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POLICIES AND PRIORITIES AT THE U.S. DEPARTMENT OF LABOR

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, FEBRUARY 16, 2011

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POLICIES AND PRIORITIES AT THE U.S. DEPARTMENT OF LABOR

Wednesday, February 16, 2011
U.S. House of Representatives
Committee on Education and the Workforce
Washington, DC

The committee met, pursuant to call, at 10:03 a.m., in room 2175, Rayburn House Office Building, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Petri, Biggert, Platts, Foxx, Roe, Thompson, Walberg, DesJarlais, Rokita, Bucshon, Noem, Ross, Kelly, Miller, Kildee, Payne, Andrews, Woolsey, Hinojosa, McCarthy, Tierney, Holt, and Davis.

Staff Present: James Bergeron, Director of Education and Human Services Policy; Kirk Boyle, General Counsel; Casey Buboltz, Coalitions and Member Services Coordinator; Ed Gilroy, Director of Workforce Policy; Marvin Kaplan, Professional Staff Member; Barrett Karr, Staff Director; Ryan Kearney, Legislative Assistant; Brian Newell, Press Secretary; Molly McLaughlin Salmi, Deputy Director of Workforce Policy; Ken Serafin, Workforce Policy Counsel; Linda Stevens, Chief Clerk/Assistant to the General Counsel; Loren Sweatt, Professional Staff Member; Joseph Wheeler, Professional Staff Member; Aaron Albright, Minority Deputy Communications Director; Tylease Alli, Minority Hearing Clerk; Daniel Brown, Minority Staff Assistant; Jody Calemine, Minority Staff Director; Brian Levin, Minority New Media Press Assistant; Jerrica Mathis, Minority Legislative Fellow; Celine McNicholas, Minority Labor Counsel; Richard Miller, Minority Senior Labor Policy Advisor; Megan O'Reilly, Minority General Counsel; Julie Peller, Minority Deputy Staff Director; Meredith Regine, Minority Policy Associate, Labor; and Michele Varnhagen, Minority Chief Policy Advisor and Labor Policy Director.

Chairman KLINE. A quorum being present, the committee will come to order.

Allow me to begin today's hearing by welcoming Secretary Solis to the committee.

Madam Secretary, we are thrilled to have you back. You are no stranger to this committee. We want to be very respectful of your time and try to keep it moving along here. Many of us had the pleasure and honor of serving with you when you were our colleague. We are glad to see you back here today as the Secretary.

The Department of Labor is an agency whose size and mission have expanded dramatically in recent years. Today it administers more than 180 Federal laws, affecting 10 million employers and 125 million workers. The Department's policies are present in virtually every American workplace, and it has a duty to ensure those policies represent the best interests of both workers and employers.

Many of the challenges the country faced 1 year ago are still at the forefront of our economic concerns today. Getting the economy moving and the American people back to work remain pressing national priorities. Clearly, we have a lot of work to do.

Nearly 14 million workers are unemployed. The administration had promised that the $814 billion stimulus bill would keep unemployment below 8 percent. The Department of Labor received almost $5 billion in the so-called stimulus funds; yet, for 21 consecutive months, the national unemployment rate has been at or above 9 percent. Nearly a million individuals have become so discouraged with their search for work they have abandoned the workforce entirely—a number that has shown little improvement since the Secretary was last before this committee.

Two years of pouring taxpayer money into the economy has produced these results. Madam Secretary, we believe this is unacceptable.

Recently, President Obama issued an Executive order that requires a comprehensive review of the rules and regulations on the books and their consequences for economic growth. It comes not a moment too soon. We are willing and eager partners in that effort. Promoting job creation and American competitiveness will be a leading priority for this committee. I believe that is what the American people sent us here to do.

As we look for ways to encourage investment and hiring, we are mindful that our workplaces require certainty. Workers and their employers need simple and fair rules of the road that promote health, safety, and accountability. They do not need a bureaucracy that continues to grow in size and complexity and that stifles the freedom and innovation our economy desperately needs to grow and prosper.

That is why your presence here today, Madam Secretary, is extremely important. Over the last 2 years, we have seen the administration adopt a number of workforce policies that I believe threaten job creation and economic opportunity. Initiatives such as project labor agreements and "high road" contracting are clearly designed to favor big labor at the expense of small businesses.

The President recently wrote in the Wall Street Journal that, quote, "Small firms drive growth and create most jobs in this country. We need to make sure nothing stands in their way," close quote. Yet the administration continues to pursue policies that disadvantage small businesses and their ability to create new jobs.

The administration has also rolled back commonsense disclosure requirements that allow workers to understand how their union dues are being spent, denied workers access to high-quality investment advice regarding their 401(k) plans, and adopted an approach to workplace safety that focuses on punishing employers rather than promoting prevention.

I question how these changes improve the competitiveness of our workforce. These policies are not new policies, and neither are our concerns. I raise them again in light of President's recent Executive order and with the hope the Department will take a second look at these and similar policies that hinder economic growth.

As I noted earlier, this committee intends to be a partner in the effort to find and remove roadblocks to job creation, and I can assure you we will do our part.

I am also interested to hear in more detail your Department's budget priorities for the next fiscal year. I can assure you a number of my colleagues have questions, as well. You are aware, as we all are, of the fiscal crisis we face as a nation. Every dollar spent at the Federal level must be accounted for and justified before it is spent. I look forward to learning more about the way in which you intend to spend taxpayer resources in the months ahead.

We have a lot of ground to cover in just a few short hours, Madam Secretary, and so I will turn now to my colleague, George Miller, the senior Democratic member of the committee, for his opening remarks.

[The statement of Chairman Kline follows:]

Prepared Statement of Hon. John Kline, Chairman, Committee on Education and the Workforce

Allow me to begin today's hearing by welcoming Secretary Solis to the committee. The secretary isn't a stranger to Congress or this Committee. I appreciate the time you have taken to be with us today and look forward to your testimony.

The Department of Labor is an agency whose size and mission have expanded dramatically in recent years. Today, it administers more than 180 federal laws affecting 10 million employers and 125 million workers. The department's policies are present in virtually every American workplace, and it has a duty to ensure those policies represent the best interests of both workers and employers.

Many of the challenges the country faced one year ago are still at the forefront of our economic concerns today. Getting the economy moving and the American people back to work remain pressing national priorities. Clearly, we have a lot of work to do.

Today nearly 14 million workers are unemployed. The administration promised that an $814 billion stimulus bill would keep unemployment below 8 percent. The Department of Labor received almost $5 billion in these so-called stimulus funds. Yet for 21 consecutive months the national unemployment rate has been at or above 9 percent. Nearly one million individuals have become so discouraged with their search for work, they have abandoned the workforce entirely—a number that has shown little improvement since the secretary was last before this committee. Two years of pouring taxpayer money into the economy has produced these results. Madam Secretary, this is unacceptable.

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As we look for ways to encourage investment and hiring, we are mindful that our workplaces require certainty. Workers and their employers need simple and fair rules of the road that promote health, safety, and accountability; they do not need a bureaucracy that continues to grow in size and complexity and stifles the freedom and innovation our economy desperately needs to grow and prosper.

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Yet the administration continues to pursue policies that disadvantage small businesses and their ability to create new jobs.

The administration has also rolled back commonsense disclosure requirements that allow workers to understand how their union dues are being spent; denied workers' access to high-quality investment advice regarding their 401(k) plans; and adopted an approach to workplace safety that focuses on punishing employers rather than promoting prevention. I question how these changes improve the competitiveness of our workforce.

These policies are not new policies and neither are our concerns. I raise them again in light of the president's recent executive order and with the hope the department will take a second look at these and similar policies that hinder economic growth. As I noted earlier, this committee intends to be a partner in the effort to find and remove roadblocks to job creation, and I can assure you, we will do our part.

I am also interested to hear in more detail your department's budget priorities for the next fiscal year. I can assure you a number of my colleagues have questions as well. You are aware, as we all are, of the fiscal crisis we face as a nation. Every dollar spent at the federal level must be accounted for and justified before it is spent. I look forward to learning more about the way in which you intend to spend taxpayer resources in the months ahead.

We have a lot of ground to cover in just a few short hours, Madam Secretary. And so I will now turn to my colleague George Miller, the senior Democratic member of the committee, for his opening remarks.

Mr. MILLER. Thank you, Mr. Chairman. And thank you for holding this hearing.

And we welcome the Secretary back to the committee and to the Congress. Secretary Solis appeared a year ago to discuss the strengthening of the economy and improving the lives of American workers. We agreed that our most important priority was to get America back to work, jobs that pay fair wages, jobs that are safe.

Madam Secretary, you have made great progress in this area. In particular, I applaud your efforts to make sure that our Nation's workforce is more responsive to the local economic conditions so that workers can be trained and find new jobs.

And when Americans go to work, they should be paid fairly and according to the law. On this front, the Department has played a critical role in securing over $300 million in unpaid wages to workers. When you came to this office, the Department of Labor was lying to those workers. They were telling them that those businesses went out of business, that those businesses had moved, that those businesses had gone bankrupt. All of those were lies, and those workers didn't get the money for the hours that they worked. This is a big change, and thank you so much for securing the fairness in the workplace for those workers.

I am very pleased that the Department has moved quickly to respond to the Upper Big Branch mine explosion and other workplace tragedies. Workers are safer on the job, and unscrupulous employers are held more accountable for putting their employees in danger.

However, all of this progress is now threatened. The House is now debating the Republican spending bill that will reverse this course. Too many Americans are still struggling with the fallout of the worst financial crisis in more than a half a century. That is why job creation and repairing our economy must remain at the top of the agenda.

Central to this mission are millions of American workers and local businesses that utilize the Workforce Investment Act employ-

ment and training services each year. Unfortunately, the Republican spending bill eliminates these vital services all across the country.

In fact, starting in April, if these cuts pass, every one of the 3,000 One-Stop centers will be closed. It will be closed to employers, it will be closed to the community colleges, it will be closed to workers, it will be closed to their families. Millions of Americans looking for training and looking jobs, inquiring about the benefits, will be locked out of those centers, will be locked out of that opportunity. This at a time when fewer Americans are being recalled to the job they had before than in any other recession in this country's history.

These workers, their families need the training opportunities, the retraining opportunities, so that they can be employed in their local community. Local workforce boards made up of businesses, community colleges, and other leaders will be unable to respond to the local employment conditions. In light of the chairman's previous statements in support of this important program, I hope he would agree that totally eviscerating WIA is shortsighted and unwise.

Finally, when Americans go to work, their jobs should be safe. Unfortunately, the Republican spending bill would slash worker health and safety.

Last April, 29 coal miners never returned to their families from their shift deep in the West Virginia mountain. In the wake of this tragedy, this committee learned the lengths that some mine owners, like Massey Energy, would go to to avoid improving chronic safety problems, including criminal behavior by them and their employees.

Once we learned the extent of this gaming of the system, we ensured that the Department of Labor had sufficient resources to stop them. The spending plan on the floor today would once again allow mine owners to game the system, to create a backlog, and to avoid the responsibilities of the law to keep their workers safe, putting those lives at risk.

This tragedy and other workplace disasters are a reminder that the action or inaction of Congress or the regulatory agencies can directly affect the lives and the health of our citizens. That is why the Republican plan to slash the Occupational Health and Safety Administration is so chilling.

Madam Secretary, under the Republican plan, OSHA will have very few options when making significant cuts to worker health and safety. There would be thousands of fewer workplace hazard inspections. OSHA would be cut to 1974 staffing levels. 1974—a great year, the year I entered Congress—we would go back to those staffing levels, although there are almost 65 percent more workers in this country than there were then.

There will not be enough investigators to conduct the fatality and accident investigations needed. And the funding of OSHA's Web site would be zeroed out. A Web site that provides employers the access to guidances, to compliances, to enforcement and information that they rely on every day—every day—would go dark.

Workers are not cogs in a wheel. They are fathers, mothers, sons, and daughters. They deserve basic health and safety protections.

We have seen what happens when you rely on self-certification, voluntary compliance, and inadequate protections: Upper Big Branch mine explosions happen; the Deepwater Horizon, from the rogue safety company of British Petroleum; the Texas City explosion, of British Petroleum; the Imperial Sugar explosions that caused these sons, daughters, husbands, wives their lives.

By statute, the Department of Labor is tasked to, quote, "foster, promote, and develop the welfare of wage earners in the United States to improve their working conditions and to advance their opportunities for profitable employment." For too long, that mission was forgotten. But you have made progress, Madam Secretary, in restoring the mission in the last 2 years. Unfortunately, the Republican spending bill will turn this progress on its head.

No one is in favor of wasteful spending. No one is in favor of special interest loopholes or the outdated government regulations that don't work. None of that is favored by anyone on this committee. But instead of identifying real government waste, like subsidies to big oil or tax cuts to billionaires, the Republicans have decided that all of the spending cuts will fall on middle Americans and their families, their time at the workplace and their time seeking in education and training.

That is not a recipe for success of this economy in the future globalized world. Our workers and our safety and our Nation's economic competitiveness can ill-afford these unwise cuts.

And I yield back the balance of my time.

[The statement of Mr. Miller follows:]

Prepared Statement of Hon. George Miller, Senior Democratic Member, Committee on Education and the Workforce

Good morning. I would like to welcome back our former colleague Secretary of Labor Hilda Solis to the committee.

Secretary Solis appeared a year ago to discuss strengthening the economy and improving the lives of American workers. We a agreed that our most important priority was to get America back to work. Jobs that pay fair wages. Jobs that are safe. Madame Secretary, you have made great progress in these areas.

In particular, I applaud your efforts to make our nation's workforce programs more responsive to local economic conditions so that workers can be trained and find new jobs.

And, when Americans go to work, they should be paid fairly and according to the law. On this front, the department has played a critical role having secured $313 million in unpaid wages for workers.

I am also pleased that the department has moved quickly to respond to the Upper Big Branch mine explosion and other workplace tragedies. Workers are safer on the job and unscrupulous employers are held more accountable for putting their employees in danger.

However, all of this progress is threatened. The House is now debating a Republican spending bill that will reverse this course. Too many Americans are still struggling with the fallout of the worst financial crisis in more than a half a century. That's why job creation and repairing our economy must remain at the top of our agenda.

Central to this mission are the millions of workers and local businesses that utilize Workforce Investment Act employment and training services each year. Unfortunately, the Republican spending bill would effectively e eliminate these vital services all across the country.

In fact, starting in April, if these cuts pass, every one of the 3,000 One-Stop career centers will begin to close. Millions of Americans looking for training, looking for jobs, or inquiring about benefits would be locked out. Local workforce boards made up of businesses, community colleges and others leaders will be unable to respond to local employment conditions.

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The spending plan on the floor today would once again allow mine owners to game the system and put miners' lives at risk.

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Madame Secretary, OSHA will have very few options other than making significant cuts to worker health and safety. There would be thousands fewer workplace hazard inspections. OSHA would be cut to 1974 staffing levels, even though there are 65 percent more private sector workers today as there were in 1974. There will not be enough investigators to conduct the fatality and accident investigations needed. And, funding for OSHA's website would even be zeroed out.

Workers are not cogs in the wheel. They are fathers, mothers, sons, and daughters. They deserve basic health and safety protections.

We've seen what happens when you rely on self-certification, voluntary compliance and inadequate protections. Upper Big Branch happens. Deepwater Horizon happens. Imperial Sugar happens.

By statute, the Department of Labor is tasked to "foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment." For too long, that mission was forgotten.

But you have made progress in restoring that mission in the last two years. Unfortunately, the Republican spending bill will turn this progress on its head.

No one is in favor of wasteful spending or outdated government regulations that don't work. Instead of identifying real government waste—like subsidies for big oil or tax cuts to billionaires—House

Republicans have decided to cut on the backs of working people and students.

Our workers' safety and our nation's economic competitiveness can ill afford these unwise cuts.

I yield back.

Chairman KLINE. I thank the gentleman.

I am sorry here. Let me get back on track.

Pursuant to committee rule 7(c), all Members will be permitted to submit written statements to be included in the permanent hearing record. And, without objection, the hearing record will remain 14 days to allow questions for the record, statements, and extraneous material referenced during the hearing to be submitted for the official hearing record.

[The information follows:]

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March 21, 2011

The Honorable Hilda L. Solis
Secretary of Labor
United States Department of Labor
200 Constitution Avenue, Northwest
Washington, DC 20210

Dear Secretary Solis:

Thank you for testifying at the Committee on Education and the Workforce's hearing entitled, "Policies and Priorities at the Department of Labor," on February 16, 2011. I appreciate your participation.

Enclosed are additional questions submitted by Committee members following the hearing. Please provide written responses no later than Monday, April 4, 2011 for inclusion in the official hearing record. Responses should be sent to Joe Wheeler of the Committee staff who may be contacted at (202) 225-7101.

Thank you again for your contribution to the work of the Committee.

Sincerely,

JOHN KLINE
Chairman

Enclosures

Representative John Kline (MN-02)

1. Following up on a question posed by Representative Roe, please provide the Committee with the number of times you and the President met one-on-one to discuss labor issues. Please include the date, time, duration, and specific policy points you addressed in your meeting.

2. You stated at the hearing that the Department's FY 2012 budget request reflects a decrease of approximately 5 percent. You suggested that DOL is looking for ways to address deficit spending and specifically cited the budget's proposal to transfer the Seniors Community Service Employment Program (SCSEP) to another Federal Department. The Department's overall budget decrease is actually achieved by a transfer of an $824 million program and not through a significant effort to decrease the deficit. Please clarify for the record: If SCSEP was not counted as part of DOL's current funding level, would DOL actually receive a net increase if the President's FY 2012 budget was adopted? Can you cite what decreases were made in the FY 2012 DOL budget request that reflect deficit reduction efforts?

3. During the hearing you stated that for every $1 of unemployment insurance spent there is $2 generated in the free market. Please provide the Committee with more context and data supporting this estimate; specifically, who calculated this estimate, what data was used to derive this figure, and when was the estimate performed?

4. How is the Department ensuring its compliance with Freedom of Information Act requirements? Is the Department meeting its deadlines to respond to FOIA requests?

5. At the hearing you stated that the American Reinvestment and Recovery Act prevented the loss of 3 million jobs. Who calculated this estimate and when? Has this figure ever been revised to reflect new data? What is the ratio of public sector to private sector jobs in this figure?

6. On January 18, 2011, the President signed Executive Order #13563 directing agencies to consider the effect of regulations on economic growth, innovation, competitiveness, and job creation. Please outline the steps DOL will take to implement this executive order and provide the Committee with a list of regulations currently under review. In addition to those on the regulatory agenda, what current regulations do you plan to re-consider or revise?

7. There are concerns that, under the Department's fiduciary proposal, the provision of non-personalized recommendations and information about the markets could trigger a fiduciary duty – for example, when a firm sends out a newsletter that describes where it thinks interest rates are going or whether gold is a good investment. Do you agree this should not be construed to create a fiduciary relationship?

8. Employee Stock Ownership Plan (ESOP) companies make employees the owners of the stock in the companies they work for, and provide one model to improve the productivity

and profitability of companies. A critical part of the ESOP model involves valuation of company stock, which must be done annually or for certain activities, such as acquisitions. The proposed rule would impose fiduciary status on those individuals who value ESOP stock, which will likely increase costs and reduce the number of people providing such services. Why is the Department pursuing this proposal? Has the Department conducted an analysis to support the assertion that there is some problem regarding the valuations of ESOP companies, many of which are small businesses?

9. During a recent hearing before the House Budget Committee, CBO Director Douglas Elmendorf confirmed that the new health care law will reduce employment by 0.5 percent by 2021. He stated that this "means that if the reduction in the labor used was workers working the average number of hours in the economy and earning the average wage, that there would be a reduction of 800,000 workers." Has DOL conducted a study on the new health care law's effect on the workforce? Do you disagree with Director Elmendorf's conclusion that the equivalent of 800,000 jobs will be lost because of the new health care law? If so, please supply data and information supporting your opinion or conclusion.

10. The Patient Protection and Affordable Care Act contains a massive expansion of the Medicaid program in order to reduce the number of uninsured, which places heavy burdens on state budgets. Did the Department consider how states will respond to the expansion of the Medicaid program – for example, will some have to raise taxes on their citizens? Won't that discourage job creation in those states?

11. GAO has uncovered instances in which the Wage and Hour Division (WHD) has failed to address workers' complaints. What has DOL done to specifically address the issues raised by GAO?

12. Why has WHD not released its Notice of Proposed Rulemaking on pay disclosure? The Department's regulatory agenda stated it was supposed to come out in August 2010. Has OMB disapproved your cost benefit analysis?

13. The Fair Labor Standards Act includes language which identifies workers "employed in domestic service," and the companionship exemption within this section has been interpreted by DOL to include home-based caregivers. Is the Department considering issuing a proposed rule to address the scope of this exemption? Please provide the Committee with information on this proposal, including any consideration of such a proposal's affect on job preservation and job creation.

14. In 2006, the Department issued an opinion to the Mortgage Bankers Association interpreting DOL regulations on loan officer overtime rules. This opinion stated that typical loan officers were exempt from the Fair Labor Standards Act's requirements under the "administrative exemption." On March 24, 2010, the WHD issued an Administrator's Interpretation which reversed and withdrew the 2006 opinion letter. Why did the Department reverse this opinion? Why did the Department not follow the statutory requirement to provide notice to stakeholders and hold a period for public

comment? Considering that this change required an overhaul of employer compensation systems, why weren't any of these businesses provided a reasonable time to comply? Shouldn't the Department conduct a study of the cost and other implications of such a change before proceeding?

15. The President has previously stated that jobs will be "the number one focus" of the administration. However, advocating for the "Employee Free Choice Act" (EFCA) was also a clear priority of the administration. Please provide the approximate number of staff hours devoted to promoting and passing EFCA in 2009 and 2010.

16. The Office of Labor-Management Standards (OLMS) reports that in FY 2010, there were 5,551 delinquent filers of labor organization financial reports and 2,070 chronically delinquent filers of labor organization financial reports. For FY 2012, although modest, OLMS's target numbers are 5,251 for delinquent filers and 1,870 for chronically delinquent filers. How is OLMS planning to reduce delinquent filings?

17. At the hearing you referred to a restructuring at OLMS that will allow it to do more enforcement without additional FTEs. According to DOL's congressional budget justification, it plans to eliminate the International Compliance Audit Program (ICAP) from OLMS's organizational structure and operating plan. ICAP's work previously resulted in an average of seven to eight audits per year. Starting in FY 2010 the goal became four, of which OLMS only achieved one. Now that OLMS has eliminated the program, what government agency will be auditing international labor organizations? How often can an audit be expected?

18. At the hearing you stated that DOL's decision to withdraw final rules on labor-management forms was based on the desire to keep filers from having to provide duplicative information. Please provide the Committee with examples of duplication that were in the Form LM-2, Form LM-30, and the T-1. Does the Department apply this standard to its other agencies and regulations?

19. This administration has clearly demonstrated it places a higher priority on grants and contributions to international labor organizations than it places on enforcement staff for union financial integrity programs at OLMS. In FY 2010, funding for the Bureau of International Labor Affairs (ILAB) was more than double that of OLMS. The FY 2012 request for ILAB grant-making programs alone are almost 80 percent higher than the entire budget for OLMS. DOL's grant-making and subsidies budget request for ILAB is $73.8 million. Please provide a list of all grants made by ILAB from the beginning of FY 2010 to today. Please highlight those grants that were competitively bid. If there was competitive bidding for any of these grants, please provide the number of applications that were submitted for each competition.

20. During your testimony you stated that reauthorizing the Workforce Investment Act (WIA), which expired in 2003, is a high priority for the administration. Yet after more than two years, DOL has not proposed new legislation to replace the expired law, and

your budget request for FY 2012 assumes no legislative changes to WIA. Does DOL plan to offer its own proposal to update WIA this year?

21. One of the criticisms of the WIA system is that a significant amount of Training and Employment Services funding remains unspent, and even unobligated, by state and local workforce investment boards. Please provide the Committee with tables that show state and local unspent and unobligated balances for WIA's Adult, Youth, and Dislocated Worker Employment and Training Activities. The tables should include a breakdown by state for each of the individual categories.

