

6/10/99

DRAFT

new Asst Secretary
FD in President's Circle
- parts of ETA \$7m.
- Wage + Hour
(sheltered workshop)
outside Labor ? - Committee on Purchase
for severely Handicapped

Office for Disability Policy, Employment, Training and Programs: Promoting Access to the Labor Force for All People with Disabilities

Individuals with disabilities are one of the largest unemployed minority groups in the nation. At a time when the Secretary of Labor can proudly report that unemployment is at a record low of 4.2%, adults with disabilities remain unemployed at a staggering rate of about 70%. For individuals with the most significant disabilities, the unemployment rate can be even higher.

INSERT PARAGRAPH RE PRESIDENTIAL TASK FORCE, RECOGNITION BY CONGRESS OF NEED TO ADDRESS EMPLOYMENT OF PEOPLE WITH DISABILITIES, OUTCOMES & PROGRESS TO DATE AS RESULT

The Department of Labor is charged with preparing the American workforce for new and better jobs, and ensuring the adequacy of America's workplaces. It is responsible for the administration and enforcement of over 180 federal statutes. These legislative mandates and the regulations produced to implement them cover a wide variety of workplace activities for nearly 10 million employers and well over 100 million workers, including protecting workers' wages, health and safety, employment and pension rights; promoting equal employment opportunity; administering job training, unemployment insurance and workers' compensation programs; strengthening free collective bargaining and collecting, analyzing and publishing labor and economic statistics. The programs, services and benefits afforded through these programs are intended for all employers and workers across the nation, including individuals with disabilities.

In addition to the DOL, other programs across the federal government have responsibility for programs and services that significantly impact employment of people with disabilities. In a 1994 study by the GAO, 130 federal programs were identified spread across 19 federal agencies with a broad range of services to assist people with disabilities. Sixty-nine of these programs were targeted exclusively to assist people with disabilities with employment. However, the report concluded that these programs do not work together as efficiently as they could to share information and overcome obstacles posed by differing eligibility criteria and numerous service providers; that many federal agencies did not engage, or engaged very little, in basic information coordination with each other, with state and local agencies, the private sector or the disability community. Eligibility and service coordination were also lacking. In addition, the report indicated that most of the employment programs have not been formally evaluated, and that for most no statutory or agency data collection requirements exist. The barriers created through this fragmentation contributes to the staggering unemployment rate among adults with disabilities.

To ensure the individuals with disabilities have the opportunity to enter and maintain competitive employment and to ensure the collaboration and coordination across federal programs necessary to ensure that this occurs, the Department of Labor proposes to establish a new Office of

Disability Policy, Employment and Training Services to focus specifically on employment of individuals with disabilities. This office will have the broad mandate for increasing coordination, monitoring and oversight of program activities and outcomes both within the DOL and across other federal agencies in order to ensure increased opportunity for integrated employment for individuals with disabilities. Activities of the Office will cut across policy analysis and recommendation; identification and promotion of best practices; research; outreach; external affairs; and monitoring outcomes of existing programs both within DOL and across the federal government.

Justification

In spite of numerous legislative mandates designed to remove barriers to employment for individuals with disabilities, and in spite of numerous interagency initiatives intended to force communication and collaboration needed for programs and services to work effectively and efficiently together, individuals with disabilities remain the largest unemployed minority group in the nation.

Establishment of this new Office of Disability Employment, Policy and Training Services (ODPETS) coincides with the expressed interest of Congress and state legislative bodies to address unemployment in our nation, the requests from businesses and employers for exemplary workers, and the changing nature of the workplace generally. It also corresponds with the demand from the disability community across the nation for removal of barriers so that they can experience the multiple benefits and satisfaction of work. The nexus of these multiple forces creates the opportunity to significantly influence employment for adults with disabilities through a new Office within the Department of Labor.

Our nation's approach to employment for individuals with disabilities has been categorical and uncoordinated, not systematic. No single entity has had the breadth of knowledge and scope of authority necessary to ensure a coordinated and effective strategy across and within agencies. The Executive Order creating the Presidential Task Force on Employment of Adults with Disabilities began this effort. It is now time to ensure that an Office is established with the authority and responsibility to ensure that effective policy and strategies are put into place to eliminate barriers to employment and allow individuals with disabilities to become contributors to our nation's economy. The U.S. Department of Labor should be charged with this responsibility. Indeed, if critical dialogue across what is too often a fragmented series of separate, disparate programs does not occur, if changes are not adopted that foster inclusion and promote employment, then people with disabilities are at risk of continued and even increased segregation, discrimination and dependence.

OVERALL GOALS:

increase integrated employment of individuals with disabilities through new Office within DOL
ensure increased coordination, communication, effectiveness, data collection and analysis of program outcomes government-wide

ODPETS WILL INCLUDE:

consolidation of some agencies/functions within DOL

consolidation of some programs outside DOL

communication & coordination within DOL and across federal government

monitoring/evaluation of program outcomes within DOL and across select federal programs of other Departments

eternal affairs

FY 2001 Budget

Youth

\$300 mi initiative

SSA will be doing 13 proposals in coming months
HHS, Labor other well

\$10 mi outreach

→ PSA July 26th

→ Able to work Consortium (Microsoft)

TO: All Interested Parties
FROM: Becky Ogle, Executive Director PTFEAD
DATE: June 11, 1999
SUBJECT: FY'2001 Budget

The Presidential Task Force on Employment of Adults with Disabilities is attempting to organize a government wide FY' 2001 budget proposal related to the employment of individuals with disabilities. We hope to build upon the successes we gained in FY' 2000 budget initiatives related to the employment of people with disabilities. It is our belief that they more readily receive a cohesive strategy to eliminate the barriers to employment for adults with disabilities than an agency by agency approach.

