE COLLECTION OF EEO DATA**

Beginning on the effective date of this reporting system, states are required to collect, maintain, and report equal opportunity information, including sex, age, disability, ethnicity, and race, for all individuals who apply for benefits or services financially assisted by the program. This requirement is in accordance with 29 CFR Part 37, "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998." For reference, sections 37.37(b)(1), (b)(2) and (d) of title 29 CFR mandate the following:

*(b)(1) Each recipient must collect such data and maintain such records, in accordance with procedures prescribed by the Director [Director of the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, DOL], as the Director finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIA or this part. The system and format in which the records and data are kept must be designed to allow the Governor and CRC [Civil Rights Center, Department of Labor] to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with section 188 of WIA and this part;*

*(b)(2) Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, eligible applicant/registrant, participant, terminee, applicant for employment, and employee;*

*(d) Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.*

Other sources of authority for this requirement include 29 CFR 31.5(b), in DOL's regulations implementing Title VI of the Civil Rights Act of 1964, and 29 CFR 32.44(b), in DOL's regulations implementing Section 504 of the Rehabilitation Act of 1973. The CRC Director has determined that collection of the equal opportunity information sought by this section of the reporting system is necessary in order to determine whether recipients have complied, or are complying, with the nondiscrimination and equal opportunity provisions of WIA and other applicable statutes.

Unless required for a determination of eligibility to participate in the program, the collection of equal opportunity information is to be self-identified and is voluntarily provided by the individual. Individuals should be made aware of the reason for the request of such information as well as the parties to whom disclosure may be made. Information collected from the individual will be used to monitor compliance of recipients with the equal opportunity and nondiscrimination requirements enforced by the CRC. It will also be used to assist the grantee and the Department in evaluating and improving efforts to conduct outreach to diverse population groups, including racial and ethnic minorities and persons with disabilities.

The collection of ethnicity and race information contained within these reporting instructions are in accordance with the Office of Management and Budget (OMB) Statistical Directive 15 (as adopted October 30, 1997 at <http://www.whitehouse.gov/omb/fedreg/ombdir15.html>). The ethnicity and racial categories in this classification are social-political constructs and should not be interpreted as being scientific or anthropological in nature. They are not to be used as determinants of eligibility for participation in any Federal program. The standards have been developed to provide a common language for uniformity and comparability in the collection and use of data on race and ethnicity by Federal agencies.

OMB has determined that a two-question format should be used in all cases involving self-identification of ethnicity and race. Therefore, ethnicity information (i.e., Hispanic or Latino) must be collected separately from race information, and individuals who indicate that they are Hispanic or Latino should also have the opportunity to select one or more racial categories. Information on an individual's ethnicity must also be collected before information on race. When completing race information, individuals must be offered the option of selecting one or more racial designations. Recommended forms for the instruction accompanying the race information should instruct the individual to read each racial designation carefully and then "Mark one or more . . ." or "Select one or more . . ." races to indicate what the individual considers him/herself to be.

For the purposes of the requirements in this section of the reporting system, disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual. 29 CFR 37.4 provides further clarification of the term "disability"; relevant portions of the definition have been included below for reference:

(1)(i) *The phrase physical or mental impairment means –*

- (A) *Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;*
- (B) *Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.*

(ii) *The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. The phrase "physical or mental impairment" does not include homosexuality or bisexuality.*

(2) *The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.*

Information collected from the individual will be used to monitor compliance of recipients with the equal opportunity and nondiscrimination requirements enforced by the CRC. It will also be used to assist the grantee and the Department in evaluating and improving efforts to conduct outreach to diverse population groups, including racial and ethnic minorities and persons with disabilities.

Personally identifiable information (i.e., equal opportunity information by SSN) will not be included in the tabulation or transfer of data to the Department under this information collection. The Department will use the data supplied by the grantees to determine how many applicants are from different groups and how many of these applicants are determined eligible to receive services financially assisted by the program in question. The Department will then assess compliance with nondiscrimination and equal opportunity requirements, as well as the effectiveness of specific outreach efforts and means of communication in light of this information.