22. How many individuals were enrolled in and received WIA Employment and Training's core services through the One-Stop Career system during Program Year 2009 and currently available data for Program Year 2010? How many of the individuals who received core services obtained unsubsidized employment? How long, on average, did it take for the workers having received core services to be hired by an employer? What was the average cost per participant who received these services? What was the average cost per participant who did not complete these programs?

23. How many individuals were enrolled in and received WIA Employment and Training's intensive services through the One-Stop Career system during Program Year 2009 and currently available data for Program Year 2010? How many of the individuals who received intensive services obtained unsubsidized employment? How long, on average, did it take for workers who received intensive services to be hired by an employer? What was the average cost per participant who received these services? What was the average cost per participant? How many workers did not complete these programs?

24. How many individuals were enrolled in and received WIA Employment and Training's training services through the One-Stop Career system during Program Year 2009 and currently available data for Program Year 2010? How many of the individuals who received training services obtained unsubsidized employment? How long, on average, did it take for the workers having received training services to be hired by an employer? How many individuals that received training services obtained employment in the field relevant to their training? What was the average cost per participant who received these services? What was the average cost per participant who did not complete these programs?

25. How many One-Stop Career Centers were designated or certified through the competitive process outlined in section 121(c)(2)(A) of WIA during Program Year 2009 and currently available data for Program Year 2010? How many were designated or certified through the alternative process included in the law? Please provide the Committee with a chart detailing the number of entities responsible for operating One-Stop Career Centers broken down by the following categories: postsecondary educational institution; employment service agency; private, nonprofit entity; government agency; and other entities.

26. During the hearing you told the Committee that you asked for a review of all job training programs as soon as you took office. How did the Department implement your request? When did it complete its internal evaluation? In what ways does DOL's evaluation agree with GAO's report on duplicative job training services? In what ways does it differ? How much in potential savings did your internal evaluation identify? In what ways has this assessment influenced DOL's budget requests for FY 2011 and FY 2012? Have you directed DOL to coordinate with other Departments and agencies to identify ways to end duplicative programs?

27. When the President requested and Congress passed 'economic stimulus' legislation in February 2009, he requested funding for "shovel ready projects." The American Reinvestment and Recovery Act (ARRA) included almost half-a-billion dollars in funding for the Green Jobs training grants. Prior to receiving this funding, did DOL conduct a feasibility study on the number of workers that would be needed in this field? If not, has DOL conducted any feasibility studies since February 2009? How many individuals have received training under this ARRA-funded program? How many individuals have completed this program with a certificate or accreditation? How many individuals obtained unsubsidized employment relevant to their training? How long, on average, did it take for the newly trained individuals to be hired?

28. ARRA dedicated $250 million in funding to Job Corps for "Training for Careers in Energy Efficiency and Renewable Energy Industries." How many students received training under this program? How many students ended the course with a certification or accreditation? On average, how long did this training take? How many students obtained unsubsidized employment relevant to their training? How long, on average, did it take for newly trained workers to be hired?

29. A number of DOL agencies and programs awarded grants for Green Jobs programs. Please list all competitions, including dollar figures, for green jobs-related grants that were not funded through the Green Jobs Innovation Fund. Did these grant competitions include requirements that applicants must work in partnership with a labor organization in order to be selected?

30. The Department's performance targets indicate that for every recipient completing employment training from Adult, Youth, Dislocated Worker, and Native American training programs, only about half are expected to enter employment within three months of completion. What does the Department plan to do to ensure that every worker who receives employment services will have a better than 50-50 likelihood of reentering the job market?

31. The cost per participant in the National Farmworker Jobs Program is more than half of what the average trainee earns in half-a-year of employment. What plans have you made to improve the outcomes for those who receive services under this program?

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32. During the hearing you stated your opinion that Project Labor Agreements (PLAs) actually help to bring down the cost of projects. Please provide the Committee with statistical evidence supporting this belief. How were PLAs implemented with the New Hampshire Job Corps Center? Please provide the Committee with a list of other DOL-related projects for which PLAs are part of the contract.

From Representative Todd Rokita (IN-04)

1) Employee Stock Ownership Plan (ESOP) companies must have annual valuations of their stock. Additional valuations associated with acquisitions and other business activity may need to be performed. It has been brought to my attention by constituents that a regulation proposed by the Department of Labor will redefine valuators of these companies' ESOPs as ERISA fiduciaries. (U.S. Department of Labor, Employee Benefits Security Administration, Definition of the Term fiduciary, Federal Register, October 22, 2010, page 65263.). It is my understanding that the proposed regulation will have an effect on many other activities in the financial sector, as well. This regulation will increase the cost of operating and establishing an ESOP by forcing valuators to obtain special ERISA fiduciary insurance, and in fact, many competent valuators may drop ESOP valuation work altogether, leaving less competition for ESOP companies to review before hiring a valuator.

   I have been contacted by constituents in my area about this proposal that reverses the position of four Republican and two Democratic Administrations. You have received protests from the American Institute of CPAs, the American Council of Engineering Companies, the Food Marketing Institute, the Chamber of Commerce, and nearly all the employer groups.

   A common complaint is your Department provides no data to support the claim that ESOP valuations are wrong. This proposal does not appear to address a documented problem and it will increase costs, discourage ESOP formation, and cause needless gridlock and confusion between ESOP trustees and the valuators. Please provide me with the data you used to document the need for regulatory action in this area and explain why this particular approach is the least burdensome means of achieving your objectives.

From Representative Lou Barletta (PA-11)

1) On January 20, 2011, the Department announced the availability of $500 million for Trade Adjustment Assistance (TAA) Community College and Career Training Grants. I understand these grants will provide colleges with funds to expand and improve programs for workers who have lost their jobs, but I am also concerned about the large number of young workers who are unsuccessfully trying to find meaningful employment. My district has an unemployment rate of 9.8 percent, the highest in Pennsylvania, and many of these workers are recent high school graduates. Since my ultimate goal is to ensure that all citizens in my district will have greater access to lucrative careers, I would like to know what your department is doing to ensure recent high school graduates have increased choice and access to higher education.

Questions Submitted by Hon. Carolyn McCarthy, a Representative in Congress From the State of New York

1. I think the Department of Labor has done a great job on a variety of fronts, and I commend you for your commitment to American workers.

Today's worker is much different than the worker of past. There are different workplace demographics and different expectations for both employers and employees. There are surveys out there that conclude that women are now nearly 50% of the U.S. workforce, yet still barriers exist for them. One of the issues I have been most active on is breastfeeding, and what concerns me is the lack of federal attention to the issue.

Last Congress, I introduced a bill, the Exemplary Breastfeeding Support Act which would have helped to implement programs in support of breastfeeding. I was pleased that the healthcare reform law includes language requiring employers to provide reasonable break times and private space for nursing mothers on the job.

Can you tell us a little bit about the implementation of this provision and its importance to fostering a fair and equal workplace?

2. I wanted to reiterate the concern my colleague Rep. Biggert had brought to your attention regarding your Department's proposed rule expanding the definition of a fiduciary. As you mentioned, ERISA law has not been looked at in more than 30 years, and I do not deny that the Department of Labor should look into the law and its merits. However, as a member who both sits on this Committee as well as Financial Services, I implore you to work with your counterparts at the SEC and CFTC who have made proposals in this realm as result of the passage of Dodd-Frank last Congress. I firmly believe that ambiguity in this sector and a lack of dialogue will ultimately hurt consumers, so please keep me briefed as to your conversations with your counterparts, and I look forward to working with you on the issue.

Chairman KLINE. It is now my pleasure to introduce our distinguished witness, who really needs no introduction.

Secretary Solis was confirmed as the Secretary of Labor on February 24th, 2009.

You were one of the very first in the new administration.

Prior to her confirmation, Secretary Solis served as a Member of Congress, and we were proud to have her as a colleague. She represented the 32nd District in California from 2001 to 2009. She is a graduate of California State Polytechnic University and got her master of public administration from the University of Southern California.

Madam Secretary, welcome back. You know the light situation here. I will confess to you up front that I am not going to pay much attention to the light for your testimony. We want to hear everything that you have to say.

I will, though, for the benefit of my colleagues, say that I will be paying attention to the lights as we get into our question-and-answer, and I will probably have to remind you at least once.

But we are pleased to have you here. And the floor is yours, Madam Secretary.

STATEMENT OF THE HON. HILDA L. SOLIS, SECRETARY, U.S. DEPARTMENT OF LABOR

Secretary SOLIS. Thank you very much, Chairman Kline and Ranking Member Miller and members of this committee. I want to thank you for inviting me to come testify before you today. And, yes, it is a delight to be back here amongst former colleagues and to be in this committee room where, when I began my work here in the Congress, this was the committee that I served on. And much has changed since then.

But I know that oftentimes we may agree and agree to disagree on issues. So I hope that, with that hope in mind, that we will continue to work on those issues that the American public wants us to focus in on, and that is the economic recovery and providing better opportunities for all of our working families here in America.

Let's just remember how deep and devastating the recession was when President Obama took office. That was about the time when I took over the reins at the Department of Labor. There were more than 4.4 million jobs that had already been lost since the start of this recession. We saw job losses in almost every sector of our economy, but especially in manufacturing, which lost about 1.2 million jobs.

We are getting our economy back on track with 11—11—straight months of private-sector job growth, adding 1.1 million private-sector jobs last year alone, in 2010. In addition, we are encouraged by the job growth we are seeing in our Survey of Households, including self-employment and hiring by new startup businesses.

Just this last month, I reported that nearly 600,000 more Americans were employed compared to the previous month, causing the unemployment rate to fall from 9.4 percent to 9 percent. But we still, as you know, have a long way to go. That is not an acceptable rate.

I know the House will consider a fiscal year 2011 continuing resolution this week. We look forward to working with Congress to cut spending and to cut the deficit. But to win the future, we cannot cut in a way that will undermine our ability to out-educate, out-innovate, and out-build our economic competitors. And many of the proposed cuts would do just that.

The budget of the President, announced on Monday, is a responsible plan that shows how we can live within our means, just like a household, and invest in the future. It makes tough choices to cut spending and to cut the deficit, and puts us back on a path to fiscal sustainability.

At the Department of Labor, we are working to get Americans back to work by providing job seekers the skills necessary to land the good-paying jobs for the future, especially in those high-growth sectors like health care, IT, and clean energy.

The health-care sector alone has added an average of about 22,000 jobs per month over the last year. And the Bureau of Labor Statistics projects that health-care jobs will experience the largest job growth of any industry over the next decade.

Even in the manufacturing sector, as you can tell, that is also coming back. And all you have to do is point to the automobile industry. Just last month, our economy added 49,000 manufacturing jobs, with 20,000 of those jobs exclusively in the automobile industry.

I have seen this revitalization myself. In fact, last week, I visited the GM Hamtramck plant in Detroit that makes the Chevy Volt, and the Chrysler-Jeep assembly plant in Toledo, Ohio. I spoke to several autoworkers and management who take great pride in assembling this innovative, fuel-efficient vehicle. I saw amazing results of the administration's investment in the automobile industry.

DOL's investments are making a difference in workers' lives to train them for the 21st century. In Florida, we invested in training a construction worker who needed renewable energy skills to be competitive. With the DOL-funded program, he now has an industry-recognized solar photovoltaic degree and better jobs opportunities.

In Minnesota, we linked Jay Booker, a Job Corps student who earned a technology skills degree at Humphrey Job Corps Center, with a job at the Minneapolis-St. Paul airport, where he has now a bright future in the transportation industry. I believe Jay was able to come here to visit us today and is here at our hearing, right?

Do you want to be recognized?

I believe he is your constituent, Chairman Kline. [Applause.]

Secretary SOLIS. In addition, as you can tell from the white jackets in back of me, there are also a number of students from our local Job Corps, the Woodland Job Corps Center, who are visiting us today.

On-the-job training programs actually let workers earn while they learn. You can imagine a more direct link between training and job that is a model that we know works.

Our National Emergency Grant, something that I believe some of the Members here know of, provide a rapid response to your constituents in a large-scale manner, especially when there is job loss, a big plant closure or mass layoff, or even a natural disaster.

In Fremont, California, our $19 million went in a NEG to the NUMMI plant through the National Emergency Grant program, which helped to provide assistance to over 4,000 autoworkers. They were provided with training and re-employment services that they desperately needed to look into new careers.

Our Trade Adjustment Assistance program provides similar help for trade-impacted workers. It is vital that Congress take action to extend the TAA extension, which helped thousands—tens of thousands of workers. When I was in Michigan and Ohio just last week, I heard firsthand what an essential lifeline the TAA program is.

Our job-training programs are essential to winning the future for our country. We must have a workforce that is trained to meet the needs for employers. That is why reauthorizing the Workforce Investment Act, know as WIA, is such a high priority. We know that the current system isn't perfect, but it serves many different populations with good, targeted programs. Reauthorization will present, I believe, an opportunity to promote innovation, build on strengths, and address challenges.

At DOL, we not only train workers to get new and better jobs, but we protect them once they are on that job. We ensure that workers are paid wages and overtime that they earned. During the past 2 years, Wage and Hour recouped nearly $400 million in back wages in over 52,000 cases that impacted nearly 400,000 workers.

This is not just good for workers, but it is also good for business. In this difficult economy, no employer can afford to compete against a company that cuts corners or breaks the law.

For example, all poultry processors are supposed to pay workers for the time spent putting on and taking off their protective gear. We learned, however, that the biggest companies in the industry, like Pilgrim's Pride and Tyson Foods, were not living up to their responsibility. It is not fair to ask a small poultry processor to do what the big guys wouldn't do. That is why I am proud that the Wage and Hour division's successful settlement of cases came to a conclusion with Pilgrim's Pride and Tyson.

We all agree that every job in America should be a safe job. We are partnering with employers to provide compliance assistance and to ensure that they have the tools and incentives necessary to make good health and safety decisions.

In 2010, more than 26,000 small- and medium-sized businesses that employed more than 1.5 million workers received assistance from OSHA's On-Site Consultation Program free of charge. We are also enhancing our dialogue with small business about the impact of OSHA regulations. And we are continuing our dialogue with all

businesses. That is why my fiscal year 2012 budget funds OSHA's Voluntary Protection Program to continue that program's important mission.

While we work with the business community to keep workplaces safe and minimize the regulatory burden, we will continue to aggressively enforce our safety and health laws against those employers who refuse to play by the rules and put workers at risk.

One dangerous industry where we have focused our resources happens to be in the construction industry. We had more fatalities in that industry than any other in the private sector in 2009. Last year, we held an OSHA National Action Summit conference in Houston to discuss what more we can do to prevent vulnerable workers and especially construction workers from fatalities.

But too many employers in the construction industry still don't get it, like C.A. Franc Construction Company in Washington, Pennsylvania. This roofing contractor refused to take steps to protect its workers from falls. In 2010, Carl Beck, a 29-year-old employee with two children, fell to his death when his employer denied him the safety equipment he desperately needed.

OSHA cited these egregious violations, which will deter other similar violations and level the playing field. Other roofing contractors who provide fall protection for their workers shouldn't have to compete against unscrupulous employers who don't play by the rules.

This past year, at the Mine Safety and Health Administration, known as MSHA, we have done some extraordinary things there. And I am immensely proud of what they have been able to respond to. MSHA is using every tool at its disposal to reform the behavior of repeat violators.

Since April, MSHA has conducted more than 200 impact inspections across the country. These impact inspections, which began in force last April following the explosion at the Upper Big Branch mine in West Virginia, involves mines that merit increased agency attention and enforcement due to their poor compliance with our vital mine safety and health laws.

MSHA also, for the first time in its history, sought a Federal court injunction to protect miners. The law makes it very difficult to get an injunction, but we thought this extraordinary remedy was necessary to protect miners from the egregious conditions at the Freedom Energy Mine located in Kentucky.

MSHA is also upgrading its regulations strategically to implement what we have already learned from the Upper Big Branch disaster. MSHA issued an emergency standard on rock dusting and proposed revamping the pattern-of-violation standards.

MSHA will continue these efforts, but we need to do more to reform the behavior of the worst of the worst in the mining industry. We don't need to wait for the report from the Upper Big Branch investigation to know that we need new mine-safety legislation as soon as possible. In fact, long before the report on the Sago disaster, President Bush signed the MINER Act into law. And I hope we can work together on a new mine-safety legislation.

And in order to fulfill our mission at DOL, it is critical that we have a strong working relationship with the business community. The business community creates the jobs, not DOL, not the Federal

Government. We need to strengthen our economy, and we have to know that we can provide workers with the skills that they need for these new jobs.

Just last week, I had a few meetings with business leaders that illustrate our effort to work with the business community. I met with Jim McNerney, the CEO of Boeing. We have a strong partnership with him, and discussed ways to improve our training programs to better serve their needs, including having company personnel help create curriculum for training programs and teach some of those courses. I also met with 25 members of the American Sustainable Business Council, and they agreed to work with us, with our One-Stop system, in their hiring efforts.

In addition, our veterans employment administration has forged relationships with the National Chamber of Commerce, as well as small regional chambers. We are working with them to, quote/unquote, "hire a vet." It is an initiative to help our veterans and transitioning service members to find good jobs.

These are but a few of many examples that we are working on cooperatively with the business community.

We at the Department of Labor do our best every day to create economic opportunities for employers and working families. And I hope I have shown you that we are making a difference in the lives of many of your constituents and workers throughout this country. I look forward to working with you to ensure that we have good jobs and safe jobs for everyone.

Thank you.

[The statement of Secretary Solis follows:]

Prepared Statement of Hon. Hilda L. Solis, Secretary, U.S. Department of Labor

Chairman Kline, Ranking Member Miller, and Members of the Committee, thank you for inviting me to testify. It is wonderful to be back among my friends and former colleagues. I am also so glad to have the opportunity to speak with the many new members of the Committee. We have a lot in common. I too once was a freshman member of Congress on this Committee. I sat where you now sit so I can empathize with the need to quickly get up to speed on the vast jurisdiction of this Committee—including the many programs and services that the Department of Labor provides for your constituents. I look forward to all of the hard and good work we will do together to help working families across America.

I hope you know that my offer to work with you is genuine. Since I came before this Committee last year, much has changed here in Washington and in the nation. What has not changed is the desire the American people have for us to work together to address the many challenges facing our nation's working families. Undoubtedly, we will not agree on every issue. But I hope we can agree on many and that we can also agree on the end goal—to continue to help bring our country out of the recession with a stronger economy and better opportunities for all working Americans. Only if we make a commitment to this shared goal and pool our energies towards achieving it do we have any hope of success, because the challenges that remain for American workers are still formidable.

I am happy to report that we have already taken some important, and big, first steps towards addressing these challenges, including returning many Americans to the workforce.

But we cannot build a solid foundation for the future while ignoring the millions of Americans who are still out of work. We have to start where we are.

Our economy has clearly made significant progress toward recovery over the last year. Let us remember just how deep and devastating the recession was when President Obama took office. By January end of 2009, 4.4 million jobs had been lost since the start of the recession in December 2007. We saw job losses in almost every sector of the economy, but especially in the manufacturing sector, which lost 1.2 million jobs between the beginning of the recession and the time President Obama took of-

fice. Last February when I testified, the best I could say about the jobs picture was that the rate of job loss slowed.

Today, we have much progress to share. In January, the economy added 50,000 private sector jobs. We have now had 11 straight months of private sector job growth, adding 1.1 million private sector jobs in 2010. In addition to the jobs we are seeing added in our survey of businesses about their payroll, our survey of households is showing even more encouraging news. Last month nearly 600,000 more Americans were employed compared to the previous month causing the unemployment rate to fall from 9.4% to 9.0%. While we still have a long ways to go, Americans are showing perseverance and are finding jobs and creating new jobs through self-employment and entrepreneurship.

We still need to see more job creation in order to continue to bring down the unemployment rate and to address the problem of the long-term unemployed. More than 6 million Americans have been jobless and looking for work for over six months. Special challenges arise for people who have been out of work for so long. The Administration is working aggressively to continue to grow the economy, accelerate job creation, and address the special needs of the long-term unemployed. My role is to ensure that workers have the tools they need to succeed and feed our building economic recovery.

You have asked me here today to discuss my priorities for the Department of Labor in the coming year. In his State of the Union address, President Obama spoke of the need to maintain America's leadership in a rapidly changing world so that our economy is competitive—growing and working for all Americans. To do so, he is putting forward a plan to help the United States win the future by out-innovating, out-educating, and out-building our global competition. At the Department of Labor, we are working hard to prepare America's workforce to meet this challenge. My goal is to help foster an economy in which good jobs are available for everyone and American workers are prepared with the skills necessary to be productive in these jobs throughout their lifetime. This means jobs that can support a family. Jobs that are sustainable. Jobs that are safe and secure. Jobs that can lift up the middle class. In short, my highest priority is to get Americans back to work in good jobs. And we must make these investments while also making difficult choices that will put our nation on a sustainable fiscal path.

The best way to describe my priorities for achieving this goal is to look at the Department's accomplishments from the past year. We have made a great start and I plan to continue our good work.

Preparing Workers for 21st Century Jobs

We know that the skills needed to succeed in today's economy are different than they were in the early 80s, or even the mid-90s. Going forward, we must continue to increase the skills of workers at every level. The roots of this recession are deep and complex. The nation and the world that is emerging from the recession are different from the nation and the world that entered it. The key to American competitiveness lies in its workforce being poised to fully participate in the 21st Century economy. That is why this Administration is committed to advancing the skills and education of all workers, and connecting them with potential employers. If we want to get as many people as possible into productive careers that can carry them through their working lives, and to ensure that America has the labor force we need to be competitive in a global economy, we have got to increase the skill level of our workforce and link job training programs directly with good job opportunities.

As you all probably know, I am a big believer in the promise of the health care and clean energy sectors of the economy. These, and other high growth sectors, will provide the jobs of the future. I am proud of the investment that the Department has made in training workers across the country for these 21st Century jobs. In the health care sector, our nation needs more registered nurses, nursing aides, home health aides and medical assistants to care for our families. The Bureau of Labor Statistics (BLS) projects that health care jobs will experience the largest job growth of any industry over the next decade.

In his State of the Union address, the President called for 80 percent of America's electricity to come from clean sources by 2035, including wind, solar, nuclear, clean coal and natural gas. He is also putting forward measures to ensure that the U.S. is the first country to put one million advanced technology vehicles on its roads. These commitments, coupled with private sector investments, will expand our clean energy economy, producing more green jobs. And with BLS' new definition of "green jobs," the federal government, states and cities, large corporations and small businesses can now better target and track their investments in the green economy. Employers will need skilled workers to develop, build and maintain the systems that

harness our country's supply of renewable energy and potential for energy efficiency, a particular emphasis of DOL's recent job training efforts.

The Department's investments in the clean energy economy have focused on three goals:

1. enabling states to develop needed partnerships and plans to better align their workforce and state energy policies leading to employment;

2. building the capacity of established job training providers to train workers for clean energy jobs; and

3. directly supporting education and training services for a diverse community of American workers either seeking entry into or retraining for new and emerging jobs in the clean energy economy.

Workers across the country are now actively participating in health care, clean energy and other in-demand job training programs. They are learning skills and receiving credentials needed to move up career ladders in a rapidly changing economy. Workers are also being connected with employers in these growing industries and in-demand occupations in their local communities. We are seeing the impact of Department of Labor programs in cities and towns all across the country.

In Detroit, a struggling single parent of two small children completed a DOL-funded training program and almost immediately was hired as a contractor for DTE Energy, Detroit's largest utility company. Since securing employment, this worker has already been promoted to supervisor and sees an opportunity in higher education to pursue a degree in engineering. And DOL programs are helping incumbent workers expand their skills as well. A construction worker in Florida, previously at the top of his profession, soon found himself unqualified when solar panel installation and renewable energy skills became a requirement. He participated in a DOL-funded program and now has an industry recognized Solar Photovoltaic (PV) degree.

Similar successes are occurring in training for other high growth fields, particularly health care. In the District of Columbia, a 26 year-old, African American woman, residing in a neighborhood where unemployment is 30 percent, received DOL-funded training for employment in the health care sector. I am pleased that this trainee graduated from the program and is now employed as a home health aide. Because of her training and credentials, she was able to become self-sufficient and has the skills to advance in her new career in the growing health care sector.