Many Task Force Committees have identified ideas for thematic areas for collective budget priorities. The following list of four thematic areas is not exhaustive, and we encourage you to work with others to develop initiatives in areas where major themes cut across agencies, promote administrative efficiencies or program efficiencies, or result in greater coordination of services for people with disabilities.

Our four current themes: Youth, Civil Rights, Technology, and Work Incentive Improvement Act Implementation. We are asking that you use the template provided below to provide information on your agency/division budget priorities for FY'2001 - related to the employment of people with disabilities.

Please respond to this request as quickly as possible. We are aware that everyone is working on deadlines, but the sooner we receive the information, the sooner we can condense it and send it out for your overall review and comment. Finally, when we agree on a package of initiatives, we will coordinate meetings with OMB, DPC and other interested parties to present our unified strategy.

Thank you in advance for your continued support.

Fiscal Year 2001 Budget Themes

Federal Agency/Division:

Proposed Program Description (Grants, Research, Technical Assistance, Outreach Efforts, Etc.):

Population Served (targeted disabled population, working disabled, mr/dd, physically disabled)

Current Funding Level:

FY' 2001 Estimated Funding Request:

Collaboration and/or Co-Funding with Other Agencies:

Contact Person for This Proposed Program (Name/Phone)

Draft May 17, 1999

Directive:

The Department of Labor is directed to strengthen Federal contractor affirmative action requirements under Section 503 of the Rehabilitation Act of 1973, as amended. The Department is directed to conduct the following activities: (1) identify, analyze, and disseminate best practices in partnership with other Federal agencies; and (2) take immediate actions to strengthen the enforcement of Section 503 of the Rehabilitation Act.

Justification

Federal contractors employ approximately 26 million or nearly 22% of the total civilian workforce. Based on a general analysis of employment data, the employment rate of people with disabilities in the Federal contractor sector (civilian work force) remains well below the employment rate of the general population. Working-age adults with disabilities haven't benefited as well as other protected groups covered under similar Federal affirmative action laws.

The U. S. Department of Labor Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) enforces Section 503 of the Rehabilitation Act of 1973, as amended. Section 503 requires Federal contractors and subcontractors to take affirmative action and provide equal employment opportunities to people with disabilities.

Under Section 503, Federal contractor affirmative action requires companies doing business with the Federal government to take pro-active measures that go beyond nondiscrimination requirements of the Americans with Disabilities Act. Federal contractors must demonstrate a good faith effort to recruit, retain and advance people with disabilities. They are required to conduct outreach and engage in a self-analysis of their policies, practices and procedures.

This directive is based upon the principle and concept of Federal contractors, community leaders and government officials partnering to successfully increase the employment rate of adults with disabilities. It will provide Federal contractors with the necessary examples and effective practices to successfully increase the employment of people with disabilities. It is the Administration's belief that by unleashing the creative energy of exemplary Federal contractors, results-directed affirmative action measures will be identified and adopted. This will also assist in the development of future Federal policies.

The department is directed to undertake several activities designed to identify and disseminate effective practices to Federal contractors in partnership with other Federal agencies and to strengthen enforcement of Section 503.

The first activity is intended to assist the department to inform Federal contractors about effective practices and to revise current technical assistance guides and training materials used to maintain compliance with Section 503. The Department is directed to collaborate with the Department of Education's National Institute for Disability and Rehabilitation Research (NIDRR), and other appropriate agencies, to establish a Rehabilitation Research and Training Center (RRTC) on Section 503 Compliance and Effective Practices. This RRTC would identify, analyze, and disseminate effective Federal contractor practices that maximize compliance with Section 503, exemplary efforts to go beyond the law, and review current regulatory requirements. This RRTC would conduct site visits, document practices, disseminate its results, and assist OFCCP in revising their technical assistance guides and training materials. The RRTC would also conduct Forums to formulate recommendations for future policy in this area.

The second activity is intended to immediately strengthen OFCCP's enforcement of Section 503. The department is directed to establish a nationwide goal for enforcement. The department will also create a standard to measure Federal contractors' "good faith efforts" to fulfill their contractual obligations. The department will conduct an immediate review of Federal contractor affirmative action legal obligations, and the current Federal contractor compliance evaluation and complaint investigative procedures. The department will also develop new and innovative investigative procedures related to Section 503, such as desk audits, on-site focused reviews, and measures to identify disability discrimination.

The department is directed to review and analyze its current enforcement strategy, and provide a report, preliminary revision, and time lines for implementation for its enforcement procedures to the Secretary of Labor on September 1, 1999. An action plan, including policy recommendations and FY 2001 budget initiatives will be included. The department will provide a final report detailing its accomplishments in strengthening enforcement of Section 503 to the Presidential Task Force on Employment of Adults with Disabilities for inclusion in the Task Force's final report to the President by June 1, 2002.

This directive provides an opportunity for the Department of Labor's Office of Federal Contract Compliance Programs to make a significant impact on the President's initiative to increase the employment rate of working-age adults with disabilities.