Our collaboration with the nation's community colleges is another aspect of our focus on preparing workers for the jobs of the future. That is why we are collaborating with the business community and community colleges on programs to provide the relevant training that industries are looking for, and will surely need more of, as we pave the way to recovery. As a former trustee on a community college board, I know first hand the transformative power these institutions can have in the careers and lives of young and older students. Community colleges ensure that individuals obtain the credentials they will need for good jobs. Since 2005, the Department has invested over $485 million in over 250 community colleges and related organizations through the Community-Based Job Training Grants. By the end of FY 2010, these grants provided training to over 171,000 individuals, of whom over 72,000 earned a degree or certificate. And it is just as critical that employers who understand the needs and the skills desired in their specific industries are working directly with community college faculty to develop relevant curricula and coursework that prepare workers to succeed in good, safe jobs.

On January 20th, we announced the availability of $500 million for the Trade Adjustment Assistance (TAA) Community College and Career Training Grants. These competitive grants will provide community colleges and other eligible institutions of higher education with funds to expand and improve education and career training programs suitable for workers who have lost their jobs or are threatened with job loss because of trade with other countries. These training programs must be timely—training must be completed in two years or less—and the overarching goals of these grants are to increase attainment of degrees, certificates, and other industry-recognized credentials and better prepare the targeted population, and other beneficiaries, for high-wage, high-skill employment. The program will also encourage community colleges to develop innovative methods, use data, and replicate evidence-based practices to improve student outcomes and efficiency. For example, grants will support the delivery of online education that can allow students balancing the competing demands of work and family to acquire new skills at a time, place and pace that are convenient for them. We are working with our colleagues at the Department of Education as we prepare to award and administer these grants.

Developing the skills of our nation's youth is also critical to ensuring that our workforce is ready to succeed in the future. After all, today's youth are tomorrow's workforce. The Department has some great success to build on in the coming year. Through our YouthBuild program, we are providing disadvantaged youth with the

knowledge and skills required to fully participate in the economy of the 21st Century. As part of the Recovery Act, we awarded 47 of the 62 Green Capacity Building job training grants to YouthBuild programs. These grantees were able to purchase equipment and provide certifications for their instructors to support energy efficiency and renewable energy industries. These Green Capacity Building grants have enhanced the capacity of these YouthBuild grantees, by allowing them to serve more than 2,750 young people through the program. One great example is the ARCH Training Program here in D.C., where YouthBuild students assembled solar suitcases that were sent to Haiti and were used to power medical equipment in areas with limited, or no electrical power.

Similarly, our WIA Youth program is building a better future for deserving young people and our nation. State and local areas used close to $1.2 billion in Recovery Act funds to create robust, high-quality programs that served 414,256 youth, including more than 350,000 served during the summers of 2009 and 2010. These young people participated in summer employment opportunities in clean energy, weatherization, solar installation, retrofitting, and health care occupations. These employment opportunities allowed young people to gain job experience that will help them succeed both in higher education and in the workforce.

Take, for example, a young woman who was homeless and trying to escape an abusive boyfriend. She ended up in a shelter in Boston that put her in touch with the Action for Boston Community Development's (ABCD) Health Career Explorations Program. The ABCD program included workshops on self esteem and job readiness that prepared her to take on the challenge of participating in a home health aid certification program and a CPR/First Aid certification program. Her drive and determination helped her land a paid summer internship in the Radiation Department at the Beth Israel Deaconess Hospital. Once at Beth Israel, she found out about the different professional development opportunities available to her. One of these programs was the Medical Interpreters Program. Thanks to the discounted price available to her as a hospital staff member and the sponsorship from the ABCD Youth Explorations program, she was able to take advantage of this program. The WIA youth program really changed this young woman's life by preparing her for a career in the growing field of health care.

Our Job Corps program has a long history of preparing disadvantaged youth for a successful transition into the workforce and we should all be proud of the program's accomplishments. As with all of our job training programs, we are shifting Job Corps to focus on 21st Century jobs. For example, this year Job Corps partnered with the National Healthcareer Association (NHA) to pilot a training and certification program for an Electronic Health Records Specialist job track. As our country shifts to greater use of digital media and paperless recordkeeping, the demand for qualified health record specialists is growing rapidly. The NHA partners with over 1,300 educational institutions through the country to prepare students for national health care-related certification exams. Our pilot, which will run through April of this year, involves a total of approximately 500 full-time students at nine Job Corps centers, including those in many of your home states, such as Virginia, Ohio, New York, Florida, Pennsylvania, and Nevada.

Our Job Corps program does not just help young people in our nation's cities. We are also in rural areas, training students for jobs that make sense in their communities. For example, in Representative Noem's district, we are serving South Dakota's youth for employment throughout the state. Twenty-one year-old Nick Andrews was looking for real world bricklaying experience, and he found lots of it while restoring the Mount Roosevelt Friendship Tower in South Dakota's Black Hills region. Andrews is a student at the state's Boxelder Job Corps Civilian Conservation Center. He joined other center students and a stone mason in an 11-week facelift of the tower, created to honor President Theodore Roosevelt's support of conservation. The restoration was funded by the Recovery Act in an effort to restore the monument for public use by next July, its 90th birthday. "It is nice to give back to the public," he said about his restoration efforts, adding that at Job Corps, "I learned responsibility and leadership skills."

Chairman Kline, I hope one day you have the opportunity to meet Jay Booker, a Job Corps student in your state of Minnesota, who has turned the technology skills he earned in Job Corps into a job at the Minneapolis-St. Paul Airport. Jay came to Job Corps with a high school degree and a desire to better his life. At the Hubert H. Humphrey Job Corps Center in St. Paul, he received advanced training to prepare him for a career in the transportation industry. He is now a productive, positive contributor to the economy of your state.

While the Department is focused on the jobs of the future, we also understand that workers who are laid off cannot wait until the future to get a paycheck. We are doing everything we can to get workers into jobs quickly. From the first sign

of a layoff to starting a new job, the Department is helping your constituents and all Americans navigate the world of job search, education and training, resume writing, and interviewing, thus reinventing their vision of a better future. Our staff also help unemployment insurance claimants with income support needed to help pay their rent, put food on their table, and provide the necessities of life for their families. In fact, 23 million unemployed workers received $150 billion in unemployment insurance benefits in 2010. We should remember that those workers have an ongoing responsibility to look for new employment while they are receiving unemployment insurance benefits. And, that these benefits help not only those who receive them, but help our entire economy. This year we released a study commissioned by the Bush Administration that found that every dollar of unemployment benefits leads to $2 spent in the economy, keeping even more Americans in jobs.

We are looking at new strategies for shortening the period of unemployment for unemployed Americans. DOL hosted a national Reemployment Summit for approximately 800 state and local practitioners in December to highlight successful practices, tools, and techniques that are connecting unemployed workers to jobs. Looking ahead, DOL will be funding state models to build a common front door to the workforce system that is supported by integrated registration, common customer records, and electronic tools and social networking solutions to finding jobs or job training.

When large-scale, unexpected economic events have occurred in your states, our National Emergency Grants (NEGs) have been there to provide a rapid response to the crisis. Significant dislocation events include business closures, mass layoffs, or realignment and closure of military installations as a result of the Base Realignment and Closure (BRAC) initiative. National Emergency Grants help displaced workers adapt in a changing economy. As many of you know, these grants temporarily expand the service capacity of Workforce Investment Act Dislocated Worker training and employment programs at the state and local levels. National Emergency Grants provide resources to states and local workforce investment boards to quickly help laid-off workers get rehired by offering such services as skills assessments, career counseling, job placement and training to increase occupational skills. Grant funds can also provide supportive services to participants, such as transportation subsidies, child care and income support in the form of needs-related payments.

I would like to share with the Committee one example from California that best illustrates how National Emergency Grants can extend a helping hand to workers and communities hit hard by economic disaster. In late 2009, it became clear that the New United Motors Manufacturing Inc. (NUMMI) plant and several of its suppliers were going to go out of business. The closure of the 5 million square foot plant in Fremont, California presaged economic devastation for the Fremont community. More than 4,300 workers at NUMMI and several of NUMMI's suppliers were at risk of unemployment, with nowhere to go, as NUMMI was the only automotive plant on the West Coast.

The Department worked with the California Employment Development Department on a National Emergency Grant to help NUMMI workers get the training and employment-related services they so desperately needed. Within two months of the NUMMI closure in April of last year, I announced the investment of a $19,042,012 National Emergency Grant for the training and re-employment of displaced NUMMI plant workers and their suppliers' workers. I made the announcement at the NUMMI Re-employment Center, surrounded by those NUMMI workers who would benefit from the grant. The NUMMI grant covers an estimated 4,350 workers across 29 counties. Additional Trade Adjustment Assistance (TAA) funds are available to pay the costs of vocational re-training, which typically is the most costly component of dislocated worker re-employment assistance. I am happy to report that as of early December 2010, over 4,300 of these dislocated workers had been enrolled and are being served. In fact, the NUMMI Re-employment Center (NRC) classes are filled to capacity, and the NRC is looking for alternative classroom facilities to meet the demand. The scope of services to these dislocated workers project-wide includes needs assessment, counseling, re-employability plan development, vocational re-training, including on-the-job training, and job placement assistance.

NUMMI workers are embarking on every type of new career at a wide array of companies. For example, Ray Morimoto worked at a NUMMI supplier at Injex Industries as a manufacturing engineer. After being dislocated due to the NUMMI plant closure, Ray enrolled at the San Jose NUMMI Career Transition Center (NCTC), work2future. Ray expressed frustration and constant worry in the beginning of his training and job search but kept a consistent, hardworking attitude. Ray attended case manager and job developer appointments to seek advice and guidance and used the NCTC computer center for job search. In addition, Ray participated

in the Advanced Transportation Technology & Energy, Energy Efficiency Management Program at West Valley College to enhance his marketability.

Ray called NCTC to tell the staff that he had applied for a job posting from work2future for Chromasun, a solar thermal start-up company, had a successful job interview, and received a job offer for a Lead Manufacturing/Quality Engineer position including benefits and a salary of $80,000 per year. Shortly after Ray was hired, he assisted Chromasun with the recruitment and hiring of other highly qualified NUMMI colleagues.

The NUMMI workers are finding good jobs. While they made on average $30.97 per hour last April when NUMMMI closed, in their new jobs they are making an average of $26.35. That is approximately 85% of their former wage, which is excellent, considering current economic conditions and competitiveness for employment in the Northern California area. We have National Emergency Grant successes like NUMMI in many of your states.

Our NASA-related National Emergency Grant is another example of the Department's commitment to getting involved early and in a comprehensive manner when workers lose their jobs and their families and communities are in need. I am sure that we all read with interest in the newspaper when NASA announced that it was retiring the Space Shuttle. The National Emergency Grant program played a key role in easing the transition of the affected aerospace workers in the Central Florida area. The Brevard Workforce Development Board was awarded a $15 million National Emergency Grant in June 2010 to help aerospace workers affected by the phasing out of the Space Shuttle and Constellation programs to transition into other occupations. The grant allows Brevard Workforce and its partners to continue the work they are already doing to help aerospace workers transition into new employment when the Shuttle and Constellation programs end. To date, $7.8 million of the $15 million NEG has been released to the Brevard Workforce Development Board.

The National Emergency Grant focuses its training dollars largely on creating on-the-job training (OJT) opportunities with area businesses from Brevard and counties from the surrounding Central Florida Region. The grant also provides occupational classroom training opportunities. These training opportunities are geared toward eventual long-term employment for the transitioning aerospace workers, thus aiding the region's aggressive economic development effort to help create and sustain jobs. Training is targeted at those industries that show the most promise of providing workers with good long-term career prospects in the region: biotechnology, environmental, biomedical, automotive, electronics, telecommunications, geospatial systems, health care, aviation, IT, modeling and simulation and commercial construction.

The change in NASA's schedule for ending the Space Shuttle Program has kept the NASA workers on the job for a while longer than we had anticipated. That delay has given the area workforce agencies extra time to hire and train additional staff and reach out to area employers to find where the jobs will be when the Shuttle program ends. As of mid-January 2011, Brevard Workforce Development Board secured 148 OJT slots with an average hourly wage of $31.43. We will continue to look for the communities that need this kind of help from the Department in the coming year and will provide the same excellent level of service to those communities, wherever they are.

As we did last year, in the coming year we will focus on ways to train workers that help meet their long-term needs, while also addressing their immediate needs. Many workers simply must find ways to support themselves and their families while seeking training and the Department has done much to meet the needs of these workers. We are advancing and building on "learn and earn" models—such as on-the-job training, Registered Apprenticeship, and transitional jobs—that provide earnings while increasing employability, skills, and opportunities for advancement, particularly for disadvantaged populations. We also will emphasize accelerating learning strategies for low-income and low-skill workers, such as offering basic skills and English language proficiency with career or technical skills training.

The on-the-job training model is one that fits our times. It has tremendous support from both business and labor because it delivers much-needed training and a paycheck for workers, while helping to defray some of the employer's costs of providing that training. In our OJT programs the employer is reimbursed for a percentage of the wages paid to the worker in training. Participants have a chance to "learn and earn," gaining skills while getting paid.

For employers, OJT offers the unique opportunity to offset initial training costs to fill positions while building the company's productivity as the participant learns the job. An OJT arrangement can be the impetus for an employer to create the job opportunity now instead of waiting for higher economic growth. For the long-term unemployed, OJT gets them back into the job market earning a paycheck and refreshing their work skills. We have had great success so far. In an economy where

employers are reluctant to hire, OJT is unique among WIA services in that it places the worker directly with the employer, providing the employer with reimbursement for the extra costs of training. And WIA participants who receive OJT typically experience a higher rate of job placement than other participants.

In June of last year, we announced $75 million in Recovery Act funds for OJT National Emergency Grants. Those funds went to 41 states, the District of Columbia, and three federally recognized Native American Tribes. These National Emergency Grants, or NEGs, are a one-time funding source to support on-the-job training for the long-term unemployed, especially in areas disproportionately impacted by the recession. For example, in your home state of Oregon, Representative Wu, under the $2,119,166 OJT NEG that the state received, a total of 14 OJT projects have been established, including some in very rural areas, where the recession has taken a significant toll on small businesses.

During 2010, the Department provided intensive guidance and assistance to our grantees to ensure that they would be good stewards of the money awarded to them. Our efforts included an OJT toolkit website, which has been met with very favorable reviews from our workforce partners, and an all-grantee meeting in August. We have also assisted grantees in the planning process so that they design OJT projects that will maximize job placement. This enhanced and necessary planning process went beyond even the extensive oversight that DOL already conducts for most National Emergency Grants because of the unique nature of the OJT program and the public workforce system's limited recent experience implementing OJT on a broad scale. I am looking forward to seeing the fruits of our efforts this year when the grantees have fully implemented their programs and the results start coming in. I hope you will share with me any stories you hear from your constituents about the impact of these grants.

I would also like to share with you some information about the success of our Registered Apprenticeship program, which I know is important to many on the Committee. Registered Apprenticeships, like OJT, are "earn while you learn" opportunities. In 2010, more than 100,000 workers entered into a Registered Apprenticeship program. This equates to over 100,000 individuals entering or returning to work, with over 400,000 active apprentices continuing to earn and learn in over 20,000 apprenticeship programs nationwide. In addition, more than 50,000 program participants completed their apprenticeships and received a nationally recognized credential that is portable and provides a path to the middle class. Our apprenticeship programs are serving all segments of the economy. Although many people associate apprenticeship programs with unions, in fact, only 19% of the federally registered apprenticeship programs that the Department oversees are joint labor-management programs. Finally, I am especially proud of the fact that the Office of Apprenticeship recently recognized Wind Turbine Technician as the first new green occupation to be added to the official list of apprenticeship occupations—another example of how we are working across the Department to best prepare workers for the 21st Century.

For a newly unemployed or underemployed worker, navigating the world of job searching, education and training opportunities, and federal support programs can be daunting. The Employment and Training Administration (ETA) has developed virtual tools that make it easier for unemployed workers to get the assistance they need to get back to work. For example, we launched an exciting new electronic tool on Labor Day called mySkills myFuture which makes it easy for unemployed workers to determine how their current background and experience qualify them for other potential jobs. Users are able to view local job postings and locate training and education providers in their area. They are also able to find descriptions, salary information and common job tasks associated with the new occupations they are considering. Since its launch in September of last year, mySkills myFuture has received more than 398,000 visitors.

I am also excited about a new career exploration tool called MyNextMove that launched on February 3. MyNextMove.gov provides the public with a more user-friendly tool that simplifies the information that individuals need in order to make informed career decisions. It's written at a reading level that makes accessible to everyone the wealth of existing information on the skill requirements and other characteristics of occupations available in the Occupational Information Network (O*NET).

We have also worked with the White House to upgrade the Worker ReEmployment Portal to provide unemployed workers, including those who have exhausted their unemployment benefits, all the information they need in one place. The site offers a single source for information on jobs, career training, unemployment benefits, and assistance with necessary services such as food, health care, and utility payments. Since its launch, in December 2010, the site has had more than 67,000

visitors. We also are seeking ways to take advantage of on-line learning technology, for example virtual platforms, to reach as many workers as possible with training programs that increase skills and attainment of industry-recognized credentials.

I am also extremely proud of the work the Department of Labor is doing to help our nation's Veterans. Our Veterans' employment and training programs are part of a larger effort to provide a smooth transition process for assisting Veterans, transitioning Service Members and their spouses as they seek to identify and secure productive civilian opportunities. By promoting priority of service for Veterans in the One-Stop Career Center system, we ensure that over 1.6 million Veterans receive the training and employment assistance they need to obtain good jobs. Our homeless programs help nearly 18,000 Veterans in their efforts to reintegrate into the workforce. We provide transition assistance to 127,000 Service Members and spouses as they move from the military into civilian careers. Our Veterans Employment and Training Service is collaborating with the Vocational Rehabilitation and Employment Service of the Department of Veterans Affairs to ensure that Veterans with disabilities receive the training and employment assistance that will enable them to achieve their career goals. The Department is proud to assist our heroes who have served our nation well.

All of the foregoing job training initiatives benefit from the extensive policy analysis, research and technical assistance activities performed by the Office of Disability Employment Policy—or ODEP as we call it. Job training and job placement initiatives, as well as the labor standards enforcement activities that I will highlight in a moment, are made more effective because of the knowledge resources that ODEP provides on how to enable people with disabilities to have access to—and receive the benefits of—these services.

Assuring a Fair and High Quality Work-Life Environment

While it is easy to forget in the midst of a recession, merely having a job is not always enough. We want these to be good jobs that pay fair wages, keep workers safe, and provide basic benefits. The Department's enforcement agencies, including the Wage and Hour Division, help inform workers of their rights and employers of their responsibilities. This is not just good for the workers. It is also good for businesses. Detecting and remedying labor violations protects law-abiding firms from unfair competition against those who flout the law and cut corners by paying workers less than they are owed.

The Department's Wage and Hour Division has made great strides in assuring that workers' rights on the job are respected and that employers who break the law do not have an unfair advantage over the vast majority of employers who play by the rules. In the two years under my leadership at the Department, Wage and Hour has secured impressive amounts of back wages for workers across the country. When an employer in your district violates the Fair Labor Standards Act by not paying the required minimum wage or overtime, that employer is taking money out of the pockets of your constituents. Consider that Wage and Hour was able to recoup over $10 million in back wages for over 16,000 workers in the state of Pennsylvania since 2009. In Tennessee, Wage and Hour's work on over 1,400 cases resulted in almost 10,000 workers receiving $7.9 million in back wages. Throughout the country, Wage and Hour has recouped nearly $400 million in back wages, assessed over $18 million in civil monetary penalties in over 52,000 cases and impacted nearly 400,000 workers.

I do not want to leave the impression that these cases are just about moving numbers between columns in a ledger. The numbers I have cited represent workers who have been harmed by employers who violate the law and the difficulties that honest employers face trying to compete in industries and geographic areas where Fair Labor Standards Act violations are rampant. For example, conditions in the garment industry have long pushed contractors to cut corners with respect to wages, hours and employment conditions. Wage and Hour and other state and federal enforcement agencies had tried for years to make a difference in this industry, without much success.

Instead of targeting contractors, who are often small businesses, Wage and Hour is focusing on manufacturers, often larger employers, by invoking the long-ignored "hot goods" provision of the Fair Labor Standards Act. The "hot goods" provision prohibits the movement of goods in commerce that have been manufactured in violation of the law. Manufacturers and retailers who do business with unscrupulous contractors put at risk their ability to make good on promised orders. This pressure on the manufacturers and retailers encourages them to create compliance programs for their contractors and subcontractors and has the potential to reform the whole industry—without the Department having to investigate thousands of businesses.

In California, we used this strategy successfully to secure $158,952 for 110 garment workers who worked for Angel's Finishing, Inc.—a contractor of the high-end clothing manufacturer, Joe's Jeans. These garment workers were working extremely long hours finishing high-end jeans that were later shipped throughout the U.S. and sold at exclusive department stores such as Macy's, Neiman Marcus, Dillard's, Bloomingdale's, Saks Fifth Avenue, and Nordstrom. Angel's Finishing was paying workers on a piece-rate basis without regard for minimum wage and overtime pay for all hours worked (for example, they forced employees to work off the books on weekends).

This was a clear case of a company enjoying profits on the backs of vulnerable workers who were not paid the proper wages. Following this investigation, the Department pursued an action that prohibited the shipment of goods produced by Joe's Jeans contractor until all back wages had been paid. When Angel's Finishing refused to make the workers whole, Joe's Jeans was forced to step forward and accept liability for its contractor's violations. In addition to paying the full amount of back wages, Joe's Jeans was also required to conduct periodic monitoring of its contractor for wage and overtime law compliance, as well as education and outreach efforts, and to discuss the financial terms of its contracts to ensure the contractor's financial ability to comply. By pursuing this case and other similar cases in the garment industry, the Wage and Hour Division has helped level the playing field for all law-abiding employers in the industry and more workers are getting the pay they are entitled to by law.

When employers cheat workers out of their wages, these workers pay lower taxes to the Treasury than they would have paid. Employers in turn pay lower taxes on those wages, which means that vital programs like unemployment insurance are inadequately funded and available for workers. Without strategic enforcement, this underground economy is allowed to thrive and we all lose.

Throughout the past year, Wage and Hour focused on finding strategies for best leveraging the Department's resources to transform industries and level the playing field for all employers. Wage and Hour has found that aggressively enforcing the law when industry leaders disregard it can have a beneficial effect throughout the industry. For example, Wage and Hour reached settlements with Tyson Foods and Pilgrim's Pride, the country's largest poultry processors. These processors had failed to pay workers for the time they spent putting on and taking off protective and sanitary gear they needed to wear in the workplace. The settlements require these processors to pay all of their production employees for all of this work in all of their facilities. You can imagine that it would be difficult to convince a small poultry processor to pay its workers for this time when the industry giants were not. As a result of Wage and Hour's successful enforcement actions, vulnerable workers and small businesses throughout the poultry industry are better protected.

Wage and Hour is also tasked with protecting youth on the job. I am so pleased to share with you a real success story that has made a difference in the lives of many of your constituents. In 2009, Wage and Hour found egregious child labor and other labor-related violations in the blueberry fields of New Jersey, North Carolina, and Michigan. In addition to assessing penalties, Wage and Hour took a comprehensive approach to ending the dangerous practices it had uncovered. Our staff met with farm groups, community organizations, and state and local agencies to be sure that employers understood their obligations and that workers understood their rights.

When Wage and Hour went back into the blueberry fields in 2010, there were no children working unlawfully in those fields. Representative Walberg and Representative Woolsey, as the new Chair and raking Member of the Workforce Protections Subcommittee, I am sure you are both pleased to know that we are succeeding in preventing children in Michigan from working under dangerous and unlawful conditions on your state's commercial blueberry farms. Again, I am proud of the Department's thoughtful use of resources to transform an industry that was abusing American workers.

In addition to this great work to change industry practice so that workers and their wages are protected, the Department's Wage and Hour Division is also playing an important role in assuring high quality work-life environments. Achieving work-life flexibility is another priority of mine, which includes enforcement of the Family and Medical Leave Act (FMLA). As you know, the FMLA entitles eligible employees to unpaid, job-protected leave for certain family and medical reasons. Some of the most compelling stories we have about our enforcement efforts come from workers who were reinstated in their jobs with back wages after the Department intervened in support of their rights to FMLA leave. For example, Wage and Hour received a complaint from a woman in Georgia who was battling cancer. She was out on unpaid medical leave and recuperating from a major surgery, preparing for another.

Her employer cancelled her health insurance just before the 2nd surgery and was preparing to terminate her. Not only was the surgery postponed, but without insurance she could not afford to see her doctors or get her prescriptions filled. After the Wage and Hour Investigator explained the terms of the FMLA to the employer, the employer agreed to reinstate the worker and restore her health insurance in time for the surgery.

The Wage and Hour Division recently assumed another responsibility related to work-life flexibility, enforcing the new break time for nursing mothers law, ensuring women who choose to breastfeed their infants have the ability to continue to do so even after they return to work. We are working expeditiously to ensure both nursing moms and employers have the guidance they need to not only invoke their rights and comply with the law, respectively, but also make the appropriate arrangements that work both for the nursing mother and the employer. The Department's role in this effort will undoubtedly help nursing moms achieve a balance between their jobs and caring for their children, and help employers retain good workers at great economic benefit to them and the workforce overall.

The President's FY2012 budget establishes a $23 million State Paid Leave Fund within the Department of Labor that will provide competitive grants to help states that launch paid-leave programs that are affordable for employers and workers. Addressing work-life balance is a priority of this Administration and benefits workers, employers and families. We look forward to working with Members of the Committee on work-life balance proposals and funding for programs that help workers be productive and successful in our economic recovery.

At my Department of Labor, we will hold accountable anyone who treats workers unfairly, whether they are employers or unions. I am extremely proud of the work that the Office of Labor Management Standards has been doing to protect union workers. Consistent with our theme of pursuing the worst of the worst, OLMS has increased its criminal convictions each year since I came to the Department. In 2008, OLMS enforcement efforts resulted in 103 convictions; in 2009 121 convictions and in 2010, 130 convictions. Despite these difficult budgetary times, our budget request for OLMS is level with our request for last year.

The Department's Office of Federal Contact Compliance (OFCCP) is also protecting workers and strengthening our economy by opening the doors of opportunity for all of workers. Over the past two years OFCCP has negotiated conciliation agreements on behalf of more than 34,250 workers, resulting in more than $19 million in financial awards and over 3,600 potential job offers for workers who have been subjected to discrimination. Of particular note is an agreement recently reached with federal contractor Green Bay Dressed Beef that includes a $1.65 million settlement for 970 women who were subjected to hiring discrimination. The agreement also netted 248 potential job offers. As the economy shows signs of growth, OFCCP continues to ensure that American companies leverage the benefits of hiring a well-trained and diverse workforce. To these ends, its focus is on strengthening enforcement, implementing regulatory reform and broadening outreach.

Ensuring Workplaces Are Safe and Healthy

Another goal that I hope we all agree on is to ensure that every job in America is a safe job. Even in a recession, no worker should have to risk his or her life to bring home a paycheck. Our worker safety and health agencies—OSHA and MSHA—are on the front lines protecting workers from workplace hazards. Even though we have made incredible progress in protecting workers on the job since these two agencies were established decades ago, it is still wholly unacceptable that nearly 4,400 workers died last year on the job and over 3 million were seriously injured.

One of my top priorities for OSHA in the coming year is to continue its outreach to vulnerable workers, such as young workers, minorities, older workers, and workers with low literacy skills who work in low-wage and high-risk industries with little or no access to information and resources on preventing injuries and illnesses. When I came before the Committee last year, I shared with you our plans for a National Action Summit for Latino Workers Health and Safety in Houston. I am happy to report that we held the summit last April in Houston and it was a remarkable success. We welcomed representatives of business, labor, faith-based and community organizations. OSHA is continuing its extraordinary outreach efforts this year.

OSHA's work on the Deepwater Horizon Oil Spill response in the Gulf states was a great example of this broad-based outreach effort in action. During the peak of the operations, more than 47,000 men and women were involved in responding to and cleaning up the oil spill each day. This included more than 42,000 response and cleanup workers employed by BP and its contractors, 1,600 members of the National Guard, and more than 2,400 federal employees. Many workers faced potential expo-

sure to weathered oil, oil byproducts, dispersants, cleaning products, and other chemicals used in the cleanup process. Depending on their assignments, these workers also faced potential hazards from extreme heat, slips, falls, material handling, electrical hazards, and more. OSHA initiated outreach to scores of community organizations representing a wide range of workers and to employers providing the clean up services. OSHA distributed over 50,000 health and safety publications in three languages to workers in the Gulf. In addition, OSHA worked closely with employers, including BP, to ensure that workers had the appropriate protective equipment, adequate training, and information about heat stress in particular. The result was a remarkably safe experience for the workers participating in the clean-up effort.

Of special note, when I came before you last year, I reported on the largest fine in the history of OSHA levied on BP. I have an important update on that case. Since OSHA issued the BP fine—which it issued only after it found that the company had not fulfilled its promise to abate hazardous conditions after a horrendous and preventable accident at its Texas City Refinery that killed 15 workers—OSHA has been working closely with BP to reform its safety practices at the refinery. As part of the settlement of a large portion of the BP fines, OSHA and BP agreed on specific steps that BP would take by March of 2012 to address the safety hazards at its facility and reform its safety practices. In addition, the settlement allows OSHA to monitor BP's compliance to see that it eliminates the types of conditions that caused the disaster. I consider this agreement a model of how OSHA can work with business to transform the culture of safety for the benefit of all involved

Another way OSHA is working with business to reform the culture of safety is through its Alliance and compliance assistance programs. As many of you probably already know, the President's budget for 2012 requests continued funding for the Voluntary Protection Program—a welcome development in the business community. OSHA will also continue to fully support its On-site Consultation Program. I hope you have all heard from small businesses in your districts that have benefited from this program. In 2010, more than 26,000 small and medium-sized businesses that employ over 1.5 million workers received on-site assistance from OSHA's On-site Consultation Program free of charge.

These cooperative programs and outreach efforts are providing the Agency with information on safety and health practices and improve our ability to communicate with industry and hard-to-reach workers. As a result, OSHA is able to operate more effectively and responsively.

In addition to the comprehensive economic feasibility reviews we conduct, OSHA has taken several steps in recent weeks to enhance our dialogue with small business about the impact of OSHA regulations. For example, in response to the concerns raised by the small business community to OSHA's proposal to reinstate an additional step for recording musculoskeletal disorders on the OSHA injury logs, OSHA temporarily withdrew the proposal from Office of Management and Budget (OMB) review, and it is now working with the Small Business Administration's Office of Advocacy to meet with small business owners and other stakeholders to discuss their concerns. OSHA's focus—protecting workers on the job—will never change, but we are open to talking to all who have good ideas about how to get there.

While we work with the business community on minimizing the regulatory burden, I want you all to know that OSHA will continue to aggressively enforce our safety and health laws against those employers who refuse to play by the rules and who put profits above their workers' lives. Often, strong enforcement is the only option to get the attention of recalcitrant employers. Moreover, strong enforcement protects business by creating a fair market for them to compete in. The vast majority of employers in our nation care deeply for their employees and spend their hard-earned revenue on running a safe workplace. We cannot sit by while they are forced to compete with employers who unlawfully cut corners on safety.

OSHA took action when workers in Pennsylvania were put at risk while working for CA Franc Construction in Washington, PA—a roofing contractor who refused to take even the most rudimentary steps to protect its workers. CA Franc repeatedly refused to allow workers to use fall protection when they worked on steeply pitched roofs. In 2010, employee Carl Beck fell to his death. He was 29 years old and left behind two children. It must have caused Mr. Beck's family endless anguish and grief to know that fall protection equipment was available on the roof with Mr. Beck, but the owner of CA Franc would not let him use it. OSHA issued citations to CA Franc for its egregious violation, and the owner pled guilty to a criminal charge related to Mr. Beck's death.

You can be sure that going forward, OSHA will continue to protect your constituents from these kinds of hazards, while working with employers in your districts who want to play by the rules.

The dangers of mining are well documented. However, we should not and must not accept a certain number of fatalities in our nation's mines every year as inevitable. The heart-breaking events at Massey Energy Company's Upper Big Branch (UBB) mine in Montcoal, West Virginia last year, remind us that we must stand firmly and defend the right of every single miner to a safe and healthy workplace, in recognition of our commitment to the principle that they need not risk their lives each day for a paycheck at the end of the week.

The past year at MSHA has been an extraordinarily challenging one. I am, however, immensely proud of the work that our Assistant Secretary Joe Main and the whole team at MSHA have done to both respond to the UBB disaster and to continue the critical day-to-day work of the agency. All of us at the Department of Labor appreciate the support that we received from my good friend George Miller as Chairman of this Committee at the time of the disaster and in its aftermath. In addition, we appreciate the recent comments from you, Chairman Kline, recognizing the steps that MSHA has taken to strengthen enforcement since last April 5th.

MSHA has undertaken extraordinary measures to ensure that it is using every tool at its disposal to reform the behavior of repeat violators. Since April 2010, MSHA has conducted more than 200 impact inspections across the country. These inspections target mines that merit increased agency attention and enforcement due to their poor compliance history or particular compliance concerns. The results of these impact inspections are cause for serious concern. While some of the operators pursued in our impact inspections have taken remedial actions to clean up their operations, MSHA continues to issue citations to a significant number of these operators for violations of the most basic and necessary safety standards. The results of the inspections demonstrate that despite MSHA's stepped up efforts and the memory of the UBB tragedy, intransigence persists in some corners of the mining industry.

Last year, for the first time, MSHA sought a federal court injunction under Section 108(a)(2) of the Mine Act. The lawsuit was filed against Freedom Energy Mining Company's Mine No. 1 in Kentucky. The egregious conditions in that mine led us to believe that the mine operator was engaged in a pattern of violation of the mandatory safety and health standards under the Mine Act, which constituted a continuing hazard to miner health and safety. In fact, the operator of the mine agreed that it could not comply with health and safety standards at that mine and ended production at the mine. The lawsuit was successfully resolved when MSHA and Massey, the Freedom Energy operator, agreed to a court order that requires Massey to ensure the safety of miners during the shutdown process and protects the livelihood of the displaced Freedom miners.

MSHA has also revamped the Pattern of Violation (POV) program to make it more effective and recently published a Notice of Proposed Rulemaking to make additional changes in the POV process. In addition, MSHA is moving forward with measures to improve rock dust standards to prevent explosions and to encourage operators to find and fix violations before they harm miners. We are using the funds provided to the Department in the supplemental appropriations bill to reduce the backlog of contested cases before the Federal Mine Safety and Health Review Commission.

Looking forward, I can assure you that MSHA will continue its impact inspections and its strategic and comprehensive use of all of its enforcement powers. Furthermore, in 2011, we will conclude the investigation into the cause of the UBB disaster and will share whatever additional lessons that tragedy has to teach us. We have learned much already, from our post-UBB efforts, and first and foremost, have learned that if we want to truly change the behavior of the worst of the worst in the mining industry, as I am sure we all do, MSHA needs additional tools. This Committee has a proud history of standing up for miners and being a vigilant protector of their safety and health. I look forward to working with all of you in the coming year on using the lessons of UBB to give MSHA the tools it needs to better protect miners.

Finally, I would be remiss if I did not bring the Committee up to date on MSHA's campaign to finally end the scourge of black lung disease in coal country. Last year, MSHA published a proposed rule to reduce miners' exposure to respirable coal mine dust. This year, MSHA is moving forward with public hearings on the proposed rule and will continue its comprehensive strategy to end Black Lung which, along with the proposed rule, includes enhanced enforcement, collaborative outreach and education and training to help prevent this terrible disease.

Securing Retirement and Health and Welfare Benefits

My definition of a good job encompasses not only fair pay and safe conditions, but also fair benefits and a secure retirement. The Department's Employee Benefits Se-

curity Administration (EBSA) works to protect the security of retirement and other employee benefits for America's workers, retirees and their families and to support the growth of our private benefits system. In fulfilling that role, EBSA oversees approximately 708,000 private sector retirement plans, approximately 2.8 million health plans, and a similar number of other welfare benefits plans that provide benefits to approximately 150 million Americans. These plans hold over $5 trillion in assets.

This year, EBSA took many important steps to help the many who fear that they will never achieve a secure retirement. For those Americans who must rely on 401(k)-type plans to finance their retirements, the Department proposed a new rule to improve the transparency of 401(k) fees to ensure that their hard-earned savings are not unwittingly being eroded by unreasonable fees. In addition, we extended a helping hand to workers and retirees who need better information about how to manage their plan investments. Our proposed rule on investment advice will make the whole process of choosing investments more transparent and comprehensible. We hope to make these rules final in 2011.

When your constituents' hard earned retirement savings or other benefit plan assets are put at risk, EBSA's enforcement resources are put to work. In 2010, EBSA had tremendous success in protecting employee benefits through both civil and criminal enforcement actions. EBSA achieved total monetary results in Fiscal Year 2010 of $1.05 billion. Although EBSA always tries to pursue voluntary compliance or civil enforcements actions first, when necessary we will use our criminal authority. In 2010, EBSA closed 281 criminal investigations that led to the indictment of 96 people.

In fact, this year EBSA initiated a Criminal Enforcement National Project to target the worst abusers of the trust given to those who administer benefit plans. The Project pursued people like Gary Merritt, Vice President of Bemcore, Inc., a company located in Ohio. When a Bemcore employee left the company and sought to move the balance of his 401(k) account at Bemcore to an IRA, Mr. Merritt instead deposited this employee's life savings into a Bemcore account and then spent the money. Mr. Merritt pled guilty to one count of embezzlement.

As with all of our worker protection agencies, EBSA tries to finely calibrate the type of action needed. Our Office of Participant Assistance is dedicated to providing compliance assistance, education and outreach for workers, retirees and their employers. In 2010, our Benefits Advisors helped more than 370,000 participants and employers and recovered over $164 million through informal negotiations. One example in Chairman Kline's home state of Minnesota shows how Benefits Advisors are helping your constituents. When a resident of Northfield, Minnesota contacted our Benefits Advisors about his employer's denial of his application for the COBRA subsidy provided for in the Recovery Act, the Benefits Advisor brought together the participant and the employer to work out the problem. The Benefits Advisor was able to determine that the denial was inadvertent—due to an administrative error. Together they fashioned a solution that allowed the participant to apply his overpayment to future premiums. EBSA will continue to protect your constituents as zealously in the coming year using all of our tools—from compliance assistant to criminal enforcement—according to the common sense of our professionals.

I also intend to continue to look at issues facing defined benefit plans and proposals to help these plans keep their commitments to workers and retirees. Defined benefit plans play a critical role in the retirement security of millions of Americans by providing workers the ability to have a secure and dignified retirement. The President's Budget proposes to strengthen the defined benefit system by shoring up the solvency of the Federal agency that acts as a backstop to protect pension payments for workers whose companies have failed. More than 1.5 million workers and retirees already look to the Pension Benefit Guaranty Corporation (PBGC) for their benefits and PBGC insures plans covering 40 million others. The Budget would give the PBGC Board the authority to adjust premiums and directs PBGC to take into account the risks that different sponsors pose to their retirees and to PBGC. This will both encourage companies to fully fund their pension benefits and ensure the continued financial soundness of PBGC.

Enhancing Accountability

Another top priority for the Department in the upcoming year is to continue our commitment to the highest level of accountability. I see three main facets to our commitment to accountability: transparency, evidence-based decision making, and fiscal responsibility. In his State of the Union address, the President made clear that now is the time to make the hard choices to reduce our deficit without sacrificing the investments we need to win the future. Through smart budget choices and

rigorous program evaluations, we can ensure that public funds are being used wisely and effectively.

Our commitment to transparency can best be seen in how we set our strategic plan and regulatory agenda. We embarked this year on an unprecedented outreach effort to inform our strategic planning process. We directly engaged Congress, our career staff, stakeholders, and the general public in the process. This outreach effort was multi-layered—not just posting a one-time notice. We conducted listening sessions in the field, held web chats, posted the draft Strategic Plan on our website, and solicited public comments to a dedicated email address. In addition, our staff sat with congressional staff to talk through an early draft of the plan and invite their input into the process. These efforts started early and continued throughout the strategic planning process. The result is strategic goals that are about workers, accountability, and doing what works. These goals reflect the desires of the American people and they guide everything we do.

There has been much in the news lately about the efficiency of the regulatory process and the wisdom of particular regulations. I have no doubt we will this morning and in the future have a healthy debate about the Department's regulatory agenda and particular regulations we have promulgated. I welcome that exchange. What is beyond debate, however, is the extent of our efforts to engage a wide swath of the public in our regulatory process. The Department of Labor goes above and beyond the requirements of the Administrative Procedure Act to ensure that the public has a voice in our process. We are the only Department in the Executive Branch that has held public webchats for every regulatory agenda we have published in this Administration. To date, more than 17,400 people have participated in our webchats. That includes reporters, advocates for workers, business owners, and congressional staff. During these chats, the public has a chance to pose hard questions directly to our Assistant Secretaries about why they are or are not proposing to regulate in a particular manner. Anyone who tells you that we only talk to one segment of society or our doors are closed to a certain group is not paying attention.

We are not afraid of scrutiny at the Department of Labor. That is because we are constantly scrutinizing ourselves. We have adopted a rigorous self-evaluation program of which I am extremely proud. By using data and evidence to drive our budget development and program planning, while constantly evaluating the impact and outcomes of our work, we ensure that our collective efforts are as effective as possible. This year, we have brought on board a Chief Evaluation Officer, Jean Grossman. Dr. Grossman is helping us plan and design rigorous evaluations to measure the impact of our programs and build knowledge of what works and what doesn't. She is also working closely with our program offices to make sure evaluation and data collection are carefully considered as we execute our programs.

We are emphasizing outcome measures that will tell us by how much we are actually improving the lives of American workers. For example, our worker protection agencies will now focus on developing strategies that leverage our interventions to create a deterrent effect, reporting on compliance levels for all workplaces covered by our laws, not just those that are investigated in a given year, and looking for evidence that workers are in fact safer each year.

In addition, we are not assuming that just because we have done something before it is necessarily the best way to accomplish our goals. We are committed to improving how we do our job. That is why the President's budget includes almost $300 million in Labor's budget for the Workforce Innovation Fund, which would be funded through 8 percent set-asides from the Youth, Dislocated Worker, Adult, and Employment Service formula programs. Programs within the Department of Education would also contribute to the Innovation Fund with the goal of promoting collaboration and the development of bold systemic reforms to improve program delivery and outcomes for individuals. If our Innovation Fund grantees can find better ways to achieve our workforce training and education goals, we will happily adapt our programs to take advantage of these new ideas.

Accountability also means being cognizant of the difficult budgetary times in which we find ourselves. As I have mentioned, I have sat where you now sit so I know how seriously you take your responsibility to ensure that the Executive Branch is wisely spending the money you vote to give us. We have looked for duplication in our programs and cut where necessary. For example, last year we eliminated the Employment Standards Administration, which created an unnecessary layer of bureaucracy and interfered with the effectiveness of its component programs. The President's budget includes many difficult choices. The funding of the Workforce Innovation Fund is an example of having to make tough choices. When first proposed in the FY 2011 budget, these innovations were largely funded by additions to the budget. This year, the proposal is largely financed out of current re-

sources, by shifting resources from an underutilized, slower-spending set-aside within the Workforce Investment Act (WIA). In this way, we are putting our money where our beliefs are.

Tough budget times also require that we look for more and better partners in our work to leverage and align resources to support working families. ETA is leading our efforts in this area. ETA will work closely with the Department of Education in particular to ensure that training and education policies and procedures are coordinated to help students and workers access all the services they need to obtain good jobs and avoid any duplication of effort between the two Departments. We also are working with the Departments of Health and Human Services, Interior and Agriculture on new opportunities for disadvantaged youth for summer employment that open up pathways to further education and career success. ETA also has an active partnership with DOE's Office of Energy Efficiency and Renewable Energy. Together these offices are leveraging investments made in information technology to help workers address the mismatch between skills needed and the skills available in the workforce by accessing sophisticated online training. Partnerships must not only be at the federal level, and so we are also working closely with partners at every level of the workforce system. For example, through a collaborative federal-state workgroup, ETA has developed a new vision and framework for connecting UI claimants to workforce services and getting them back to work as soon as possible.

Moving Forward Together

As I mentioned at the outset, I believe the American people are counting on us to work together. I hope in my testimony you will find many areas where we can all agree that the Department is doing its job of training and protecting American workers and leveling the playing field for employers who play by the rules. In addition, I believe that there are legislative areas in which we can come together to improve the Department's programs.

Reauthorization of the Workforce Investment Act remains at the top of my list of legislation that should be able to garner bipartisan support. It has in the past and it should again in the current Congress. The reauthorization process presents a unique opportunity to promote innovation in the public workforce system, build on its strengths, and address its challenges. We can help more workers gain a foothold in the middle class by making sure that they have the skill set to succeed in the 21st Century. The Administration's goals for the reauthorization of the WIA include:

1. Streamlining service delivery—providing easy access and clear information to individuals and employers in need of service;
2. One-stop shopping for high quality services—One-Stop Career Centers should provide access and referral to comprehensive employment, training, and education services across different programs and better utilize technology to improve customer service;
3. Engaging employers on a regional and sectoral basis—training programs are often most effective when they are developed on a regional basis reflecting the labor market or on a sectoral basis focusing on a particular industry;
4. Improving accountability—performance measures must be designed to hold programs accountable for better results, without creating incentives to deny services to those most in need of assistance, and results should be made available in a transparent way to all; and
5. Promoting innovation—WIA should promote the funding of new and creative practices and support the replication of those practices that are successful throughout the workforce system.

We stand ready to provide assistance to the members of this Committee from both parties as you move forward with your efforts in this area.

As I mentioned earlier, I believe that we can find a way to pass a bipartisan mine safety bill. It has been done before and we it owe it to the memory of the lost UBB miners, their families, and those who go into the mines every day to do it again. The full resources of MSHA and my office are available for any assistance we can provide.

Conclusion

We at the Department of Labor come to work every day to do our best to create economic opportunities for the American people. I hope I have shown you that we are making a difference in the lives of your constituents and workers throughout the country. We are:

Providing job seekers the skills necessary to land good paying jobs of the future and linking employers looking to hire with Americans looking for work;

Ensuring that every employer takes responsibility for the safety and health of all their workers and leveling the playing field for employers who want to do the right thing; and

Fighting to make sure that workers are paid the hourly and overtime wages they have earned, that they do not encounter discriminatory barriers to work, and that they get the health and retirement benefits for which they bargained for.

These goals may seem basic and modest, but for American workers they mean a life of dignity and security. We will undoubtedly have a vigorous debate about how best to achieve these goals, but if we can agree that we all want to end up in the same place—in a country with a robust economy that works for everyone—our debate will be constructive and civil. I look forward to working with you and together ultimately ensuring good jobs for American workers.

Chairman KLINE. Thank you very much, Madam Secretary, for the testimony.

Thank you for encouraging a Minnesotan to escape the Minnesota winter and join us here, a very smart move. I know that in my home in Lakeville, Minnesota, we have more snow than we have seen in over 15 years, and it is doggone cold. So, very smart move.

We have had some discussion here—the ranking member talked about it in his comments. We are engaged, as you know, Madam Secretary—you mentioned it—in a great debate on the floor here in the House about where we can cut money. And many of us think we need to cut substantially in order to get at the runaway government spending and reduce the deficit and, as you said, get the business community back to creating jobs, not the government.

In this debate, we are determining priorities, and we are going to have differing views about what should be cut and so forth. And I think that is a very healthy exercise that we are engaged in. But budgets do have an indication of where priorities might be set, and so I want to address your budget, if I could, for just a minute.

You have indicated your pride, and I think justifiably, in the work that the Office of Labor-Management Standards does on behalf of workers. And yet, when I looked at the budget, you keep the budget for OLMS about the same level that it had back in 2010. Yet, on the other hand, your budget increases funding for the Bureau of International Labor Affairs by, according to my notes here, almost $9 million.

How do you justify providing new grants to labor organizations in foreign countries as being more important than funding the only organization, the only office that you have in the Department whose job it is to protect union workers here in America? It seems to me to be an imbalance. How did that come about?

Secretary SOLIS. Thank you, Mr. Chairman.

What I would say to you is that our funding level has actually, in the last 2 years, gone up back towards 2001 funding. It is actually now being proposed at a level funding amount. So we really have not decreased.