JUN -9 1999

James M. Kinsellagh

P6/(b)(6)

June 3, 1999

Rebecca Ogle, Executive Director
President's Committee on Employment of Persons with Disabilities
1331 F St., N.W. Ste.300
Washington, D.C. 20004-1107

Dear Ms. Ogle:

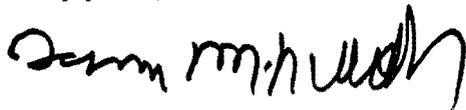
Jim Dickson of the National Organization on Disability suggested that I contact you regarding the following matter.

Enclosed please find a copy of a letter addressed to U.S. Senator John F. Kerry, in which I discuss my concerns regarding the Office of Federal Contract Compliance Programs (OFCCP) and its failure to protect the employment rights of veterans with disabilities, Vietnam Veterans, and other qualified individuals with disabilities.

I would appreciate any assistance that your Committee might render in investigating my assertions about OFCCP.

Should you have any questions or require further information, please contact me at P6/(b)(6). Thank you in advance for your time and consideration

Sincerely yours,



James M. Kinsellagh

James M. Kinsellagh

P6/(b)(6)

May 3, 1999

Honorable John F. Kerry
United States Senator
One Bowdoin Square, Floor 10
Boston, MA 02114

Re: U.S. Department of Labor (OFCCP
Failure to Serve the Disabled, Vietnam
Era Veterans and others)

Dear Senator Kerry:

This letter is to advise you that OFCCP (Office of Federal Contract Compliance Programs) has failed in its mandate to protect the rights of Veterans with disabilities, special Vietnam Era Veterans and individuals with disabilities. I base my complaint on reviewing data that I obtained under the Freedom of Information Act (FOIA), and on my personal experience stemming from the OFCCP's investigation of OFCCP complaint number 3970100. This is not an isolated case as will be explained in this letter.

In general, based on my review of materials obtained under FOIA spanning the time period beginning in fiscal year 1979 through the 3rd quarter of 1996, I discovered that:

1. A disproportionate number of complaints filed by employees with disabilities of federal contractors, investigated by OFCCP resulted in a finding "no violation." For example, in fiscal year 1986, OFCCP received 2654 complaints, yet only found 66 violations. In fiscal year 1995, OFCCP received 1197 complaints, yet only found 57 violations;
2. In fiscal year 1989, OFCCP (this data is a compilation for 10 regional offices) conducted the most number of compliance reviews, 6232, which has steadily declined to a low of 3991 reviews during fiscal year 1995;
3. From fiscal year 1986, the budget of OFCCP grew from approximately \$44 million dollars to approximately \$59 million during fiscal year 1995; and
4. Despite having received 1197 complaints in fiscal year 1995, 648 of these complaints were referred to the Equal Employment Opportunity Commission (EEOC) for investigation.. In fiscal year 1986, OFCCP received 2654 complaints of which only 548 were referred to the EEOC for investigation.

I am disturbed to find that the budget of the OFCCP continues to grow while the productivity of this office continues to drop.

With regard to the complaint mentioned above, you should be advised that:

In 1995, after 17 years of employment, and with no prior warning or consultation, I was instructed by my former manager to start seeking other employment opportunities both within and outside of AT&T. I emphatically stated to my manager that my top priority was to remain employed by AT&T. I later learned that during this same period, my former branch had job opportunities, but no branch personnel apprised me of these opportunities. Then, in June of 1995, I was unfairly terminated by AT&T. I was the only legally blind employee in the branch and no other employees in the branch were directed to seek other employment during the same period.

At the time of my separation from AT&T, I became a client of the AT&T Resource Center which assists AT&T employees in developing job hunting skills such as resume preparation, interviewing skills, etc. Upon enrollment in the AT&T Resource Center, I informed the site manager that due to legal blindness, I was unable to retrieve job ads from the AT&T ECOS System (Employee Career Opportunity System) and requested that ECOS job ads be provided to me on a weekly basis so that I could search for internal job opportunities. The ECOS system was the AT&T System used by active employees to search for job opportunities within AT&T. The site manager of the AT&T Resource Center committed to providing me with ECOS job ads on a weekly basis. During the ensuing months, AT&T failed to provide me with ECOS job ads on a weekly basis. I wrote to the site manager requesting her assistance in rectifying the problem but to no avail. Finally, in total frustration, I filed in late 1996 a complaint under Section 503 of the Rehabilitation Act of 1973, as amended, with OFCCP's New York Regional Office.

I alleged in the complaint that AT&T had discriminated against me based on disability in that it failed to provide a reasonable accommodation (ECOS job ads) to a qualified individual with a disability as required by section 503 and the Americans with Disabilities Act. I also alleged other instances of discrimination by AT&T against me. During 1997 and 1998, OFCCP conducted what it purported to be an investigation and reinvestigation of the above referenced complaint.