What has happened is we have actually become a leaner, if you will, meaner machine. And we have actually been able to conduct more audits, election investigations. In fact, on an average, I would say that, in terms of indictments and convictions, we are actually much higher than we were in the previous 2006 and 2009 average. And I have those figures for convictions: 130 in this fiscal year, 2010, and during fiscal year 2006 and 2009, it was 119.

We are working more effectively. We are also monitoring elections, which I know is a big item of concern to many people, and especially with respect to how elections are conducted by unions. And I am happy to say that, in this instance, in 2010, we actually conducted 145 investigations and, in the prior year, 2006 to 2009, there were only 127. So we have done a remarkable job with limited funding that we have been given by the Congress.

And I would say to you that we are really looking at enforcing the most egregious types of efforts. And let me just share with you, former secretary-treasurer of an ATU local in New York was convicted of stealing nearly $2,170 by conducting unauthorized ATM withdrawals and failing to deposit incoming receipts payable to local bank accounts.

I would say to you also something that we are doing—we monitored elections in Puerto Rico. OLMS negotiated a voluntary settlement agreement with the union called UITICE, an independent union in Puerto Rico, after discovering that they hadn't held an election of an officer in 12 years. Quite remarkable for us to have to expend staff in that way.

Your second question about ILAB, what I would say to you there is, because we are now at a point, I believe, in this administration looking at fair trade agreements and how we work collectively with partners that we have been working with in the past years, we are trying to establish better standards so that workers, for example in Central America, will have some monitoring tools on a tripartite level with the ILO, with the government of that country, as well as the business community.

So let me give you an example. In a country like Nicaragua, they have a big textile industry. There has been a potential agreement to help begin a program that we call Better Work that actually started in the previous administration. It has been ongoing now for more than a decade. And what they do is try to level the playing field in terms of providing support for those individuals that are working in that workplace, many of whom are women, vulnerable women; taking youngsters out of that industry so you don't abuse children, you know, you are not trafficking or not using children to compile the materials that are eventually going to be brought back to the U.S., in many cases, or the world. And it is a discussion to have people then focus in on how you can lift the standard of living of people who live in that country so there won't be a magnet to attract them to come to our country.

So it has different purposes and one that, I believe, has bipartisan support. And I would hope that we can continue to engage. If it is necessary for me to have my Under Secretary come and speak to you and staff about it, I would be more that happy to do that, Mr. Chairman.

Chairman KLINE. Thank you very much, Madam Secretary.

We must have messed up the clock here. I couldn't have used up 5 minutes already. Could I have done that?

Mr. MILLER. It seemed like a lifetime to me.

Chairman KLINE. Seemed like only seconds to me, because the Secretary was very engaging, Mr. Miller.

So I did want to follow up a little bit more on OLMS, but we have other Members on both sides who want to ask questions. So I will yield to Mr. Miller.

You are recognized.

Mr. MILLER. Thank you very much.

And, again, Madam Secretary, thank you for your testimony. I believe that you do outline a remarkable record.

I would assume some of this foreign money also is in anticipation of the passage of some trade agreements. I may not agree with them, but it sounds to me like they are on their way. And the implementation of that for the business community and the employee community is very important.

One of my concerns—and others will touch on the overall issue, but—is the impact of closing down One-Stop centers on our veterans. I know, I think, in your budget, there is additional money—or I don't know if it is your budget or the veterans budget—to help reintegrate our returning troops into the economy of this country and into the workplace.

Many of them left straight from high school to go to Iraq and to go to Afghanistan and are now coming back and seeking skills in trades that they may not have acquired in the military or they have and they want to build on those skills by going here. And one of the big integration points that has been successful, apparently, is using the VETS money, the V-E-T-S money, to take those vets to the One-Stop centers and give them full exposure to the training opportunities, to the employment opportunities that exist in their communities, you know, where they came from, where their homes are.

But I am making the assumption, I am asking you, in April, should these cuts go into place that are slated to go—this is a continuing resolution, so it would happen in March—that, in April, those One-Stop centers would be shut down. I assume that they shut down for the vets also.

Secretary SOLIS. Well, it would impact a great number of people, including those vets that have one of the highest rates of unemployment, especially the returning vets from Iraq and Afghanistan. And they are the youngest. Their unemployment rate hinges around 11 percent.

We have tried to roll out programs more aggressively to identify opportunities, working with the Chamber of Commerce here in Washington, D.C., on a national level, to try to encourage employers to immediately hire up these returning vets and create that opportunity.

Mr. MILLER. I think this would be very unfortunate. I had the honor, 2 night ago, of having dinner with a former Navy Seal, who, himself, was shot 27 times, survived, has recovered, and is now working with a foundation. And they are taking seriously injured Navy Seals and reintegrating them into college or the workplace. And it is rather remarkable. The other soldier that was with us was a Navy Seal who was injured and took a direct shot to the head. He is now going to be enrolling in college, through a lot of hard work, to become a history teacher. That is what he always wanted to do as a youngster.

And the point is this: that, as we realize the trauma of the trauma that our veterans have received in terms of brain injuries and others, as time goes on, we are also finding out that there are more opportunities to reintegrate them over time as we are able to work with their injuries. And employment, obviously, is key. Many of these veterans are returning to their families.

And the One-Stop centers have been a place where, instead of having this veteran having to run from place to place to try to sort out the resources to provide the training, that is the key to the One-Stop centers. And I just think we should be very concerned about the idea that the lights are going to go out in that One-Stop center in April.

Let me turn to another subject, and that is, again, this idea that—in the hearings we had at the beginning of your administration was this whole question of employees not being paid for the work that they do and, really, the Department of Labor becoming a handmaiden for some of those employers, by covering for them and lying to the employees who were seeking wages that there was no question that they were due.

And I see that—you know, I said $300 million. It appears to me that it may be closer to $400 million.

Secretary SOLIS. Yeah.

Mr. MILLER. And I look just in your testimony, you say in Pennsylvania you recovered over $10 million in wages for over 16,000 workers. In Tennessee, it was $7 million for 1,400 cases. Throughout the country, you say $400 million, impacting about 52,000 cases.

I mean, this is almost—I hate to say it—it is a little bit like an epidemic that was going on here, because there was no price to be paid for running out on the wages. And I just wonder, are you able to continue that kind of prosecution on behalf of these employees?

Secretary SOLIS. Well, actually, we will be impacted if there are cuts made to our budget. It would also mean that we would have to dislocate a lot of the new investigators that we brought on board in the past 2 years. So we are looking at approximately anywhere from 300 new investigators that we hired up in the last 2 years to conduct compliance as well as outreach and, more importantly, helping those vulnerable workers who oftentimes aren't even aware that, in some cases, they are even misclassified. And that is another problem that we are trying to address.

But the fact of the matter is that this is a problem. And it hurts our economy. It hurts those legitimate businesses that actually pay overtime, minimum wage, that pay into the workers' comp system, the disability system. That is money that is robbed by other workers and folks that have to end up paying for that through other types of taxes that are increased because people are utilizing services that should have been paid correctly by an employer to begin with.

What we are trying to do is level the playing field, inform workers, but also have more compliance with business, in particular small businesses, who may just not understand what the rules are. And it is really trying to create a sense that the Wage and Hour division can be more of a help and not always the heavy hand here. And, in the past, as you know, that wasn't the case. People would

call and make complaints; people on our side would not handle those complaints unless they were the bigger cases that came about.

What we are doing now is strategically using our resources also to look at industries where we see that there are patterns of abuse. I gave you one example in the construction industry. We have problems there with people not being paid appropriately over time. And when there are injuries there and they are not covered and they are misclassified, they go to the emergency room, guess who picks up the tab? We do, the taxpayer.

That is why it is important to go after these industries that are not playing by the rules and undercut our economy and then go directly to those vulnerable workers, abuse them. And, in many cases, because they may not be documented, they purposely abuse that population.

So we are trying to clean that up, while also making the businesses comply with the laws.

Mr. MILLER. Thank you.

Chairman KLINE. Thank you. The gentleman's time has expired.

Mrs. Biggert, you are recognized.

Mrs. BIGGERT. Thank you, Mr. Chairman. Thank you for having this hearing.

And thank you, Madam Secretary, for being here.

I have a question concerning something that you and the Department of Labor proposed in October of 2010, and that was a rule that would amend the 35-year-old definition of who can be considered an ERISA fiduciary. And I do think that this proposal expands the universe of people who owe fiduciary duties to ERISA plans by broadening the concept of rendering investment advice for a fee.

And I hope that this doesn't happen, but I think that it does increase liability and the cost of advice and reduce choice for plan sponsors and participants and IRA account owners. And you have had a comment period, and there is going to be a public hearing in March.

But my concern really is that, after the President recently announced an effort to ensure regulations do not cause undue burdens on businesses and on customers, the Department redrawing the fiduciary lines at the same time that the SEC is considering proposing new rules under the new Dodd-Frank financial services law for broker-dealers in this area.

Now, I also serve on the Financial Services Committee, and yesterday Chairman Schapiro from the SEC was there, and I asked her this question, too. Have you considered the possibility that conflicting standards could result from the SEC and from the Department of Labor?

And I would think that it would really make sense to coordinate efforts with the SEC. And I asked Chairman Schapiro if you two had gotten together to discuss this issue, and I would like to know your response.

Secretary SOLIS. Sure, thank you, Congresswoman.

As you know, the standard, set definition of a fiduciary was actually established about 35 years ago. So it is somewhat outdated when you look at the new kinds of plans that we have, for example, 401(k), which has dramatically changed——

Mrs. BIGGERT. But, really, if you would just answer the question first.

Secretary SOLIS. Yes.

Mrs. BIGGERT. Have you and Chairman——

Secretary SOLIS. My staff has. My Assistant Secretary for EBSA, Phyllis Borzi, has been working with them. So, yes, all the way through, we are working with them in dialogue. And I know that we are going have a planned comment forum in March, March the 1st, so there will be more opportunity to hear from everyone, all the stakeholders. And we are working very closely with the SEC. Yes, that is an affirmative.

Mrs. BIGGERT. So would you possibly submit a follow-up communication addressing how the proposed rule would interact with the authority granted the SEC under Dodd-Frank?

Secretary SOLIS. To the extent that I can give you as much information, I would be happy to do that and have my Assistant Secretary respond, absolutely.

Mrs. BIGGERT. Okay. Thank you.

Then, you know, as people are really taking more ownership of their savings—I think we actually have people trying to save more money now—investor education has become even more critical. And the Department's proposal appears to make it more difficult to provide investment education without substantial risk that the activity would later be determined to constitute fiduciary advice. And this would restrict access to much-needed investment education and guidance.

How can we ensure that the Labor fiduciary rule and the ongoing efforts in the SEC are aligned and help offer investors more, and not less, education and guidance on planning for retirement?

Secretary SOLIS. Well, I have the belief that what we are attempting do in this administration is really provide more opportunity, more transparency, and more options for the particular individuals that would benefit from these types of plans, and making sure that the fiduciary—that there is a responsibility in making sure that that information is transparent and that there is no conflict of interest. That is what the purpose of this particular rule is, to look at that, to make sure that it is unbiased investment advice.

And I know that creates some possible concerns by the industry itself, but this is something that I believe consumers are owed. And because we have found in the last few years that there have been problems in this industry, this is a way of helping to address that information and make it more transparent.

And I definitely will work with you. I would like to follow up with you and with my staff.

Mrs. BIGGERT. Thank you.

I yield back.

Chairman KLINE. Thank you.

Mr. Kildee, you are recognized.

Mr. KILDEE. I thank you, Mr. Chairman.

Madam Secretary, about 30 years ago, the merchants in the largest mall in my district called me to come out and have a meeting with them. They begged me not to increase the minimum wage. They said that the minimum wage would ruin many of them if that

were to happen. I disagreed with them and came back and voted for the increase in the minimum wage.

But within a year, less than a year, they called me for another meeting and pushed me to vote for the appropriations for the TAA, because the TAA requires an appropriation, and the Appropriations Committee was rather slow on that. And they were rather angry that we were not pushing. And I told them, you know, I was pushing it very, very hard. And we did, indeed, increase the TAA, or appropriate the money for it.

They could see the link between, themselves, minimum wage and their profit, by they could not see any link between workers having purchasing power and their success.

Can you tell that, in addition to how individual workers are helped by TAA, how the economy is helped by the TAA?

Secretary SOLIS. Thank you, Congressman Kildee.

The TAA program, as you know, was not passed by the Congress, and, therefore, it is expired, at this point. Unfortunately, we have come up with a decision that says that we believe we can still move forward, but we are going to need legislation to help restore that program.

What happened since 2009 is that we actually were able to help certify workers, over 400,000 in the year 2009, and that approximately allowed for 170,000 workers, who may not have been eligible, to be eligible for TAA, especially during this recession, because we had the additional ARRA moneys available.

TAA provides, also, a safety net for health care. So many people that lose their health care because they lost their job, because their job went overseas or was outsourced, provides a safety net in terms of COBRA, so people could have assistance. They also, in some cases, get a wage. And they also get training assistance.

And I have seen it work very well in places that have been hard-hit, whether it was in Florida, for example, with the discussion about closure of NASA and that particular industry, helping to provide a safety net for people who had to start looking for new jobs or people that were dislocated.

The perfect example that I look to is in my own home State, in Fremont, with the NUMMI plant, the auto plant that was closed there, Toyota; 4,200 workers lost their jobs. We were able to help provide, in cooperation with the local workforce investment boards there, to come together and help these people find training, but also be able to draw down some assistance so that they wouldn't be forced out of their homes or could continue to pay rent for where they were staying.

This is a tremendous help for many people who have been impacted. I would urge the Congress to think seriously of passing and restoring the TAA program. It has been around for many years, and it has had bipartisan support. So I am not quite understanding why we haven't been able to do it, but I hope that we can work together on that issue.

Mr. KILDEE. Thank you very much.

What effect will the draconian cuts, particularly in OSHA, have on the economy?

And what effect will it have on the Web site? You know, knowledge is power, and the more power that the worker has, the more he or she can help themselves access certain programs.

Secretary SOLIS. Well, Congressman, what it would immediately do is push off us promulgating any new standards. That is number one. There could be a potential layoff of the new staff, many of the new staff that we brought in 2 years ago as a result of ARRA funding. So we are looking at, perhaps, possibly, the range of 415 new hires and investigators that were brought into OSHA. That would include 200 inspectors and 17 whistleblower investigators that would also be impacted. In addition, that would also mean 8,000 fewer workplace hazard inspections conducted by States. That is not the Federal Government. And, in addition, it would also, overall, throughout the country, impact about 18,000 fewer inspections in total. That is just to give you an indication of what would happen there.

With the elimination of the Web page, as you asked, that also would cut off, I think, a lot of assistance that is provided for millions of workers but also for small businesses that look for compliance assistance. I think that is the second-highest-rated Web site that is used by the public in the Federal Government, is what I am told by my Assistant Secretary of OSHA.

Mr. KILDEE. Thank you, Madam Secretary.

Chairman KLINE. Thank you. The gentlemen's time has expired.

Dr. Roe?

Mr. ROE. Thank you.

Thanks for being back.

Madam Secretary, how many times have you met with the President one on one to discuss labor and jobs issues since you have been in office?

Secretary SOLIS. I have met with him several times, in fact.

Mr. ROE. One on one, where you discussed the labor issues of this country, not in a group, a large group? Where you went in with your staff and met with the President individually?

Secretary SOLIS. I think that I would tell you that I have had several opportunities to talk to him when we have been in private locations, when we are visiting.

Mr. ROE. But, not to interrupt you, but, I mean, to have a meeting set up where you are going to discuss labor issues with the President of the United States.

Secretary SOLIS. We have had—we have had several meetings.

Mr. ROE. The second question I have is, the Federal Government—there is an article in USA Today—the Federal Government spends about $18 billion a year on 47 different job-training programs run by 9 different agencies. And all but 3 programs overlap with others to provide the same services to the same population, according to the GAO—this is not me, but this is GAO—and found that little is known about the effectiveness of the programs because half haven't had a performance review since 2004, and only 5 have ever had a study to determine whether job seekers in the program do better than those who don't get in the program.

So it would be like, you know—have you done anything to pare down this huge, enormous bureaucracy into something more manageable?

Now, we certainly know that there are programs that work. And I think you can show they do. But I will bet you there are programs that overlap that don't work, that don't give you much bang for your buck.

So have you done an overall review of the Department of Labor and looked and say, how can we put these together to be more efficient? It doesn't sound like it has happened.

Secretary SOLIS. Well, I would tell you that, yes, it is happening. And we conduct reviews and evaluations internally of our programs. And the minute I became Secretary, I asked for reviews of all of our training programs.

And, as you can understand, this will now be my second year, but we are looking at trying to make sure that we catch things that we know—for example, if there are problems with acquisition of equipment or things of that nature, things that haven't appropriately been conducted, or training that perhaps may have not been reported accurately by our contractors——

Mr. ROE. We have 47 programs that overlap. And it is confusing. I have been a mayor of a city and trying to figure out what we can use.

Have you looked at that and done away with any of them and said, these are just not effective, they don't work, and let's combine into WIA or something that does?

Secretary SOLIS. Well, I would say that not all of the training programs that you are talking about are under the Department of Labor. But we have made an effort to work and coordinate, for example, with programs that deal with summer youth. And I know, at many levels, the locals have a lot of responsibility, also, for helping to implement the money that goes to the State or goes to the local county or the city.

And trying to minimize duplication a big priority for us. That is why we have a whole new evaluation—a chief evaluation officer that is also looking to see how we could make strategic movements and amend some of our resources.

But I think this is where WIA reauthorization really comes in. Because I do believe we can streamline, I do believe we can do a better job and, kind of, look at how we structure that program so that we don't miss the boat, that we really connect to the employers and the businesses and make sure that we are not duplicating our activity.

Mr. ROE. A year from now, are we going to be here—could we have this meeting a year from now and say there has been coordination of these agencies? Because I think there is a lot of redundancy in these.

And I will go to the next question I have. I have been an employer for over 30 years, and I worked and—was on the pension committee. So I am very familiar with ERISA, and did this for about 30 years.

And here, as an employer, are some of the frustrations that we have. It is when you—and the President said he wanted to cut down the rules and regulations, and I could not agree more with him. We have OSHA, and we have TOSHA, which is Tennessee's department. We have workers' comp, ERISA, Family Medical Leave Act, Affordable Care Act, Department of Labor, Medicare,

Medicaid. I mean, all these things have burdensome rules, and it makes it almost impossible to run your business.

And back to Ms. Biggert's comment a minute ago, I think it is—in the financial sector, they are having the same problems we are, not knowing whether to follow the SEC rules, whether to follow ERISA rules, what to follow. So it is the confusion in these different agencies that don't coordinate.

And these rules I have just gone through here, I could give you example after example about how it cost our business money. And, quite frankly, I look at OSHA as a heavy-handed organization. And, I mean, I view them as somebody not to help me but that can hurt me and not improve safety in my shop.

Secretary SOLIS. Well, Congressman, I would say to you that one of our goals is providing for retirement security through our EBSA, you know, agency there. And what we have been able to do is—one is emphasize participant assistance, so that is to give information, transparency for people who participate in the programs, but also enforcement, because we know that there is a lot of fraud, quite frankly. And I think that the public realizes that we have to have tools to be able to detect when there is fraud and abuse.

And that is pretty much where we are coming from. And I would very much like to have the opportunity to ask my Assistant Secretary, Phyllis Borzi, to come in and meet with you personally to talk about any of these issues where you might have concern.

Mr. ROE. Thank you.

I yield back.

Chairman KLINE. Thank you.

Mr. Payne?

Mr. PAYNE. Thank you very much.

It is really a pleasure to see you here. And, you know, I commend you for the outstanding work that you have been doing.

And I think that it is important that our Nation continues to protect its workers. You know, we are the top nation in the world because we have a concern about people. And I think that many of the laws, although business people say how intrusive they are because, you know, an OSHA inspector will come in and say, "This employee should have on earplugs because it is more than 85 decibels," is a nuisance.

I think that, unfortunately, many businesses feel their only responsibility is to their stockholders or to their investors. Therefore, they must make the most profit that they must do. And, therefore, they are going to take the shortcuts.

And I think that, you know, if you get into the philosophy of government, John Locke and Jean Rousseau, they talk about whether, you know, you have to impose constraints on people. Because if you allow business to simply have a system where everything goes, then we get back to the way it was with the robber barons and when we had children working in factories and people working 12 and 14 hours without overtime.

So, unfortunately, because business—and I am not a businessperson; I have been a worker—but, evidently, businesspeople feel that we shouldn't have taxes, shouldn't have regulations, we ought to do what we want to do, because our responsibility is to the bottom line.

And I can appreciate that. As a union person, my whole argument was, I think we should protect workers against things that—as a matter of fact, we are having more deaths in the construction industry in the New York-New Jersey area than we have had in the past years.

We have faulty equipment. We have had equipment that people knew was inappropriate, and deaths have come about. So when we hear about how we can't make a dollar in the U.S. because of all of these labor and government constraints, I think that the thing is being blown out of proportion.

Let me just ask a quick question about community college programs. We have heard a lot of discussion about employers who are struggling to find workers with skill sets required for today's challenging job markets in spite of high unemployment rates. As a result, nontraditional students, which includes adults and dislocated workers, are enrolling in community colleges at record rates, making up the largest pool of students in such schools.

Yesterday, representatives from a community college in my district shared their excitement for the current competitive grant program for community colleges from your department. Can you expand on these opportunities, as well as the Department's overall strategy for helping community colleges meet the educational and training needs for students and employers to improve job growth?

Secretary SOLIS. Thank you, Congressman Payne.

We have, in the past few weeks, put out a solicitation for grants for TAA career community college opportunities. And that money has been set aside to help provide for expansion and retention for programs at community colleges that partner with businesses. So every aspect of the program has to include an employer, and it has to look at programs that are worthy of expansion.

So we hear oftentimes of the impaction of programs occurring in the nursing industry, where you have so many candidates that want to get into nursing but there aren't enough slots. I have heard heartbreaking stories of people who had to wait 5 years to get into a nursing program at their community college.

And, with this money, it will help to drive that expansion, so that capacity building, acquisition of equipment can be handled. And new areas that need to be expanded, so high-tech, renewable energy, those sources of new fields in the green sector can also be expanded. That is, I think, a shot in the arm for community colleges, especially right now.

I look at my own State of California, where there is a budget crisis and where the first hits are going to be lodged at the community colleges. Every State that participates will receive an amount of money, but it has to go through the community colleges. And they should partner with other groups that are nontraditional, community-based as well. They can partner also with, obviously, businesses through the WIA boards.

But it is an opportunity, I think, for people to begin that discussion and to really make decisions at the local level, not be driven by the Federal Government, but what is needed at the regional level. So, say there is an opportunity to create lithium batteries in Ohio, and there is a community college system that knows they have a need for the equipment. They have a class size, but they

need to expand that more because there is a big need. Those are opportunities that are going to benefit the local participants, but, more importantly, be able to grow to capacity.

And I think, again, that is an important program. And I hope that the Congress will understand that we need to preserve that program. Because my understanding is that there have been proposals to cut back in the fourth year of funding for that program.

Chairman KLINE. I thank the gentleman.

Mr. Walberg?

Mr. WALBERG. Thank you, Mr. Chairman.

And thank you, Madam Secretary, for taking our questions and our concerns, as well.

I represent a district in Michigan right next-door to where you had the opportunity to tour the GM plant. I have a Chrysler proving grounds. I have probably the newest and finest GM plant in Delta Township, up near Lansing, in my district, that I believe makes the cars people want to buy there.

But we also, in my district, have 11.7 percent unemployment, on average. In several counties in my district, there is upwards of 15, 16 percent unemployment still. So, truly, it is an issue where there has to be concern about employee safety, but also employee employment and the success of businesses that are enabled by having reasonable and understood regulation that goes through.

And so, Madam Secretary, OSHA recently pulled back two proposals, as you know, a noise standards and musculoskeletal disorder proposals, citing the need for more study on how these proposals would affect small businesses and to better understand, as they said, how these would impact business.

The question I would like to ask first for you to respond to is, can you explain how these proposals were put forward without clear understanding of the harmful economic impact on businesses and, I would hasten to quickly state, concurrently on employees as well, with little to show for improved worker safety?

Secretary SOLIS. Thank you, Congressman Walberg.

I would say to you that the reason why we pulled both regs back is because we know—we heard, we had a lot of comments from the business communities, as well as from other stakeholders, and we felt, again, in our best interest, that we take our time with getting more information from those groups that would be affected. I think that is the right thing to do——

Mr. WALBERG. Forgive me. I guess the key question is, if, indeed, you came to the conclusion that we needed more time and needed to take more care, why wasn't that the first order?

Secretary SOLIS. Well, we do take in comments. And it is not to say that we close those comments off. But I would tell you that we are making every effort to make sure that we work with the Small Business Administration advocacy office, as we plan to do, and have more comment from the public.

So it is actually taking a step in a direction that will allow for more thoughtful discussion from all stakeholders and from employees, as well. Because we equally get a lot of concerns and letters from people who feel that we should be moving forward. So we also have a lot of, how could I say, interest on the part of those employees that feel, why are we not taking action when we know that

there are certain issues out there that are impacting them currently on the job.

Mr. WALBERG. Thank you.

Secondly, last year, the Department rescinded the final regulations concerning union financial reporting on Form LM-2. That was promulgated by the past administration. And, as I understand it, the rescinded rule would have increased the information provided by large unions on Form LM-2 that they are required to file about parties buying or selling union assets and the compensation of union officers and employees, and it would have required considerably more detail and itemization in these categories than under the 2003 rule.

And so, can you explain to me why the Department rescinded the final LM-2 rule issued by the prior administration and how that doesn't mean less information and less transparency for rank-and-file union members about how their dues are spent?

And I ask that with the context that, since 2001, OLMS, using information from LM-2, 900 convictions and $93 million of court orders were issued in restitutions to workers. And that is a concern. And that is their benefit. So I am concerned that we would rescind those rules. Why?

Secretary SOLIS. We rescinded that rule because we found that it was duplicative in nature, and we were already receiving information that was already fulfilling its purpose. So there was no need to burden and provide more paperwork for information that was going to be made public anyway. And that is, quite frankly, our position.

And I would tell you that, even though we have restructured the OLMS office, I did talk about the fact that we have actually been able to indict more individuals, bring more criminal prosecutions, and conduct, I think, a more robust, concentrated effort, where we are really looking at the bad actors. And I mentioned some of the folks that we were successfully able to prosecute—some, I mentioned earlier, in New York. There was a case also in New York, CWA Local. Someone there, a former president of CWA in fact, was guilty of embezzlement; $200,000 to $400,000 was taken. And we were able to handle some of these very large cases.

So I don't think we have pulled back from our enforcement. What we are doing is trying to make sure that we have a level playing field, that all have access to information. And transparency is first and foremost in our mind.

Mr. WALBERG. Thank you.

I yield back.

Chairman KLINE. I thank the gentleman.

Mr. Andrews?

Mr. ANDREWS. Thank you, Mr. Chairman.

Madam Secretary, we are very proud that a young woman who sat at the kitchen table, worried about how to pay for her education, now sits at Cabinet table. We are very proud of you and proud of your service to our country.

Let's say that a constituent of mine runs a supermarket, hired a teenager this morning, 17-year-old, and had a question about what he was able to have her do, as far as duties in the store with

respect to certain worker-safety standards. Could that supermarket owner call your department and get an answer to that question?

Secretary SOLIS. Absolutely. And we are encouraging it, in fact.

Mr. ANDREWS. And so, they wouldn't have to hire an attorney or they wouldn't have to spend money on something; that there is a Web site, I assume, that they could go to with some of that information?

Secretary SOLIS. Our OSHA division, I think, has done a terrific job in making information accessible to everyone, in fact, for, in particular, business owners, small business, grocery types, many are immigrants. Many don't have a good command of the English language. So we also provide information and tools to them in their language that is more accessible and more appropriate, for them to understand our laws.

Mr. ANDREWS. I know this, frankly, is the Korean-American grocer in Camden, New Jersey, that I represent. It is the bodega and many others. There is a Polish market in one of my communities—Lithuanians.

Now, I understand that the budget on the floor today would cut nearly $100 million from OSHA's budget, almost a 40 percent cut, because you have to cut that by September 30th. So, in other words, if this becomes law, you would have to cut about 40 percent of what you spend in OSHA to get to the end of the year.

Would there be somebody to answer that call from the supermarket owner this morning if you had to do that 40 percent cut?

Secretary SOLIS. I think, well, if that happens, we are not going to have that Web site available and that information, and we definitely will have fewer staff available to——

Mr. ANDREWS. But my understanding is that one of the cuts that is proposed, which is the technology and information account, is the account from which the Department's Web site is run.

Secretary SOLIS. That is correct.

Mr. ANDREWS. So you wouldn't have the personnel to update and run the Web site.

Secretary SOLIS. That is correct.

Mr. ANDREWS. What other kinds of changes would it mean if you had to reduce your budget by 40 percent between now and the end of the year? What would it mean to the taxpayer who is sitting at home watching you testify today?

Secretary SOLIS. Well, I think you would being seeing that there may be more injuries taking place. And, obviously, that has a cost to business, for the business owner but also for society if they are not given coverage, if there is no insurance or health insurance available. That also would have a devastating impact.

Mr. ANDREWS. I assume that you get a number of complaints, I am sure, that are not valid, that perhaps a person who has a grudge against her employer, his employer calls and make an accusation, and you go out and look at it and find out that there is nothing wrong. I assume what would happen is you wouldn't be able to investigate those claims as quickly as you do right now. Is that right?

Secretary SOLIS. That is correct. And I would tell you that one of the things that happens with OSHA is that, in many cases—and you don't hear about this regularly—is that we will sit down and

we will negotiate with the business owner. And oftentimes it doesn't lead to a particular citation or penalty because there was or will be corrective action. If they participate also in our consultation or our programs that provide compliance assistance, we will look at that favorably. So those are things that the business community may not be aware of.

Mr. ANDREWS. Let's pursue that for a moment. Let's say that there is what—and Mr. Kline will want to pay attention; this is a lawyer's phrase coming—a de minimis violation, where someone in——

Chairman KLINE. Is that Latin or Greek or——

Mr. ANDREWS. It is Latin.

Chairman KLINE. Oh, Latin. Okay.

Mr. ANDREWS. Yes, it is. It is Latin. It is high mass.

But let's say there is a de minimis exception. Notice is not posted on a bulletin board or something of that nature. It is your practice, as I understand it, to try and negotiate that out and perhaps just write a letter saying, "Please put the notice up."

Would you have the personnel to have those negotiations as frequently or as quickly?

Secretary SOLIS. Probably not.

Mr. ANDREWS. Which I assume would lead to worse outcomes.

I just want to make the point that a reckless cut like this obviously has a severe impact on the Department, and that is regrettable. But it has an impact on the public: on the supermarket owner who wants to make that call, on the worker who is working in unsafe conditions, on the employer who has been wrongfully accused and wants to get the matter resolved more quickly, or the employer who maybe wants to have a negotiation so you don't turn a molehill into a mountain.

And my sense is that the cuts that have been proposed would really impair what you are trying to do. We are going to do what we can do to make sure that you don't have to deal with them.

Thank you, Madam Secretary.

Chairman KLINE. I thank the gentleman.

Dr. DesJarlais?

Mr. DESJARLAIS. Good morning, and thank you for being here.

It was great that you bring us good news, at the beginning of the hearing, that we have 600,000 new jobs to report. Can you tell me how many of those were private-sector and how many were government?

Secretary SOLIS. I would tell you that, on the payroll survey, we reported that there were about 50,000 jobs. And that is based on the payroll figures.

The household survey that I am talking about, the 600,000, are actual calls that the Bureau of Labor Statistics makes in a week and they call into different households. And what happens there is we are finding that people are attesting to their self-employment. That is, they gave up on an employer hiring them, and they are starting their own business.

That is why I think it is also important to make sure that we have training available so people can start up their businesses legitimately and know how to do it and have a business plan and understand what the tax structures are.

But, secondly, I would say that what we are finding also is that those 600,000 people came on-line, in terms of having jobs. They weren't employed before. Some of them also had two jobs. You find that there are people that had, say, a second job during the holidays, working at a department store, they gave up that job and now are working full-time at the job that pays them a lot better salary.

Mr. DESJARLAIS. Okay.

Secretary SOLIS. So we are seeing that transition that is occurring right now. Some of that will play itself out as we go through and readjust our numbers. And every month they have actually been going up when they are readjusted, almost 10,000 to 20,000 jobs additionally, that were lost originally when they were not calculated, that now get put back in by the BLS.

Mr. DESJARLAIS. Okay. Thank you.

Turning to MSHA, recently a media outlet examined a December 22nd, 2010, MSHA press release highlighting 22 impact inspections. In the release, Assistant Secretary Main was quoted saying, "MSHA's impact inspection program is helping to reduce the number of mines that consider egregious violation records a cost of doing business."

At least two of the mines were erroneously placed on the list, which MSHA attributed to coding and clerical errors. If the Department believes that regulation by shaming is one way to achieve workplace safety, what is the Department prepared to do when it makes mistakes like this?

Secretary SOLIS. I would say that what we have attempted, under our Assistant Secretary there, Joe Main, is to really take a good view at where those most egregious coal-mine operators are and try to get to those places, so that we can also give those folks, the operators, information about what safety plans they have in place, where we see hazards, and try to prevent that.

We actually have a new tool that is available. We call it the pre-contest safety tool. And what it allows is for cases to be settled in a preconference mode before there are actual penalties or citations issued. And that is a good tool that is just coming about because of what happened at the Upper Big Branch explosion, where 29 miners were killed last year, April the 5th.

Mr. DESJARLAIS. How many people work for MSHA?

Secretary SOLIS. I would say we about roughly maybe 400. I could be off, give or take. But it is not as big an agency as you would think. But they are working more strategically.

Mr. DESJARLAIS. Does the agency fund itself with its fines that are levied?

Secretary SOLIS. Those fines help to provide for—I would have to get back to you, to give you how that breakdown is.

Mr. DESJARLAIS. Okay. I have had some complaints from my district that that occurs, and sometimes they actually have said what they see is kind of a good-cop/bad-cop-type situation, where an agent will come in and they will say, "Well, you know, I am the easy guy." And they will only fine him a little bit. But when you get the guy next week, he is tough, and he will fine them a lot. So, you know, if that is true, that may not be the greatest policy, at least in terms of the miners.

Do you know, when there is an accident like the one you spoke of in Virginia, does MSHA view that as a failure on themselves, or is it always the mine's fault when you have a tragic accident?

Secretary SOLIS. Well, I could only speak to the time that I have been on board and as long as my Assistant Secretary has been in place there. And what we have attempted to do, as I said, is really go out and do these impact studies to look at the more egregious mines, but also trying to extend more information to those other mines, the metal mines also, that——

Mr. DESJARLAIS. Excuse me, I am sorry to interrupt. I know we are running out of time. Have we seen a pretty significant decrease in accidents, mining safety records over the past decade with intervention?

Secretary SOLIS. I would is say that, over the course of the last 2 years, that we have helped to provide more prevention. Because I believe there is that culture that is changing, in fact, because of what happened at the Upper Big Branch. I believe that more mines are being more proactive.

And we are trying to standardize what our inspectors do, as well, so you don't have that incident that you said, where someone comes in one day and charges a fine that is less or higher. We want conformity, and so we are doing our very best to make sure that all our field investigators have the best training and that we are working with industry to do that. There are a lot of good actors out there, and we want their stories to be told, as well.

Mr. DESJARLAIS. Thank you for your time.

Chairman KLINE. I thank the gentleman.

Ms. Woolsey, you are recognized.

Ms. WOOLSEY. Thank you very much.

In response, Madam Secretary, to what happens with the OSHA and MSHA fines, it is my understanding that these fines go directly into the U.S. Treasury and the agencies do not even touch them.

And I would like to say as an aside, the fines are so minimal, they wouldn't have covered anything anyway, unless we brought those fines into the 21st century.

Well, what a relief it is to have you here with us, Secretary Solis, and have you at the helm of the Labor Department, a department that is responsible for fairness and safety for workers—and, by the way, responsible for supporting businesses, because you are so obviously dedicated to improving and making sense out of the concerns of our workers and our employers regarding work-life concerns and regulations. Thank you very much. You have brought some clarity to us today.

I thought and I felt really confident in the last Congress that we were on our way to bringing OSHA and MSHA into the 21st century, working with your department and with the House and the Senate. But now, and particularly this week when we are debating the Republican continuing resolution in the House, I fear that these spending cuts that we have been talking about, most of us, this morning would have an absolutely devastating effect, particularly on the health and safety of our workers.

I don't know how we can bring OSHA into the 21st century if we don't have the wherewithal to make it happen. In fact, my concern

is that we may be backing ourselves into the early 20th century and we will have gone nowhere by the end of this Congress.

So, in order to maybe make me feel better, if you can possibly—some of the issues we were working on last year, and we learned so much in our hearings and we got such good input from outside of the Congress and from the Department of Labor—where can we go with bringing OSHA into the 21st century and enacting a more vigorous law to protect our workers?

Where are we going with the misclassification of independent contract workers, so we can level the playing field for the employers that actually play by the rules?

And how are the mine safety laws coming into effect?

I mean, is there a way we can do this? One, if we don't cut your budget 40 percent? I mean, that is the obvious answer. We can't do that. But how are we going—can we work together in a bipartisan way to make these things happen?

Secretary SOLIS. Congresswoman Woolsey, I think at the beginning of my statement I said that I am willing to work across the aisle to achieve the goals to help provide for a recovery, but also underscoring the importance of having worker safety and protections in place.

It is going to be difficult, given the proposals that have been presented by the Congress to cut back so dramatically. I hope that we can come to some agreement on what should be done.

And I do believe that the path that we are going down with respect to MSHA, all the success that this committee has had—I mean, we had an on-site hearing out in West Virginia after the Upper Big Branch mine explosion, and I thought there was a good level of discussion, hearing not only from people that were in the industry but also some of the causes of that.

And I think that it is the job of the Congress to help us move legislation so that we can rectify where there are problems, where we have violators that actually skirt the law and are able to game the system and, thus, create a bigger backlog. And they contest many of those violations. We never are able to get to them. In fact, we got assistance from you, the Congress, to have a supplemental fund to help address that backlog, but I am here to tell you that, even with that, it is not enough. And if we cut that back, then it will eliminate the casework that we are doing even now, as it reflects the ongoing investigation with the Upper Big Branch.

So there are consequences to what we do. I would hope that we could work with the chairman here and also with folks in the Senate that are interested in addressing MSHA.

And then, secondly, on the misclassification, there are scores and scores of details about how people are not appropriately told that they are misclassified. They find out perhaps at the end of the tax period or they find out when they are injured that they have not been receiving appropriate information so they could make those adjustments to have health-care coverage or to know who is paying in for their workers' compensation if they get injured on the job.

We know that this is something that goes across all industries, misclassification. And it hurts because it doesn't provide the type of revenues that the Federal Government and State governments are robbed of that help to provide these structured programs that

help to keep people safe and provide assistance that people so sorely need. So that is a big initiative on our part.

And I would just say, with Wage and Hour, it would devastate if there are further potential cuts there, because we done such, I think, a good job in targeting, with the limited resources, to go after those industries where we know there are the most egregious violators and people that really do need to have the information. It isn't just going after the business; it is also empowering the employees to understand what rights and protections they have in place.

Chairman KLINE. The gentlelady's time has expired.

Mr. Rokita?

Mr. ROKITA. Thank you, Mr. Chairman.

Thank you, Secretary, for coming.

Dr. Bucshon, my friend to my right here, and I are both from Indiana. We are very concerned about MSHA and some mining regulations. I would like to, Mr. Chairman, yield a minute of my time to Dr. Bucshon.

Mr. BUCSHON. Thank you, Madam Secretary, for coming.

I am concerned about MSHA's proposed regulation concerning respirable coal dust. To give you a little background, my father was a united mineworker for 37 years in an underground coal mine. Both of my grandparents were coal miners. I understand exposure risks, and I also understand that—I am a physician, and I see a lot of patients with workplace-related respiratory problems, some of which are, to put it bluntly, their own issue because they refused to wear safety equipment, regardless of whether there were regulations in place to do so or not.

My understanding is that this potential regulation may cost the industry about a billion dollars. And I would like to know, since the stakeholders requested the data that you used to establish this and were denied that information, what are the assumptions that MSHA made in coming up with this new regulation, when, from my perspective as a medical physician and understanding the coal industry, I don't see what the really big push for regulating this was at this time?

The other thing to know is, in a coal mine, most of the exposure is not actually to coal dust but it is to silica dust because of rock dusting of the coal mine walls.

So I would like you to comment on the assumptions and why you guys feel like that this is something that needs to be in place.

Thank you. I yield back.

Secretary SOLIS. Thank you, Congressman.

I would just refer you back to a promise that was made 40 years ago by the passage of the Federal Coal Mine Health Act that was passed in 1969 to eradicate black lung disease. And what we are finding is that it kills hundreds of miners, and former miners each year are severely impacted and impaired. And we are also finding that there is a rise even amongst young miners. So there is cause for concern.

We know that we have to work with industry, and we certainly want to hear their comments. I am not opposed to that. But I would tell you that I think that black lung disease is one that has not been dealt with by this Congress for many years. And we be-

lieve that now is the time to act and to work as best we can with the industry.

I don't recall hearing this figure that you threw out, but I will certainly get back with my Assistant Secretary, Joe Main, and ask him to come and speak with you directly to tell you about exactly how we arrived at——

Mr. ROKITA. Thank you, Madam Secretary. I appreciate that. Reclaiming some of my time, do you plan to make the underlying assumptions available to the industry?

Secretary SOLIS. I will discuss this with my Assistant Secretary, Joe Main. And we can have that discussion, surely, with you and the other congressmen here.

Mr. ROKITA. When can you get back with me on that decision?

Secretary SOLIS. I will get back to you once I speak to my Assistant Secretary and we arrive at what parameters we can consider.

Mr. ROKITA. I know. Can you give me a day or time frame? A week, a month? How long before you think I would hear on your decision on whether or not you are going to make your underlying assumptions public?

Secretary SOLIS. I have to ask my Assistant Secretary when—I mean, we can certainly push this as soon as we can. I will make that commitment to you.

Mr. ROKITA. A week?

Secretary SOLIS. Can't put me on record for that because I—you know, I——

Mr. ROKITA. I mean, how long does it take to talk to someone that works under you?

Secretary SOLIS. It doesn't take that long.

Mr. ROKITA. Okay. So maybe——

Secretary SOLIS. I am not trying to shy away from——

Mr. ROKITA. So just give me a time frame. A week, a month? I know it is Washington, D.C., and all, but just some time frame.

Secretary SOLIS. Give me at least 10 working days.

Mr. ROKITA. Thank you very much.

The number-one focus of the administration, according to the President, is jobs. I know you are a fan of card check. It doesn't appear—and I stand to be corrected, but it doesn't appear card check is going to get through this Congress.

What is your position on card check? Do you intend to implement elements of card check through the administration or through regulation?

Secretary SOLIS. I don't have the authority to do that through regulation. And, as it stands, my priorities are to, again, look at job creation and worker safety and protection in the workplace.

Mr. ROKITA. Okay. Thank you.

You mentioned that we need new mining regulations, when you testified, because people have died, unfortunately. From that, can I assume that MSHA enforced the current law perfectly and that no mining interests violated the current law, therefore needing new law?

Secretary SOLIS. I would tell you that what we found is that there has been a history where there are operators who have been able to game the system because of the way that the violations are set up, that they can be contested. And so there tends to be a back-

log of those contested violations, where we can't really move forward. We don't have all the tools that we need in place to actually come down and say, "Wait, stop, halt," and really have, I think, the support that we need from the operator at that time.

So that is why we need additional legislation, additional tools, so that we do understand and that we work with industry on this. There are a lot of good actors who want to see improvements.

And, certainly, my agenda is not to put people out of business. I understand how important the coal-mining and the mining industry is to this country. But we also want to make sure that people, at the end of the day, can go home after their shift, and hopefully that we have compliance by those miners. And that is what we are attempting to do.

And our program agenda really is to go out and start to talk to people. MSHA, in the past, I didn't think really did a good job of working with the operators on both sides, the coal and the metal mines. And that is something that is equally important to us, as well.

So I would urge my Assistant Secretary—I mean, it is not a problem. We will make available time to see you and talk with you and to answer any further questions that you might have.

Mr. ROKITA. That wasn't my last question, but thank you. I am out of time.

Chairman KLINE. The gentleman's time has expired.

Mr. Hinojosa?

Mr. HINOJOSA. Thank you, Chairman Kline and Ranking Member Miller.

In this economic climate, it is imperative that our Nation create jobs, protect the rights of American workers, and prepare youth and adults for family-sustaining jobs. I am very pleased that we have Secretary Hilda Solis before us, that we can address some of the critical issues that concern me.

Let the record show that I am very concerned and very disappointed that the Republican-proposed budget for the continuing resolution contains over $3 billion of cuts that zeros out our State and local workforce development system.

Madam Secretary, in your testimony, you mentioned the need to reauthorize WIA. Can you elaborate on why we should update the WIA that we reauthorized back in 1998 and should have been reauthorized 6 years later?

We must move forward to improve our Nation's youth work development and adult education system in the 112th Congress. And I ask you to tell us and elaborate on why we should do it and how you recommend that we do it as expeditiously as possible.

Secretary SOLIS. Thank you, Congressman Hinojosa.

It is a pleasure to be working with you again. I know, last year, we had many discussions on the reauthorization of WIA, and I hope that this committee will be able to work together in a bipartisan effort, as the Senate has. They have been working on legislation this past year. Our staff has been able to provide technical assistance to both Senator Murray, Senator Harkin, as well as Senator Isakson, and all those who are interested in this discussion.

I would hope that the urgency of looking at how we can make this program more effective is a priority for the Department of

Labor. So we are ready and immediately available to help provide whatever technical assistance to both sides of the aisle so that we can get at resolving some of the problems and the hearsay that you hear about duplication of programs.

We realize this program hasn't been reauthorized for some 8 to 10 years. Now is the time to act, now is the time to work on a bipartisan level so that we can very much target and be more effective and strategic and streamlined and get to those industries that need workers right away.

So the urgency is now, is to have this done. And I look forward to your leadership. I know you have been involved with this for a long time.

And with respect to safety and protection of workers, you and I know that, on an average, about 12 Latino workers lose their life every week—every week. And a majority of that is in the construction industry. That is why our department of OSHA, as well as Wage and Hour, held a summit in Texas, where we drew about a thousand individuals—business community folks, employees, employers, faith-based groups—to talk about how we could provide protections in that vulnerable population.

Since that time, we have seen more participation on the part of industry. And we hope to provide more assistance to them through our compliance programs and some of our other efforts that we offer through OSHA, as well as through Wage and Hour.

Mr. HINOJOSA. Going back to the first part of my question, on WIA, I understand that the administration and you, as our Secretary of Labor, have thought out of the box and are talking about helping us think regionally instead of just the small area.

As an example, where I come from in deep south Texas, we have a workforce group in McAllen working with the county next to it, in Starr County. But the regionalization that you all talk about is one that is much broader, that possibly brings two Members of Congress, or three or more, to work together so that we can train individuals and help them get to where the job is—engineering, science, technology, all those jobs.

Tell us how you envision that this type of regionalization that you mentioned in one of my talks with you could be done and put into WIA.

Secretary SOLIS. Well, I think that what we are really looking at here is bringing together a better partnership that really is driven by the business community and what is being offered and what is available in that particular region.

So, as an example, in Detroit or Michigan, where you have a large number of people who have been dislocated because the automobile industry is no longer there, many of those skill sets that are there from those dislocated workers can be retooled and looking towards renewable energy, solar panel installation, or lithium battery manufacturing. We are already finding that that is happening in places around the country.

So we are looking to see what is generated from the region. And if we can get States to partner, that is a great idea. We are looking at funding——

Mr. HINOJOSA. Forgive me for interrupting you, because my time is up. Can we work with the community colleges and universities

and the business community to maybe go after large amounts of money that could help us train and put them into those good-paying jobs?

Chairman KLINE. Can I ask that the Secretary respond for the record? The gentleman's time has expired.

Mr. HINOJOSA. Thank you, Mr. Chairman.