OFCCP issued findings of "no violation" in both of its investigations. An analysis of its reinvestigation follows:

In March of 1998, I filed an appeal of OFCCP's finding of "no violation." The determination of "no violation" was subsequently affirmed by OFCCP's New York Regional Office in its reinvestigation. Analysis of OFCCP's final determination indicates that its reinvestigation was seriously flawed for the following reasons:

#1: In my original OFCCP complaint, I alleged that the AT&T Resource Center was not providing me with a reasonable accommodation in that job ads from ECOS which were not provided by AT&T on a weekly basis as committed to me. I direct your attention to my letter of appeal to OFCCP, dated March 12, 1998 (this has already been submitted to your office) in which I explain in great detail that I learned in a telephone conversation with a Ms. S. Gray, of the AT&T Employee System Support Group (the AT&T organization responsible for

the maintenance and operation of ECOS) that the ECOS system had been functioning properly during the period in question (April 24, 1996 to June 1996) and accessing job ads posted in ECOS had presented no problems whatsoever. This fact establishes that AT&T misrepresented the facts to OFCCP in its reinvestigation. Further, based on my direct oral questioning and subsequent written follow up to the OFCCP investigating attorney from the New York office, OFCCP did not even bother to interview Ms. S. Gray to determine if ECOS had been functioning properly. The only persons who may have been interviewed were identified in a letter from AT&T's legal counsel, Choate, Hall & Stewart, dated February 12, 1999 which lists the names of AT&T employees interviewed by OFCCP on December 15 and 28, 1998—the name of S. Gray was not listed as one of the AT&T employees interviewed by OFCCP.

AT&T made a false statement to OFCCP regarding the availability of job ads during the period in question. OFCCP does not mention this important fact in its letter of findings, but simply accepts the word of the contractor, AT&T.

#2: AT&T alleged that I was informed in a meeting on June 20, 1996 that the Resource Center was not receiving ECOS job ads. A review of OFCCP's Notification of Results of Investigation, dated December 3, 1997, however, does not indicate that AT&T made such a statement to OFCCP during its original investigation of the complaint. Upon reinvestigation by OFCCP, AT&T changed its story.

#3: OFCCP in its letter of findings once again ignores critical evidence provided by me while simply accepting AT&T's word. In 1996, as an ex-employee of AT&T, I applied for an internal position advertised in ECOS. AT&T rejected my application alleging that its internal guidelines state that: all AT&T job openings must be first posted in ECOS; only current AT&T employees are eligible to apply for such positions.

The facts indicate otherwise: in an interview of me conducted by OFCCP on December 14, 1998, I explained in great detail to three of OFCCP employees, including one that is an attorney, that my former branch manager at AT&T hired non AT&T employees into management positions without first having posted the job openings in ECOS to allow current AT&T employees to apply for the positions. Further, I provided OFCCP an AT&T internal memorandum dated March 2, 1995 (a copy is attached), in which it is stated that "A very large proportion of our recent additions to the Branch came to us through referrals..." I explained to OFCCP that by using the "referral process," one in which non-AT&T employees were referred by Branch employees to the Branch hiring manager for recruitment and hiring purposes, AT&T did not adhere to its internal guidelines as described above. Therefore, all non-AT&T employees hired via the "Branch referral process" were ineligible due to the fact that the Branch did not first post the job openings in ECOS. Yet, when I applied for an internal position, AT&T denied me the opportunity to apply for a position claiming that I was ineligible to do so because I was not a current employee. The only reason I contend that I was treated differently is that I am legally blind.

#4: AT&T alleged to OFCCP that the site manager had informed me in a June 20, 1996 meeting that I was ineligible to use ECOS because I was not an active employee. Such an allegation is without foundation. During the December 1998, interview with OFCCP

mentioned above, I played a tape recording of a voice-mail message I recorded in January of 1997 in which the AT&T site manager states that her clerk did not save an ECOS job ad retrieved for me dated August 6, 1996, well over a month after she had supposedly informed me that I was ineligible to receive ECOS job ads. OFCCP accepts that this was a mere error on the part of AT&T and not a damaging and conflicting statement of fact.

#5: OFCCP in its letter of findings fails to respond to #3 of my letter of appeal, in which I explain that AT&T, through its legal counsel, Choate, Hall and Stewart, alleges that, as a reasonable accommodation, a part-time clerk provided me with job positions from the Internet starting in May, 1995. I explained in my letter of appeal that I had no contact with such a part-time employee until the fall of 1995. And, in fact, I received no Internet job ads until June of 1996. OFCCP did make any findings of fact on this part of my complaint.

#6: OFCCP, in its letter of findings completely misses the point: In order to apply for an internal position, I needed a copy from AT&T of my 1993 Performance Appraisal by August 13, 1996, the filing deadline for the job. AT&T, however did not provide the requested appraisal until October 3, 1996, well beyond the filing deadline, thus preventing me from applying for this position. OFCCP turns a deaf ear to a qualified individual with a disability and complainant and simply accepts AT&T's word on its face value.

OFCCP's investigation and reinvestigation of the above mentioned complaint is so one-sided in favor of the AT&T, it is as if AT&T conducted the investigation, not OFCCP. Both OFCCP's investigations are replete with examples of simply accepting the contractor's word on its face value, while, on the other hand, discounting evidence presented by me.

OFCCP's mandate from Congress is to protect veterans with disabilities, special Vietnam Era veterans, and individuals with disabilities from discrimination in employment by Federal contractors. What I have described in the preceding paragraphs clearly shows gross dereliction of its duty.

OFCCP's investigation and reinvestigation of the above mentioned complaint is so one-sided in favor of the contractor that it is almost as if AT&T conducted the investigation, not OFCCP. OFCCP's investigations are replete with examples of simply accepting the contractor's word on its face value, while, on the other hand, discounting evidence presented by the complainant.

Instead of protecting the employment rights of individuals with disabilities, OFCCP protects the interest of corporate America.