Chairman KLINE. Mrs. Noem?

Mrs. NOEM. Thank you, Mr. Chairman.

And thank you, Madam Secretary, for being here.

I know the chairman has covered a topic that I had a question about, so I would just like to make a comment on that. And if you have something to add, you certainly could, but then I would like to follow up with another question.

So, you know, the President's budget has been in the headlines over the past several days. And from what I have found, comparing it to previous years' budgets, the Department of Labor's enforcement agencies are certainly—the majority, or the vast majority of them are receiving increases, some of them quite large, except for one, which is the Office of Labor-Management Standards, which you know receives unions.

For example, the Wage and Hour's total budget is increasing from fiscal year 2010 to fiscal year 2012 by 15.5 percent. The OFCCP's budget will increase by 3.8 percent. And then also, when you go to the EBSA's, theirs will increase 26.4 percent. However, OLMS's budget will decrease by 8 percent.

So this is concerning to me because the OLMS has remained the same while the number of staff in the division has declined. And I would like to you elaborate a little bit on that, on why this divergence in enforcement funding specifically just for this one area that oversees—and then I would like to follow up with a different question.

Secretary SOLIS. Well, I would just reflect that our budget, actually, for the Department of Labor is a reduction of about 5 percent. The President did ask for all of us to look within, where we could get rid of programs or remove them from our authority.

And one that I would just want to talk to you briefly about really has to do with taking funds from the current, existing job-training programs and putting up a new effort, what we are calling an innovation fund, where we can look to experiment and audit and evaluate where we have inconsistencies and where we can make our programs that are doing green jobs, youth build programs, Job Corps programs, dislocated worker programs, to really do some more finite evaluation of that.

That is going to be an evaluation tool, and we are doing it also in partnership with the Department of Education. So that is a new thing that is happening. It is not new moneys, necessarily, but it is taking from other pools and directing them.

With the OLMS, I would say again, restate for the record that it is the level playing field again. We are looking at the same level of funding, but we are actually asking them to be more strategic in terms of their auditing, their investigations and convictions. And a lot of that, as I have already testified, has gone up. So we are going after the bad actors, and we are doing our best to go into elections where we see that there are improprieties, as well.

Mrs. NOEM. Could I follow up with you on that? Per the levels of funding for these enforcement agencies, was that per your request to the President, at the levels that you specifically would like to see them at?

Secretary SOLIS. I would say to you that all of us are looking at, in particular, how we can become more efficient, become also very consciously aware that we have to address the deficit. So all of us had to make some changes.

And there are some programs that will no longer be under—one program, in particular, that deals with—a senior employment program that will be sent over to the Department of Aging in HHS, where it is more appropriately housed, so people that need additional help, counseling and things, can be offered that assistance. That program is going away, and that is a significant amount.

Mrs. NOEM. Okay. Thank you.

On a separate issue, I have just a quick question. President Obama also issued a memorandum on January 18th of this year, noting his intent to eliminate excessive and unjustified regulatory burdens on businesses. So, on the same day, your department issued a new rule that some small businesses noted extremely burdensome by artificially increasing the wages of H2B workers without regard to economic reality. So, seasonal industries of all kinds throughout this country have sent a letter to the President, noting the rule's departure from that commitment and raising their concerns.

I would like you to comment on that, specifically if you recognize that letter has been sent and what your opinion would be as to this burdensome——

Secretary SOLIS. Well, we were also attempting to address a lawsuit that was brought against the Department of Labor for holding up these regs, in particular those salaries. So we are moving ahead. We know that—we are not going to be making those changes this year. We have actually put them off.

Mrs. NOEM. Okay. Thank you. Thank you for your answer.

Mr. Chairman, I yield back the balance of my time.

Chairman KLINE. I thank the gentlelady.

Mr. Tierney?

Mr. TIERNEY. Thank you, Mr. Chairman.

Madam Secretary, nice to have you with us. I appreciated having you as a colleague, and I am proud of the job that you are doing in your new position.

I particularly had the pleasure of working with you on authoring the Green Jobs Act and enacting that, as well. And we were both pleased, I think, when the Recovery Act put in $750 million for competitive grants for high-growth industries, training and job work there. Five hundred million dollars of that, of course, was targeted to the Green Jobs Act.

Now, you told me, or your staff, I guess, told our staff, that when the solicitations for grant applications went out on the green jobs, it actually received between double and triple the response compared to solicitations of a similar size.

Secretary SOLIS. Uh-huh.

Mr. TIERNEY. I see that reflected in my district alone, where the interest was very, very high on that.

And I know some, you know, want to eliminate it altogether, you know, think that not enough people have gone to work quick enough. Apparently they wanted 1 day's training and a job the second day.

But I wondered if you would go into a little bit of detail, tell us what the facts are on that and the success of that program.

Secretary SOLIS. Well, I want to congratulate you, Congressman, for spearheading that legislation, as well. We worked very closely with this committee and with, I know, Congressman Miller on that, as well. And that was signed by a Republican President, George Bush, in 2007.

Mr. TIERNEY. Amazing.

Secretary SOLIS. I could see that the fruits of our investment are paying off. And, in fact, I think, because we have taken that bold step, that the industry is responding, and they are actually telling us that they would like to have more individuals that are fully skilled and trained; therefore, the need to continue this effort.

I was reading in the National Journal, there was a study by the Pew Charitable Trust that, even going back as far as 2007, there were already 770,000 jobs created in the clean energy industry and more than 68,000 businesses that are going in that direction.

In my State of California, the employment development department also said just recently that a million jobs were created in the clean energy sector. And this is positive, because I think that is a motivator for more people, businesses and community colleges, as well as our partners, to utilize our programs.

Given the fact that we are going to have some moneys available through the TAA program and the community colleges, that is another way of helping to expand our effort and our reach, so that we really do home in on what the smaller industries—particularly, I am concerned about the small business, that they also have an appropriate level of trained individuals.

We have some people here that are representing our Job Corps program from Woodland. Every Job Corps program since I started as Secretary has to provide curriculum on green jobs, so they are also getting a dose of that training and exposure. Some of them have already been given job offers, in some cases.

But, nonetheless, it is something that it is, I find, very refreshing for people to hear, that they can make the transition from, say, a welding job to now someone who has, with additional training, got into welding and providing support for a wind turbine. And up in your part of the country, that is a big demand, and that industry continues to grow.

And we are being outcompeted, quite frankly, by our friends in China and other countries. So we need to have a capable workforce. Business needs to know that they can rely on a trained workforce, so they can make that account in their budget and make it possible.

Mr. TIERNEY. I suspect it is not different in other districts. In my district, the biggest champions of the Workforce Investment Act and boards are employers, businesses in particular, small businesses who participate in that.

I am struck by the recklessness of an effort to cut $3 billion out of our job-training program, just what that would do to devastate

the One-Stop shops, what it would do for youth worker programs, some 250,000 youth affected by that. You are talking about young people getting an opportunity; that is gone if we take this kind of reckless action on that. It just goes on and on.

But, you know, tell me about an individual whom I met in my district, a 58-year-old gentleman who lost his job—first time he has been unemployed for an extensive period of time. First, he held on, thinking he was going to get the same job back. Then it became clear that is not going to happen. Now he is getting some education and training so he can get back into the workforce. Found out he had prostate cancer, dealt with that.

You know, if we take $3 billion out and decimate the workforce investment boards and all of that, where does a fellow like that go to get his life started again, to build back his ability to sustain his family?

Secretary SOLIS. It becomes very hard, especially when we still have 14 million people that are out of work, and more than half have been off of work for more than 6 months to close to a year. And many of them, quite frankly, half of them have just above a high school education. It is no longer acceptable just to have a high school education. You have to have more training certificates, and you also should have the ability, when made available, the ability to go to a community college.

That is why the TAA program that we are rolling out is so important—the need to underscore that we want more people to get that certification, because that is the first thing I hear from the business community: "Secretary, we don't have enough people that meet the needs of what I need in my particular business." And it is about having high-tech capability. It is about having people that have adaptable skills and understand how to be flexible, also, with respect to their training.

And for the dislocated worker that you just described, it is very typical of what we are seeing across the country. And it is going to take more time, more training to get them up to speed, to get them ready and accessible for, say, a new place of employment.

Mr. TIERNEY. Thank you.

Chairman KLINE. The gentleman's time has expired.

Mr. ROSS?

Mr. ROSS. Thank you, Mr. Chairman.

Madam Secretary, one of the things that I have seen—and if you were responsible for this, I want to thank you—and that is a rescission of the MSDS, or the musculoskeletal disorders, provision last month. Because, to me, it creates not only an unduly burden on employers, but it also may give rise to other causes of actions—inside the ADA, in tort law. And, as you know, employers are strictly liable under workers' compensation laws, regardless of fault.

And so, under the MSD, when a Log 300 is filed out and they have to report these repetitive trauma injuries or conditions, then they are essentially guilty until they can prove that there is no causal relationship. That was rescinded, but I think what is important is not so much that it was rescinded but that it took so long for OSHA to consult with the small-business community.

Are there other regulations that we can anticipate that might be of such egregious nature that are on the forefront of being promulgated?

Secretary SOLIS. Congressman, what I would say is that we withdrew those two regs that you spoke about. One had to deal with noise, as well.

What we are doing, as I said, is we are consulting with the small-business advocacy office there to make sure that we do a thorough analysis and we get all the comments that are necessary. And then at a time which is appropriate, those regs may come back or they may not. It depends, quite frankly, on what the staff that are looking at all the comments and the——

Mr. ROSS. But wouldn't you agree that there should be a closer representative between those impacted by the regulations and those——

Secretary SOLIS. We absolutely need to hear from everybody, all the stakeholders, including those people that are injured.

Mr. ROSS. Would you agree that probably one of the best things that we can do to recover from this recessionary period that we have been in is to have the creation of sustainable private-sector jobs?

Secretary SOLIS. I believe that we—we need to have partners with the private industry, with the business sector. And in all of our partnerships, regardless of what is said, we do partner with the business community. They have to be a part of our workforce investment funds and——

Mr. ROSS. But getting the private capital in the market to create jobs is a necessary function of a recovery, wouldn't you agree?

Secretary SOLIS. Well, I would agree that what the President did last December to allow for tax breaks and credits for entrepreneurs, I hope, to begin to make that adjustment to hire people up will be an incentive. The tax credits that were given alone, I think, is one part of it, one part of the solution, but we definitely need to do more.

Mr. ROSS. Two years ago today, the President signed into law the stimulus package. And as we look back over the last 2 years, we still have 9 percent unemployment. We have seen a greater creation of Federal jobs than we have seen in private-sector jobs. It has not been, I think, the panacea that those who supported it at the time thought it would be.

In your opinion, do you think that the stimulus plan has been a success or a failure?

Secretary SOLIS. I think the Recovery Act money actually helped to prevent 3 million people from losing their job, where unemployment would have been much higher.

If you recall, last October we had an unemployment rate above 10 percent. It has now dropped——

Mr. ROSS. To 9 percent.

Secretary SOLIS [continuing]. To 9 percent. And what we have seen in the last year is that we have created 1.1 million private-sector jobs. I am not talking about public sector; I am talking about private sector.

Mr. ROSS. The public sector has——

Secretary SOLIS. That is the first time that we saw an increase in private-sector jobs than we did in the last 2 and 3 years, even before this President took office.

Mr. ROSS. You know, as a consumer, I am sure that you choose to buy that which you find to be the best product at the best price. In other words, competition does have its benefits to the consumer. And the more choices you have as a consumer, the better price and, I think, the better market you can have.

When we look at project labor agreements, we are essentially shunning away a marketplace environment to allow for nonunion contractors to hire nonunion labor at a better price to be just as effective and, yet, save money.

Wouldn't you agree that we need to revisit the project labor agreements and allow for a market wage, as opposed to a union wage, in the implementation of these contracts?

Secretary SOLIS. Well, I would beg to differ with you. I think that many successful project labor agreements have been created and instituted by the private sector. In fact, Toyota has been one of those proponents of project labor agreements, as have other major industries, as well.

What we are finding is that the costs are actually, in many cases, lower. You find agreements both with labor and management. They are able to come to agreement on what the timelines are and trying to minimize any labor disputes that might occur during the life of that contract.

And, actually, that is something that I think helps to incentivize the local community to hire local, so that we can address that big issue of unemployment that you talked about.

Mr. ROSS. But it does favor union labor as opposed to nonunion labor, wouldn't you agree?

Secretary SOLIS. I think that it isn't just labor. There are many opportunities for different segments of the community to be a part of that PLA.

Mr. ROSS. One last question. You spoke about the Employee Free Choice Act, and I agree with you, I don't think that that is something that can be implemented by way of regulatory rule. But, in your opinion, would you support the Employee Free Choice Act as——

Secretary SOLIS. The President and I agree that collective bargaining should be a right. But whether or not there are votes to change that, currently I don't see that happening in at least the near future.

Mr. ROSS. I see my time is up.

Chairman KLINE. I thank the gentleman.

Mr. Holt?

Mr. HOLT. Thank you, Mr. Chairman.

Madam Secretary, it certainly was a pleasure to serve with you in this body, and it is a pleasure to see you at work in the Department.

Let me touch quickly on four points.

First of all, I wanted to applaud you and Assistant Secretary Oates for tying the WIA to public libraries. Public libraries are so important for people to get the job training and connect to jobs.

And I would like to you keep us informed on how that effort is going.

Secondly, you spoke to Ms. Biggert about her concern to get better investment information and education in your coordination with the Securities and Exchange Commission. I hope you will keep me informed, along with Ms. Biggert, on that issue.

Secretary SOLIS. Certainly.

Mr. HOLT. With regard to OSHA, which, you know, 40 years ago, New Jersey Senator Pete Williams helped to enact OSHA. And I am just—I can't emphasize too strongly the importance that OSHA has. There are millions of Americans who have their arms, legs, eyesight, and even lives—and they don't know who they are—they have those because of OSHA, but they don't know that those were saved because of OSHA.

You know I have been a big proponent of reinstituting the Office of Technology Assessment, this important congressional agency. Before OTA was defunded, it did a review of OSHA, quite a detailed review. And it came out with quite positive conclusions about the effectiveness of it, about the methodology and analytical priorities, and even about the cost burden that OSHA imposes.

I think it is time for an update on this, whether it is done through the GAO or otherwise. I would like to talk with you about how we might update that. Because I am sure the results will be useful in actually making the case for how important OSHA is to keep going.

And then, fourth, I just wanted to mention the legislation that Representative Petri and I introduced in this Congress, the Lifetime Income Disclosure Act, which will help workers prepare for retirement by providing them with information about how their savings will address their monthly living expenses on into retirement.

And I know, last year, the Departments of Labor and Treasury held a well-publicized request for information on lifetime income. And I think this is a good way to go, and I wanted to ask you how Congress should be working with the Department on this issue.

Secretary SOLIS. Well, your last question, Congressman—we are very interested in working with you. We know that there are different populations that are affected with respect to how they save and what information they get or they don't get. And, typically, a widow, for example, may have had a work situation where she may not have had 20 or 30 years in the workplace because she had to take care of her family and now finds herself in a situation where she doesn't have adequate retirement funds that she should have known earlier to set aside in some way. And there are tools to do that.

So, through our offices of EBSA, Phyllis Borzi, I believe, has done a really great job in making sure that we provide as much information, as much transparency and options, so that individual, consumers can make better decisions about what they want.

Typically, in some cases, when someone retires and they want to tap into that fund, it may not be wise to get a lump sum at one time. They may need to have it staggered. As you know, that is a very important part of managing one's budget in that particular situation, when people are living off that one last amount of funds that is going to keep them going for a few years.

So it is so deeply important, and it is something that we care very much about. We want to work with you on that.

With respect to OSHA, as you know, if OSHA wasn't in place, I think we would have a much higher rate of injury. And because of OSHA and the passage back in 1970—and they are going to be celebrating their 40th anniversary, as well—we have been able to see reductions of 65 percent in occupational injury and illness. And that has been a tremendous factor that has helped keep people on the job, keep them safe, and to also minimize disturbances that might have occurred with their employer, bankruptcy or what have you, because someone was injured or someone was killed.

Mr. HOLT. Thank you.

Chairman KLINE. I thank the gentleman. The gentleman's time has expired.

Let me note, the Secretary and I talked before the hearing about what time we would wrap up. It looks to me like we have about 15 or 20 minutes more of questions, which would take us to about 12:15. Is that all right? Something like that?

Okay, thank you very much.

Mr. Thompson, you are recognized.

Mr. THOMPSON. Thank you, Mr. Chairman.

Madam Secretary, thanks for coming today, for your testimony and your response to questions.

It is probably appropriate—I represent Punxsutawney, Pennsylvania—because I feel like I am caught up somewhat in the movie "Groundhog Day." It was about a year ago, February 2010, you were here, and we had a discussion about project labor agreements. And I had mentioned a new construction project for a Job Corps center in Manchester, New Hampshire, that was subject to the PLA. And then, mysteriously, Department of Labor canceled the solicitation for bids in November of 2009.

I also drew a comparison between that project labor agreement that was imposed on a contract in my home State of Pennsylvania, when Governor Rendell required a PLA for Rockview State Prison. Yet again, no one bid, and the project was put on hold.

The Obama administration contends that PLAs control cost factors, and the President put forth an Executive order encouraging PLAs. However, in areas like New Hampshire and Pennsylvania, this removes about 85 percent of the eligible firms from bidding.

Madam Secretary, I would rather not revisit the past, but last February our 5 minutes ran out before you actually answered my question. It was asked by then-Chairman Miller that you would follow up in writing, and, well, we are still waiting. That is the "Groundhog Day" part.

So I want to come back to that question from a year ago. Why was the New Hampshire project put on hold?

And, secondly, since there have been PLAs successfully challenged in other cases, most recently in Pennsylvania, a VA center in the Pittsburgh area last December, has the administration begun to reconsider Executive Order 135022?

Secretary SOLIS. Well, Congressman, I would just say to you again that we believe that PLAs actually help to bring down the costs and provide conformity.

With respect to withdrawing the Job Corps New Hampshire, that bid is actually—we wanted to take more comments. We felt that we didn't do a sufficient job in making sure that we had actually provided more opportunity for people to make comments and to be a part of that process. So we realized——

Mr. THOMPSON. Was there any implication——

Secretary SOLIS [continuing]. That we had to bring that back.

Mr. THOMPSON. Was there a similar experience at all in Pennsylvania, where, frankly, I mean, 85 percent of the eligible companies in Pennsylvania—I know that is a State project, but it was a PLA—chose not to bid. It really excluded, frankly, all of the workforce. I think, in central Pennsylvania, companies 3 hours away that were totally union that would have bid. It drove the costs up, and even Governor Rendell saw the perils of that.

Secretary SOLIS. Well, I can't really comment on what the State is doing because we don't——

Mr. THOMPSON. Well, I know that. But I am asking, what are the experiences in New Hampshire with the Job Corps?

Secretary SOLIS. I don't think—I can't go into detail because I don't know all the particulars about the State project.

Mr. THOMPSON. Okay, well, if you wouldn't mind, we have been waiting a year. You know, an Under Secretary or someone, if you could have them, like, within 2 weeks get back to me. Because——

Secretary SOLIS. Absolutely. I apologize.

Mr. THOMPSON [continuing]. This is obviously very important to me.

I had the opportunity—and one of the things I wanted to—we have done some things on mine safety, obviously, in the 111th Congress. And one of the things that I know that has been added—there was a Pittsburgh office that was opened for the Federal Mine Safety and Health Review Commission, you know, I think as part of the effort to address the backlog. And I think the cases were around 10,000, or something like that, in the backlog queue. And, frankly, I think there are some creative things going on there. They are trying to get retired judges. They have staffed up to about 20 judges is my understanding, and using some retired folks and some part-time.

The issue of backlog at the Mine Safety and Health Review Commission certainly has been highlighted through those hearings, as I said. Do you believe that MSHA's pilot conference program is working to relieve that backlog at all?

Secretary SOLIS. Well, we just started it. And I do believe that it is making a difference. And I had a discussion with our Assistant Secretary, Joe Main, about it just last week to find out how that is coming along, because I am very interested in finding out how we are able to prevent us from having to go out and cite different operators.

So I believe the more we do that and we engage, we give people information up front—and I know that Joe has traveled all over the country to make sure that we reach out to the associations. And they have been very supportive, especially in the metal mines, in particular. They seem to be very receptive to this.

So I am very open to seeing that happen, and I would love to have my Assistant Secretary stop by and see you and give you a preview of what we are doing and what our intent is.

Mr. THOMPSON. Thank you.

Secretary SOLIS. I will make sure we get back to you. Thank you.

Mr. THOMPSON. Thank you, Mr. Chairman.

Chairman KLINE. I thank the gentleman.

Mrs. Davis?

Mrs. DAVIS. Thank you, Mr. Chairman.

Secretary, good to see you.

I am sorry that I wasn't able to be here earlier, and you may have answered some part of this question, I think, in talking about veterans. I know recently you had an opportunity to visit Camp Pendleton and, certainly, to tout the Department of Labor's strategy of No Veteran Left Behind, and I greatly appreciate that.

Could you elaborate a little bit more on how the Department of Labor could better work with the Department of Defense? Because we know that, no matter—I mean, there is quite an effort going on, and I appreciate the work that has been done and what you stated in your written statement here. Are there some disconnects there? How can we be more helpful? How can the Department of Defense, as well?

The other issue that I think is really critical and, in speaking to a number of individuals on the boards and working within the community colleges, we have a number of schools that have veterans centers but very few, really, to meet the need.

Does the Department of Labor play any role in that? And would there be a role there in trying to help facilitate so that our veterans at our community colleges, particularly, where the need is so critical, have the support system as well as the training supervision, mentoring that is required there?

Secretary SOLIS. Thank you, Congresswoman Davis.

We are working with the Department of Defense on a new effort to revitalize the Transition Assistance Program, known as TAP. I think you are aware of that. That program has been around for many, many years, but very little evaluation had been done in terms of the quality and the service that was provided.

So my Assistant Secretary, Ray Jefferson, has been leading, for the last year and a half, on helping to revise and expand and make that program more meaningful, so that it isn't just dropping information but actually following up at every point, so that the veteran, whether they are still in the service waiting to exit or if they are already out of the system, that there is a way that they can continue to get information about careers, job training, and other assistance, mental health, other things that they might need, as well as their family. So military families are also a part of that component.

And much of it is being funded, actually, out of Department of Defense, because our budget is very minimal, as you know, with respect to being able to roll out something that big. But they have bought into the idea that our office would help to provide supports to structure this new program.

I am very excited about it, and I think you are going to be hearing more. And I would love to have my Assistant Secretary come by and see you.

With respect to community colleges, without a doubt, we need to coordinate more our veterans programs that we have that are offered by the State. We actually provide funding that goes to the States, and they then hire up and place those individuals throughout the State, usually through our workforce investment programs, the WIA, or the One-Stop centers.

They need to be collaborating with the community colleges. There is no reason why we shouldn't be targeting—and I believe through the TAA program, the new funding that is being offered to the community colleges. There could be an incentive, there could be a demonstration project out there somewhere that could use that funding to actually illustrate how important it is that those two can connect, the veteran that is coming back from war, the younger one that actually needs to have several things going on—counseling, mentoring, but also a rigorous curriculum that is going to help them make that transition. So if they want to go into a short-term job or get a certificate in 6 weeks, they can do it at a community college, or a 2-year program. So we want to make those seamless for them as best as possible.

But I would love to have the opportunity to talk to you about that, as well as what we are doing with homeless women veterans in our initiative to really go out and meet the needs of these returning veterans. We are finding that there is a high rate—and you know this—of suicide amongst our young returning vets, as well as the fact that we are seeing many women who were in the war, serving in Iraq and Afghanistan, that are coming back, and you don't see that there are symptoms per se physically, but you are finding out after that they are not able to connect back home, to reintegrate. So we are very, very concerned about that aspect.

And my Women's Bureau is working with our VETS department to see how we can better conjoin and work with other agencies to help provide that needed support for these women, in some cases who have children as well.

Mrs. DAVIS. Uh-huh. I am really glad to hear that. Because I think one of the concerns that we have in the community is that there are a lot of efforts out there, but people don't necessarily know what is going on, you know, whether it is right, left, or center. I mean, people just don't understand the efforts that others are doing. So I think there is a key role, actually, for the Department of Labor.