The disability community should be outraged that OFCCP has abandoned its enforcement responsibilities under Section 503 of the Rehabilitation Act of 1973, as amended, and the Special Vietnam Veterans Era Readjustment Act of 1974, as amended, and in doing so has undermined the civil rights of individuals with disabilities. This gross dereliction of its duty to protect Veterans with disabilities, special Vietnam Era Veterans and qualified individuals with disabilities from discrimination in employment by Federal contractors is not an isolated case. The following is an additional example of OFCCP's lack of diligence in its enforcement responsibilities.

During 1996, I contacted 31 state vocational rehabilitation agencies and ascertained that 90% of them had never been contacted by AT&T for the purpose of outreach and positive recruitment as required by Section 503 of the Rehabilitation Act of 1973, as amended, and the Special Vietnam Era Veterans Readjustment Act of 1974, as amended. I forwarded the survey results, including the contact's name and telephone number, to OFCCP's national office requesting the agency to investigate the matter. To date, OFCCP has not responded to my original and subsequent letters concerning this matter and, as far as I can determine, has not acted upon the survey data submitted. I will forward to your office in the very near future additional information to support my assertions that OFCCP is not meeting its mandate to enforce rigorously the above mentioned laws and that AT&T is not meeting its commitment under Section 503 of the Rehabilitation Act of 1973, as amended.

I cannot convey to you in words the feelings of frustration and the time and effort expended in forcing OFCCP to do its job and "checking the checker." No one should have to go through the same travails as I when filing a complaint with this agency. OFCCP would not last two minutes in the private sector which measures success in terms of accountability and responsiveness in each or every level of an organization. An experienced OFCCP compliance officer receives compensation ranging from \$41,000 to \$63,000 per annum. What does the taxpayer get in return? From what I have described in this letter, not much.

Without rigorous enforcement by OFCCP of the statutes mentioned above, individuals with disabilities will continue to be subjected to discrimination by Federal contractors such as AT&T. This demands closer scrutiny by Congress

Therefore, I respectfully request that you discuss with your colleagues in Congress the possibility of an oversight hearing into OFCCP's lax enforcement of the above mentioned laws, and take the necessary steps to ensure that the employment rights of individuals with disabilities are fully protected.

Should you have any questions or require further information, please contact me at (P6/(b)(6))

(P6/(b)(6))

Sincerely yours,

James M. Kinsellagh

cc: American Association of Retarded Persons
V. Adelson – Epilepsy Foundation of America
M. Auberger - ADAPT
Y. Bellil – Worcester Center for Living & Working
B. Burgess – Disability Rights Defense and Education Fund
C. Carchredi – AD LIB
K. Charlson – Bay State Council of the Blind
S. Collins – Multiple Sclerosis Society
Consortium of Citizens With Disabilities

cc: C. Crawford – American Council of the Blind
J. Dart – Justice For All
P. Desmond
J. Dickson – National Organization on Disability
F. Faye – Justice For All
J. French – Cape Cod Organization for the Rights of the Disabled
General Accounting Office Fraud and Abuse Hotline
C. Gardner
J. Garelick
J. Guay – New England Paralyzed Veterans of America
A. Hughey – National Council on Independent Living
J. Jeffords, Chair, U.S. Senate Committee on Health Education Labor and Pensions
J. Lyons – Northeast Independent Living Center
March of Dimes
P. Marchard – Association of Mentally Retarded Persons of USA
C. Maston – U.S. Department of Labor
M. McCloskey – Paralyzed Veterans of America
C. Miller
The Ragged Edge
R. Rutta – Easter Seals Society
P. Ryan – Independence Associates
A. Schein – Mass Statewide Independent Living Council
R. Snierson – Boston Center for Independent Living
J. Tringali – Stavros Center
United Cerebral Palsy of America
S. Vierman – National Association of Developmental Disability Councils

Prospectus: Able to Work Consortium

Microsoft Corporation

June 7, 1999

In this era of near-full employment, businesses around the world continue to overlook a motivated, capable segment of the workforce. People with disabilities, who as a group experience an estimated 70% unemployment rate, are ready and willing to work, but are nevertheless dramatically underemployed. Worse yet, they often are not even considered for employment.

Since the Americans with Disabilities Act was signed into law nine years ago, the percentage of people with disabilities in the workforce has not increased measurably. While census statistics have not been updated in this area since 1992, other surveys and anecdotal evidence support the fact that people with disabilities remain chronically underemployed (see appendix for data).

What is preventing businesses from tapping into this workforce, especially as diversity has become a key objective in most major companies? Several factors contribute to this complex problem. These include low expectations of individuals with disabilities, persistent negative attitudes toward the process of recruiting and training people with disabilities, a lack of awareness of the ease and low-cost of most accommodations, and a lack of awareness of the business case that supports seeking out, training and employing people with disabilities in the workforce.

The Role for Business

While the federal government has been engaged in addressing and advancing employment for people with disabilities for some time, coordinated effort and focus from the *business community*, especially large businesses who can play a leadership role in identifying and solving workforce issues, is missing. Microsoft Corporation, which has worked for years to ensure that its own products are accessible to people with disabilities, has observed first hand the positive results when people with disabilities are empowered with opportunities and technology in the workplace. Microsoft's Accessibility and Disabilities Group, alongside the company's Diversity/HR organization, has investigated ways in which the business community can unite to effectively address this issue. After considerable thought and reflections from experts in both private and public organizations, **Microsoft is proposing the establishment of a national business consortium, tentatively called the Able to Work Consortium, representing a variety of industries, to address and innovate ways to increase the employment opportunities for people with disabilities.**

While Microsoft will serve as a catalyst and active member of the consortium, this will *not* be a Microsoft consortium, nor will it be technology-centric. Rather,

this effort will reflect the motivation and engagement of a range of businesses and industries to solve the problem of underemployment of people with disabilities.

The short and long-term results of this grass-roots effort will benefit both business (by tapping a motivated and capable pool of workers who have to-date been overlooked), and people with disabilities (who are looking for the opportunity to contribute their skills and intelligence in the business community as valued, important members of the workforce.)

While several regional or community-based efforts exist to increase employment for people with disabilities, lacking is a coordinated, business-based, peer-to-peer campaign to address the issue on a national level (see more on current initiatives in the Appendix). The President's Committee on Employment of Adults with Disabilities, and the short-term President's Task Force on Employment of People with Disabilities, play that role for the government, but their equivalent does not yet exist within the business community. Such a consortium could actively and creatively address the issue of underemployment for people with disabilities, identifying ways to overcome attitude barriers, communicating directly to peers through a variety of channels, and creating a dialog about the issue in the mainstream and trade press. Most importantly, the consortium will firmly establish and communicate the clear, undeniable business case for recruiting and hiring people with disabilities (see Appendix, page 8).

The role of the consortium

Together with partners, including the National Business and Disabilities Council and the National Organization on Disabilities, Microsoft is inviting an initially small, select group of large companies representing a variety of industries: manufacturing, financial services, retail, technology and others. Members will make a commitment of three years, with consortium designees the top executives representing Human Resources or Diversity functions within their companies. In addition, the consortium will appoint an executive director to manage consortium communications, meetings, breakout activities and other logistics. This position has been offered to Ms. Francine Tishman, Executive Director of the National Business and Disabilities Council.

Membership requirements

While action items may be adjusted or refined through member input, consortium members will agree to the following level of involvement:

- Attend a once-yearly meeting, the first in late October 1999, of the entire consortium (first meeting to follow the annual meeting of the National Center for Disability Services, hosted by Microsoft in Redmond, WA. Locations of further meetings TBD);

- Publish information about their efforts and programs in recruiting, hiring

and accommodating individuals with disabilities (including case studies);

• Appoint a company representative to serve on a mentor panel for other companies;

• Contribute to an "recruiting/hiring innovation bank" to be used to fund innovative training and employment programs. To this end, members with under 5,000 employees would join for free, for-profit/NGO members with more employees would contribute \$50k each.

• Nominate an employee of the year to be recognized by the consortium with a cash award for his/her efforts in increasing employment opportunities for individuals with disabilities

• Support an annual award to showcase companies small and large who have used innovative and successful techniques for recruiting and employing people with disabilities.

• Participate in media interviews about the topic of employment for people with disabilities.

In addition, the consortium will support a corporate research project to define benefits of employing people with disabilities (building the business case for employment). The National Business and Disabilities Council will coordinate and oversee the research.

These initiatives and activities are intended to accomplish basic, high-level goals of the consortium, including:

• Educating human resources professionals and hiring managers about the strong business case for tapping into the workforce comprising people with disabilities

• Demystifying the process of recruiting, hiring and accommodating people with disabilities for a range of jobs.

• Providing "best-practices" tools and techniques for recruiting and employing people with disabilities.

• Raising the profile of this issue in a positive way, with excitement around the possibilities involved in tapping into this under-represented portion of the workplace. This message should resonate in today's business community, as recruiters are forced to become ever more crafty and aggressive to identify and lure qualified applicants to open positions.

• Innovate recruiting strategies

• Increase the number of employment opportunities for individuals with disabilities

Announcement of the consortium

To achieve maximum visibility for the founding of the Able to Work Consortium, Microsoft is proposing to announce it at a press event in Washington, D.C. on July 26, 1999, the nine-year (to the day) anniversary of the signing of the Americans with Disabilities Act. The press "hook" for this event is that nine

years after the historic civil rights legislation, the representation of people with disabilities in the workforce has not increased. While the consortium will hopefully maintain an active stance on the issue for years, the initial goal is to raise awareness and make headway with HR professionals in the year before the tenth anniversary of the ADA, so that there is something positive to celebrate in July 2000. President Clinton has challenged Congress to pass the Work Incentive Improvements Act by July 26 as well, which would provide additional support for the business-led consortium to make headway on employing more individuals with disabilities.

Supporting Activities

The National Organization on Disabilities has created a major new Public Service Announcement campaign to open the eyes of the general public to the importance of seeing people with disabilities as individuals who have a tremendous amount to offer society. Microsoft is the lead corporate sponsor of the PSA campaign, and the President's Task Force on Employment for Adults with Disabilities is the lead overall sponsor. This campaign will take place simultaneously with the Able to Work Consortium's first year, and will provide tremendous support to and awareness of the messages Able to Work is intending to promote within the business community. The NOD PSA campaign will be distributed to media for the first time on July 19, and coordinated messaging will likely accompany the announcement of the Able to Work Consortium one week later.

In addition, Microsoft's Accessibility and Disabilities Group recently unveiled Enable, an educational video that takes a first-person look at the attitudinal and physical barriers faced consistently by people with disabilities. The video brings these barriers to light through the eyes of several successful individuals who have disabilities themselves. Enable demonstrates some of the technology, Microsoft and otherwise, that helps people with disabilities achieve success at school, at work and in their personal lives. The Enable video is being distributed for free to human resources and diversity professionals, as well as to members of the media, disability and employment advocates, community based organizations, federal and state legislators and regulatory bodies.

APPENDIX:

Situation Analysis

Many public agencies and private organizations are committed to the agenda of increasing the employment of people with disabilities through initiatives targeted at the business community. While these groups offer a vast amount of information and resources to employers and job seekers with disabilities, there appears to be little coordinated effort among them and their efforts have not been widely received. Businesses must essentially take the initiative to put all

the pieces together on their own. By creating a business-led consortium, Microsoft has the opportunity to bring the issue into focus and influence businesses by uniting key players and resources. The challenge will be to communicate convincingly the Able to Work Consortium's messages to a very broad audience, including HR/Diversity professionals, hiring manager, business leaders, community based organizations and many others. In preparing to do so, it is critical to understand the existing efforts underway to bring people with disabilities into the workforce.

Importantly, President Clinton challenged members of the U.S. House and Senate to pass the Work Incentives Improvement Act by July 26, the ninth anniversary of the Americans with Disabilities Act. This legislation would protect healthcare benefits for individuals with disabilities even when they become employed, helping to eliminate a significant barrier to employment for millions. The President stated on June 4, during the signing of an executive order ensuring that the federal government has the same hiring and promotion standards for people with psychiatric disabilities as it has for people with other disabilities, "Seventy-five percent of Americans with disabilities remain unemployed, and of those, 72% say they want to go to work. This is not just a missed opportunity for Americans with disabilities -- it is a missed opportunity for America."

The environment today:

Following are four national groups who are the most outspoken and recognized as leading the charge on this issue. Their support of and affiliation with the Able to Work Consortium is imperative.

A. The President's Committee on Employment of People with Disabilities -

This federal agency's mission is to communicate, coordinate and promote public and private efforts to enhance the employment of people with disabilities. The committee provides information, training, and technical assistance to America's business leaders, organized labor, rehabilitation and service providers, advocacy groups, families and individuals with disabilities. It operates the Job Accommodation Network (JAN) and the Business Leadership Network.

- i. **Business Leadership Network** - BLN is a national program led by employers in concert with state Governor's Committees that engages the leadership and participation of companies throughout the United States to hire qualified job applicants with disabilities. The program offers employers access to a pool of applicants with disabilities, pertinent disability employment information, and a network of companies sharing information on specific disability employment issues. It also coordinates opportunities to provide training and work experience for job seekers with disabilities,

recognition for best disability employment practices, and access to a largely untapped market for their goods and services. BLN has built alliances with state and local chambers of commerce as well as top executives from Bank of America, Parallax, IBM, Marriott, Unum Life Insurance, First Union Bank of Florida, Westinghouse Savannah River Co., Cello-Foil Products, Sears, General Motors, and Deluxe Corp., who comprise their Business Steering Group.

- ii. **Job Accommodation Network (JAN)** - active in providing information to corporate America in making accommodations for individuals with disabilities.

B. Presidential Task Force on Employment of Adults with Disabilities - The purpose of this federal task force is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population. The task force develops and recommends a coordinated Federal policy to reduce employment barriers for persons with disabilities. A main focus of the task force is to ensure that the federal government is a model employer of adults with disabilities. The task force is comprised of only federal agencies, including Secretary of Labor, Secretary of Education, Secretary of Health and Human Services, Commissioner of Social Security, Chair of the Equal Employment Opportunity Commission, etc.

C. National Business & Disabilities Council (NBDC) - NBDC is the leading national corporate resource on all issues related to the successful employment and integration of individuals with disabilities into America's workforce. Their services assist the business community's ability to provide full access to their places of business and employment, as well as to their products and services. A key component of NBDC is their Executive Leadership Team, whose members include senior executives from Booz-Allen & Hamilton, Cablevision, Caterpillar, Merrill Lynch & Co., Microsoft, Mutual of America Life Insurance, Pall Corp., Sears, Roebuck and Co., and United Parcel Service.

D. National Organization on Disabilities (NOD) - NOD promotes the full and equal participation of America's 54 million men, women and children with disabilities in all aspects of life. NOD was founded in 1982 and is the only national disabilities network organization concerned with all disabilities, all age groups and all disability issues. Among NOD's programs is the CEO Council Program, which promotes expanded employment of people with disabilities through recognition of CEO's and their companies; and advises business on disability matters. NOD and Former president George Bush will host a Year 2000 Disability Conference Feb. 24-26, 2000 at the George Bush Presidential Library Conference Center at Texas A&M University.

Statistics on Employment of Adults with Disabilities

Metrics will be key to measuring the success of the Able to Work Consortium in reaching its goals. Following are the most recent national statistics available on the employment of people with disabilities. The statistics come from the US Census Bureau (1992) and a more recent Harris Survey (1998). Results of polls have been positioned differently by NOD, which has no ties to government, and the President's Committee on Employment of People with Disabilities, which wants to show that the ADA has made tangible progress. The 1998 NOD/ Harris Survey of Americans with Disabilities provides the most compelling statistical evidence that America has a long way to go in employing the nation's largest minority group. One function of the Able to Work Consortium should be to commission its own survey designed to measure its specific goals.

A. America's Work Force:

- 132 million persons (ages 16-64) in 1997, with a projected 145 million persons by 2006.
- 95 million workers in service producing sectors
- 60 million workers in 23 million small businesses
- 19 million workers in government at all levels

B. People with Disabilities in the Work Force:

- Of 17 million disabled of working age (16-64), 29% (5.2 million) are in the work force, working full- or part-time.
- 79% of the non-disabled population of working age work full or part-time, representing a gap of 50 percentage points.
- Of the 71% not in the work force, 72% say they would prefer to be working.
- A third (34%) of adults with disabilities live in households with a total income of \$15,000 or less, compared to only 12% of those without disabilities.
- Recent business studies show it requires on average less than \$300 to accommodate a worker with a disability.
- Only 56% of the nation's youth with disabilities graduate from high school. Almost 39% drop out of high each year. Only half of the nation's annual class of students with disabilities finds employment and of those employed only 50% are employed full time (US Office of Special Education)

C. Trends in America's Work Force to the Year 2006:

- America's labor shortage will continue
- The service and retail trade industries will provide most job opportunities.
- Job opportunities will expand the most in the service sector - health, educational, social, engineering and management professions - with the greatest growth in technically oriented jobs.
- There will be fewer manufacturing and fewer physically demanding jobs.
- In the government sector, all of the increase will come at the state and local levels.
- Occupations that require a bachelor's degree or above will average 25% growth between 1996 and 2006 versus 14% growth in other occupations.
- Home based employment and other forms of workplace flexibility are beneficial to many workers, including the disabled. Many people are taking advantage of technology advances that allow them to telecommute and still play an active role in filling the nation's job vacancies.

D. National perceptions of ADA (1999 Harris Poll)

- Nearly nine out of ten (87%) of adults who are aware of the ADA, support and approve of the Americans with Disabilities Act.
- Two-thirds (67%) if all adult Americans have read or heard about the ADA
- 94% of the total sample believe employers should not discriminate against any qualified job candidate with a disability
- 85% agree that employers with more than 15 workers should make reasonable accommodations for employees with disabilities

The Business Case for Hiring Adults with Disabilities

The focus of the Able to Work Consortium is really about making a fundamental shift in attitudes and awareness about what people with disabilities can offer employers. The consortium will need persuasive reasons and evidence to change the behavior of hiring managers and HR executives. The points below were compiled by the National Organization on Disabilities; they will be weighed and added to by consortium members.

- A. The dire labor shortage is forcing employers to go to extreme measures to recruit from non- traditional groups. They are spending extra time, energy, and resources in programs such as going to elementary schools to entice the mothers of these children back into the workforce. Another example highlighted in a recent Wall Street Journal article is of employers who are taking high school students out of the classroom for 30+ hours per week. Employers are overlooking the pool of people with disabilities who are ready, willing and able to work with a minimum accommodation.
- B. Hire people with disabilities to represent your customers with disabilities. One out of five Americans, and therefore, one out of five of your customers, has a disability. Including people with disabilities in marketing strategy, new product development, and universal design will ensure that your products are demanded by the nation's largest minority market, commanding \$180 billion annually in discretionary income.
- C. Diverse work groups develop better solutions to business challenges. Including a variety of perspectives in decision-making insures that the same old techniques are abandoned for new and fresh ideas. People with disabilities contribute by bringing a different perspective to the table.
- D. People with disabilities are experts in creative problem solving. When you are forced to learn new ways to do things that able-bodied people take for granted, you practice, hone and perfect "out-of-the-box" thinking which translates directly to better, more creative problem solving in the business environment.
- E. By virtue of the fact that people with disabilities genuinely appreciate the opportunity to contribute in the working environment, people with disabilities make better, more dependable, more reliable employees. Recent surveys conducted by DuPont and other companies show that people with disabilities have lower turnover rates and are no more likely to use sick leave than other employees.
 - 1. Note: The National Business and Disabilities Council is preparing to conduct a survey of corporations, much like the early-90's DuPont survey, to challenge and counter myths about people with

disabilities in the workplace. This survey will be an important part of the Able to Work Consortium mandate.

- F. The experience of working with a person with a disability motivates workgroups and increases productivity. In cases where a person is returned to work after experiencing a disability, that person increases the morale of the colleagues around them because he or she is valued by the company, enthusiastic about being able to contribute, and colleagues share a sense of success in helping the person overcome an injury or disability in returning to work. The morale boost has been shown to increase productivity.
- G. Companies who hire and accommodate people with disabilities in their workplaces can receive a number of tax benefits. Businesses are allowed to deduct up to \$15,000 a year for expenses incurred to remove physical, structural, and transportation barriers for persons with disabilities in the workplace. In addition, tax credits are available for employers who hire certain targeted low-income groups, including veterans and vocational rehabilitation referrals. Finally, small businesses may take an annual tax credit of up to 50 percent of their expenditures for making their businesses accessible to people with disabilities.
- H. Employing people with disabilities is of course good for America and society. This is a "win-win-win" strategy. Employers win because they have better, more productive employees. The person with the disability wins he or she becomes a contributing member of society with greater purchasing power, leading to a greater sense of identity, confidence and self-esteem. And America wins because the economy is made stronger when all segments of the population are included in the workforce and in the customer base, with fewer people on government welfare rolls.