Secretary SOLIS. And, by the way, visiting Camp Pendleton, the Helmets to Hardhats program was, I think, very essential for many folks that are getting ready to exit the military. That happens to be the Marine base there. We are looking to expand those efforts, I know DOD is, in other major States like Washington and, I believe, maybe in Georgia, Lejeune, Fort Lejeune.

Mrs. DAVIS. Great. Thank you.

Thank you, Mr. Chairman.

Chairman KLINE. Thank you.

Mr. Platts?

Mr. PLATTS. Thank you, Mr. Chairman.

Madam Secretary, good to see you.

Secretary SOLIS. How are you?

Mr. PLATTS. Always a pleasure when we served together and now in your new role—or, not new, but current role.

I have, I guess, two areas of a comment and question, and they relate to the Office of Labor-Management Standards. And I share these comments or questions as a former union member, Teamster union, Local 430, as well as with many family members, retired union members or current.

First is to associate my comments with the chairman and his concern about the budget, which shows, I would say, a lack of additional commitment to the Office of Labor-Management Standards in comparison to the Bureau of International Labor Affairs, which is getting about a 10 percent increase under the proposed budget. Yet, an office that has seen its personnel be cut by about 16 percent in recent years and is really the main enforcement office for unions properly disclosing how they are handling their union members' money—so, first, I associate myself with the chairman's comments and his concern. I share them, and think we should be better prioritizing protecting the labor affairs of American workers before we are increasing spending on labor elsewhere outside of this country and, specifically, the Bureau of International Labor Affairs.

My specific question, I guess, is if you can share with me the logic—you know, the Office of Labor-Management Standards and the original law of the Labor Management Reporting and Disclosure Act of 1959 is really about openness and transparency, that union members know that their funds are being handled properly by their leadership—a very important law, now 50-plus years in the works. And there have been efforts in recent years to strengthen disclosure and greater transparency—improvements to the LM-2 form, the LM-30 form, a new requirement, the Form T-1, to really require more transparency.

Instead of moving forward with that, what we have seen is this administration go backwards. My understanding is, as of October of 2009, the administration announced that they were rescinding the improvements to the LM-2 form. They announced also that they would not enforce the changes to the LM-30 form, and, just in December, published a final rule rescinding the Form T-1 completely.

I guess I would like to know the logic behind lessening transparency if we really are serious about protecting union members and how their money is being handled.

Secretary SOLIS. Thank you, Congressman Platts.

I would say to you that what we have done is kept the level of funding consistent. So there really isn't a major increase, as you state. And I would just say that one of the things we are doing is also looking at technology——

Mr. PLATTS. But, Madam Secretary, there is not a major increase for the Bureau of International Labor Affairs?

Secretary SOLIS. When you asked me about OLMS, their level of funding is the same to what it was last year.

Mr. PLATTS. Right. But if you look at where you are in several years total, your number of enforcement officers is down about 16 percent. So instead of trying to, you know, return some of those en-

forcement officers that go after misuse of union dollars, instead we are increasing funding for international labor.

Secretary SOLIS. Well, I would say to you that we have actually been able to target—more of our improvements that we have seen is doing more auditing and actually having a higher rate of conviction and indictments.

And I said earlier, I don't think you were here when I said it, but back in 2010 we actually started looking at election investigations. And we actually were able to ramp that up, in comparison to what happened between 2006 and 2009 before I took over.

So I would say to you that we are being more targeted. We are using more transparency in terms of using the computer, actually, to be able to disclose information much more quickly. We don't have to have as much, how could I say, emphasis on getting a lot of paper when a lot of this can be posted and made available to members.

And we certainly want to go after the bad actors. And I said earlier that we have some major convictions of folks that are in the labor movement that were not doing the right things, and many indictments that were made. So we are not going to move back on that at all.

Mr. PLATTS. The effort to crack down and have those indictments I support, obviously. But I guess—there are two issues here, and one is transparency. Why rescind the regulations that were adopted to have more transparency? What was the decision behind the changes?

Secretary SOLIS. Congressman, some of the information that we were already—that we were initially getting from other forms was duplicative. So we were trying to actually minimize the amount of information that wasn't necessarily needed. We are getting it to begin with, so we didn't need to have an additional paperwork requirement.

So I think that is what we are trying to get at. It is not that we are excluding information. By all means, we are actually putting more information up so people can see it and that members can have that information and knowing fully that it is going to be available on the Internet.

Mr. PLATTS. My time is up. I guess my request would be if you could submit to the committee the examples of duplication that were in the——

Secretary SOLIS. Sure.

Mr. PLATTS [continuing]. LM-2, the LM-30, and the T-1, what was duplicative that is now not necessary to be acquired, so that I better understand. Because it doesn't seem logical to me, and——

Secretary SOLIS. I will have our director come and speak with you directly, as well, John Lund from OLMS.

Thank you.

Chairman KLINE. I thank the gentleman. His time has expired.

Mr. Kelly?

Mr. KELLY. Thank you, Mr. Chairman.

And, Madam Secretary, it is nice to be with you.

I have a concern as a small-business person, myself, and understanding very much what wage taxes mean. In your testimony, you said, "The Department is focused on jobs of the future. And we also

understand that workers who are laid off cannot wait until the future to get a paycheck. We are doing everything we can to get workers into jobs quickly."

Also in the testimony, you said, there are 23 million unemployed workers right now who received $150 billion in unemployment insurance benefits in 2010, and that currently there are more than 6 million workers who have been unemployed for more than 26 weeks.

My question is, how many of these recipients have been required to take job training under the Workforce Investment Act?

Secretary SOLIS. Well, I would tell you that many of the programs that we do offer, in particular through our One-Stop centers, we do require, in some cases, for people to come in. Some States actually do that, where you have to come in if you are a recipient of UI and go through some of the training programs, get an assessment, and then find out exactly where it is you want to go.

But what I think is important to underscore here is, the Unemployment Insurance Program is supposed to provide a safety net for people while they are transitioning and finding a job. Keep in mind, you still have almost five unemployed people per one job. And that isn't going to change as quickly as I would like, but we are working on it.

In addition, that $1 of UI money that goes back to that recipient, $2 are generated to keep some of the local businesses' doors open. So the grocery store, the gas station attendant, the dry cleaners, people are also seeing that money then going back as kind of a short stimulus for areas that have been heavily impacted.

Mr. KELLY. And I understand that. So, in December now, the President made unemployment benefits available for up to 99 weeks. So do you support making enrollment in a job-training program mandatory for accepting unemployment insurance after a certain number of weeks?

Secretary SOLIS. I am not sure that, at this time, I can say that I can do that. But certainly, working with the Congress and figuring out ways that we can incentivize people that are receiving UI or even those that may be shortly laid off, giving incentives so that the Federal Government can provide on-the-job training so we can consistently keep these people from being laid off—those are different activities that we offer now that many businesses are not taking advantage of.

Mr. KELLY. Okay, well, I am going to encourage you. Because I have been involved in good investments and bad investments, but when we talk about the Workforce Investment Act, I think that the money we are spending, we deserve to have a positive return on that. And so I am going to encourage that people really get into looking into this. And, actually, if we are going to do this, we have to get people back to work. And I just don't think we are going in the right direction. I see a lot of money being spent, and we don't see a lot of jobs coming back to the forefront.

Thank you.

I yield back my time, Mr. Chairman.

Chairman KLINE. I thank the gentleman. He set the example at the very end of the hearing, but I appreciate it nevertheless.

Mr. Miller, any closing remarks?

Mr. MILLER. Thank you.

Just quickly, one, I want to thank the Secretary, and I want to thank her for her administration of this agency.

But back on the discussion you had with Mr. Platts, I would hope that we would also have some transparency. I think the LM-2, the LM-30s and the 20s, there really is an uneven level of bureaucracy required here. Certainly, one, it is a question of what the business consultants who do the anti-labor activities, whether they are even filling this out and complying with this. I am worried about that.

I would say to my colleagues on the other side, if you put this level of regulation on a business, you would be screaming to high heaven. Well, you know, but to do this to labor, somehow that this is free. I don't think you should relish that would you create that kind of system that is so costly and so burdensome to these organizations.

But I would be interested in the compliance rates and the disparities in terms of reporting requirements and liabilities in this also.

But thank you very much for being before the committee today and for your responses.

Secretary SOLIS. Thank you, Congressman Miller.

Chairman KLINE. I thank the gentleman.

I want to take just a minute to address an issue that has been kicked around here several times. You know, Madam Secretary, that we are—in the last Congress, we didn't have a budget and we didn't pass any appropriations bills. And so we are in the business of working with continuing resolutions and trying to debate how we should allocate that money.

The question came up, I think from the ranking member and others, about the VETS, V-E-T-S, program and One-Stop shops. So I just wanted to point out a couple of things about that.

One, it was mentioned by a number of my colleagues that we have in this job-training business, you know, 9 agencies spending $18 billion for 47 different job-training programs. And then Mr. Miller and I have had this discussion a number of times about how we need to address WIA and make this simpler and, clearly, less wasteful.

But the question was raised about whether or not One-Stop shops would have to shut down on April 1st or something like that. Certainly, I don't have the definitive answer here, except, clearly, there is money, there is $550 million in carryover balances that are unexpended and unobligated for the One-Stop system from 2010. There is another $1.1 billion in unexpended dollars left from that program that is carryover money. So I don't think we are looking at an April 1st shutdown.

I know that your department will be looking at that. And I am not purporting to give a definitive answer here. I am simply saying that there is carryover money here, there is often unexpended money. And it is somewhat of an indictment of a very confusing system that this committee and this Congress and, certainly, the Department are going to have to address.

I want to thank you, Madam Secretary, for coming, for your testimony, for your very straightforward answers to our questions.

If there is no other business, the committee now stands adjourned.

Secretary SOLIS. Thank you, Mr. Chairman. I appreciate the opportunity.

[Responses by Secretary Solis to questions submitted follow:]

U.S. Department of Labor

Assistant Secretary for
Congressional and Intergovernmental Affairs
Washington, D.C. 20210

May 5, 2011

The Honorable John Kline
U.S. House Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline,

Enclosed please find the answers to the Questions for the Record submitted to Secretary Solis after the Committee on Education and the Workforce February 16, 2011 hearing entitled "Policies and Priorities at the Department of Labor."

Thank you again for inviting Secretary Solis to testify at the hearing. Please feel free to contact me at 202-693-4600 with any questions.

Sincerely,

BRIAN V. KENNEDY

Enclosure

Chairman John Kline (MN-02)

Kline Question 1: Following up on a question posed by Representative Roe, please provide the Committee with the number of times you and the President met one-on-one to discuss labor issues. Please include the date, time, duration and specific policy points you addressed in your meeting.

A: As the Secretary of Labor over the past 2 years, I have met regularly with President Obama dozens of times -- in one-on-one meetings and calls, in small meetings with White House and Department of Labor advisors, larger group settings, during travel and other functions. The focus of my conversations and meetings with President Obama has been about putting Americans back to work and our economic recovery.

Kline Question 2: You stated at the hearing that the Department's FY 2012 budget request reflects a decrease of approximately 5 percent. You suggested that DOL is looking for ways to address deficit spending and specifically cited the budget's proposal to transfer the Seniors Community Service Employment Program (SCSEP) to another Federal Department. The Department's overall budget decrease is actually achieved by a transfer of an $824 million program and not through a significant effort to decrease the deficit. Please clarify for the record: If SCSEP was not counted as part of DOL's current funding level, would DOL actually receive a net increase if the President's FY 2012 budget was adopted? Can you cite what decreases were made in the FY 2012 DOL budget request that reflect deficit reduction efforts?

A: The President has put forward a plan to rebuild our economy and win the future by out-innovating, out-educating, and out-building our global competitors and creating the jobs and industries of tomorrow. At the same time, his plan recognizes we must restore fiscal responsibility, and reform our government to make it more effective, efficient, and open to the American people.

The Department's FY 2012 Budget reflects difficult choices that will help put our nation on a sustainable fiscal path while also investing in programs and activities that will fuel economic growth. For example:

- The Budget reduces Job Corps construction funding by $27 million to cover an increase in the program's Operations request.
- The Budget eliminates the $125 million Career Pathways Innovation Fund, which duplicates the recently enacted Trade Adjustment Assistance Community College and Career Training Program.
- The Budget also redirects funding from the job training formula set-aside, the Governor's Reserve, to fund the proposed Workforce Innovation Fund.
- As part of a Government-wide effort to curb non-essential administrative spending, our budget includes reductions of $10 million for travel,

printing, professional and technical services, as well as supplies and materials.

Your question refers to the Senior Community Service Employment Program and its transfer to the Department of Health and Human Services. My statement is based on the $13.533 billion in discretionary resources appropriated to the Department of Labor in the FY 2010 omnibus legislation. As you note, this FY10 amount included $825 million for SCSEP and the FY 2012 budget requests to transfer this program to the Department of Health and Human Services. The amount requested by the Administration for this program in FY 2012, however, is $450 million, a reduction of $325 million from the FY10 level. Even if the $450 million requested by the Administration were included in the Department of Labor's FY 2012 budget, the total DOL discretionary request would be $13.275 billion, a $258 million reduction from the $13.533 billion in discretionary resources enacted in FY 2010.

Kline Question 3: During the hearing, you stated that for every $1 of unemployment insurance spent there is $2 generated in the free market. Please provide the Committee with more context and data supporting this estimate; specifically, who calculated this estimate, what data was used to derive this figure, and when was the estimate performed?

A: These estimates come from a study commissioned by the Department of Labor during the Bush Administration that was designed to examine the role of unemployment insurance as an automatic macroeconomic stabilizer. This study was conducted by the research firm IMPAQ International in conjunction with the Urban Institute. The study had initially planned to use data from a simulated economic downturn. Because of the onset of the recession in 2007, however, they were able to use actual economic data from the recent downturn. Using various data on the performance of the US economy and the proprietary economic model from Moody's Economy.com, the researchers made retrospective simulations to examine how GDP, employment, and other economic variables would have performed without the increase in regular UI benefits, federally-funded Emergency Unemployment Compensation and extended benefits, and payroll taxes that pay for UI. The study was performed prior to the July 2010 extension of UI benefit expansions, and so the impact of these benefits was not included in the analysis. The Departmental announcement from the study's commissioning is attached. The full report by IMPAQ International, as well as a summary press release, can be found at the following link:
http://www.dol.gov/opa/media/press/eta/eta20101615fs.htm

Kline Question 4: How is the Department ensuring its compliance with Freedom of Information Act requirements? Is the Department meeting its deadlines to respond to FOIA requests?

A: The Department is actively working to enhance the administration of the Freedom of Information Act (FOIA) to ensure compliance with the provisions of the statute. The Solicitor of Labor, who also serves as the DOL Chief FOIA Officer, issued guidance on December 3, 2010 encouraging responses to FOIA requests that are prompt and appropriately release records, enhanced administrative processes, and accountability across the Department for FOIA performance. Among the Department's most significant recent FOIA actions is the creation during FY 2010 of the Office of Information Services (OIS), within the Office of the Solicitor (SOL), Division of Management and Administrative Legal Services (MALS), to serve as DOL's overall FOIA administrator and manager. While the Department has a decentralized FOIA program in that each component agency within DOL responds to FOIA requests about its programs and activities, OIS is leading DOL's efforts to improve the quality, consistency, and timeliness of FOIA responses; to reduce the backlog of pending FOIA requests; and to monitor the effectiveness of each agency's FOIA procedures.

For FY2011, DOL has established a number of performance measures related to FOIA in order to promote accountability and keep focused on important aspects of effective FOIA administration. The two key Department-wide FOIA goals are:

> **Measure 1** – In FY 2011, DOL's FOIA components will provide on-time responses to initial FOIA requests (that is, within the 20 working days mandated by statute) for 75% of all initial FOIA requests processed in the "Simple" queue; and 60% of all initial FOIA requests processed in the "Complex" queue.
>
> **Measure 2** – By the end of FY 2011, DOL's FOIA components will reduce the number of DOL backlogged FOIA requests by 10%.

Currently, the Department is performing well against its established performance goals. As of the end of the first quarter of FY 2011, DOL was able to process 85% of its "simple" FOIA requests and 76% of its complex FOIA requests within the statutory time limit. DOL has also made significant strides toward reducing its backlog of pending FOIA requests, by exceeding the 10% reductions goal mandated by the Open Government directive (see President Obama's January 21, 2009 memoranda on FOIA and Open Government and the Attorney General's FOIA guidelines of March 19, 2009 for more information in the Open Government directive).

At the end of FY 2010, DOL had reduced its FOIA backlog by 18.7% compared to FY 2009. Additionally, DOL continues to work to reduce the number of FOIA appeals pending with the agency. Since the end of FY 2009, DOL has reduced its backlog of FOIA appeals by 19.7%.

<u>Kline Question 5:</u> At the hearing you stated that the American Recovery and Reinvestment Act prevented the loss of 3 million jobs. Who calculated this estimate and when? Has this figure ever been revised to reflect new data? What is the ratio of public sector to private sector jobs in this figure?

A: This figure was initially calculated by the President's Council of Economic Advisors (CEA) in their 4th quarterly report on the American Recovery and Reinvestment Act, in which they reported that the Act had either saved or created between 2.5 million and 3.6 million jobs. This result is similar to that found by the non-partisan Congressional Budget Office in a report on ARRA released in February 2011. The CBO report found that up to 3.5 million jobs had been saved. Additionally, this figure has been validated in subsequent quarterly reports by the CEA, most recently in their 6th quarterly report released March 18, 2011. Links to all three reports are available below. These reports did not differentiate between public and private sector jobs.

- CEA 4th Quarterly Report on ARRA: http://www.whitehouse.gov/files/documents/cea_4th_arra_report.pdf
- CBO report, "Estimated Impact of the American Recovery and Reinvestment Act on Employment and Economic Output from October 2010 Through December 2010": http://www.cbo.gov/ftpdocs/120xx/doc12074/02-23-ARRA.pdf
- CEA 6th Quarterly Report on ARRA: http://www.whitehouse.gov/sites/default/files/microsites/20110318-cea-arra-report.pdf

<u>Kline Question 6</u>: On January 18, 2011, the President signed Executive Order #13563 directing agencies to consider the effect of regulations on economic growth, innovation, competitiveness, and job creation. Please outline the steps DOL will take to implement this executive order and provide the Committee with a list of regulations currently under review. In addition to those on the regulatory agenda, what current regulations do you plan to re-consider or revise?

A. The Department is in the process of drafting a preliminary plan for compliance with the Executive Order. We expect to complete the preliminary plan by April 29, 2011. The purpose of the plan is to define a method for identifying the rules that are obsolete, unnecessary, unjustified, excessively burdensome or counterproductive. We are unable, therefore, at this time to identify the rules that we will re-consider or revise.

On March 17, 2011, the Department launched a web-based forum in which the public can comment on the best method to adopt for our review process and to suggest candidate regulations. The Department will then review the agencies' practices and procedures and the public comments to compile a draft preliminary plan. The Department will submit the draft preliminary plan to the Office of Information and Regulatory Affairs within the Office of Management and Budget.

At that time, the public will have an opportunity to comment on the draft preliminary plan.

<u>Kline Question 7</u>: There are concerns that, under the Department's fiduciary proposal, the provision of non-personalized recommendations and information about the markets could trigger a fiduciary duty – for example, when a firm sends out a newsletter that describes where it thinks interest rates are going or whether gold is a good investment. Do you agree this should not be construed to create a fiduciary relationship?

A. The Department does not believe that a person or financial institution should be treated as a fiduciary based on the broad distribution of non-personalized financial recommendations. A statement in a newsletter or television broadcast that gold or a particular stock might be a good buy will not establish a fiduciary relationship between the author or speaker and his or her audience under the Department's regulation.

<u>Kline Question 8</u>: Employee Stock Ownership Plan (ESOP) companies make employees the owners of the stock in the companies they work for, and provide one model to improve the productivity and profitability of companies. A critical part of the ESOP model involves valuation of company stock, which must be done annually or for certain activities, such as acquisitions. The proposed rule would impose fiduciary status on those individuals who value ESOP stock, which will likely increase costs and reduce the number of people providing such services. Why is the Department pursuing this proposal? Has the Department conducted an analysis to support the assertion that there is some problem regarding the valuations of ESOP companies, many of which are small businesses?

A. In the early 2000s, the Employee Benefits Security Administration began to identify issues involving ESOPs, encompassing many different violations of ERISA and affecting over 500,000 participants. Based on this investigative experience, EBSA decided to address these issues through a national enforcement project, which was established in 2005. EBSA continues to find fiduciary and self-dealing violations in connection with the ESOP enforcement project, and examples of these findings are set forth below.

In many instances, the most important investment advice to a plan concerns how much to pay for an asset. In the case of ESOPs, in particular, the key decision is typically not whether to buy stock – the plan was established precisely to buy and hold employer stock – but rather what price to pay for the stock. Accordingly, in the case of closely-held companies, ESOP trustees typically rely on professional appraisers and advisers to value the stock. Often, there is little or no negotiation over price. Because other plan fiduciaries are not valuation professionals, there is virtually total reliance on the appraiser and the price determined by the appraiser

is often the price at which the transaction will take place. The appraisers routinely hold themselves out as offering a professional service to the plans that will be rendered with care, impartiality, and skill. Frequently, ESOP transactions involve most or all of a plan's assets, and the Department's own cases have involved transactions involving hundreds of millions of dollars and more. The proposed regulation reflects these realities. Although the current regulation expressly includes advice on the value of a security as covered advice, a 1976 Advisory Opinion stated that the valuation of closely held stock for ESOPs is not fiduciary advice. The proposed regulation simply corrects the Advisory Opinion, and ensures that appraisers can be held accountable under ERISA when they fall short of professional standards and cause losses to retirement plans.

ESOP transactions are not the only area where unqualified or conflicted appraisers can cause serious losses to retirement savings. In principle, we see no basis for distinguishing advice on how much to pay for an asset from advice on whether to buy an asset for a given price. Improper appraisals have been central to numerous Department investigations and enforcement actions. The Department has uncovered abuses reflecting flawed valuation methodologies, internally inconsistent valuation reports, the use of unreliable and outdated financial data, the apparent manipulation of numbers and methodologies to promote the preferred prices of selling shareholders (who are usually corporate insiders), and tax abuse. When an ESOP overpays for the stock of its employer sponsor, it is the workers in the plan that lose. Because under existing regulations the appraisers were not plan fiduciaries, however, they were not accountable for the losses that they caused to retirement plans. Examples from the Department's investigations and litigation include the following:

a. A valuation firm failed to properly consider $1.5 billion in debt on a company's books in addition to numerous other errors of analysis. The case ultimately settled for $38.7 million, none of which was paid by the appraisal firm.
b. A major valuation firm used earnings figures that were significantly greater than justified by the company's audited financial statements, applied a 30% control premium although the plan did not acquire control, and inconsistently applied different earnings measures from year to year. The case settled for over $71 million, none of which was paid by the appraisal firm, and injunctive relief.
c. A valuation firm accepted unrealistic company earnings projections and failed to consider the company's ability to repay its obligations, among other errors. The case ultimately settled for $17.5 million, none of which was paid by the appraiser.
d. ESOPs of several related companies purchased employer stock in reliance on an appraiser who had previously been convicted of felony embezzlement from a trust, who used false qualifications, and who lacked even a college degree. The appraisals used financial performance estimates which had little or no connection to actual financial

performance, and assumed unjustified and unsupportable levels of growth, profitability, and freedom from competition. For example, one of the valuations posited a wholly unrealistic return on invested capital of more than 11,000%. This case is currently in litigation.

e. A major valuation firm advised a large company to engage in a stock transaction – nominally involving $1 billion – involving an ESOP that the participants did not even know existed. We concluded the transaction was a tax sham. In settlement, the company was required to refund all of the tax benefits to the U.S. Treasury, and the plan's trustee was required to refund all of its fees. More than $220 million was paid to the Treasury.

f. In various transactions involving the Genovese crime family, an appraiser valued property at inflated amounts to justify plan loans and purchases. In one of the transactions, a member of the crime family first agreed to buy real estate for $7.46 million; the appraiser then valued the property at $15.8 million. The plan in turn loaned out $15.8 million based on the appraisal and the member of the crime family used the loan proceeds to buy the property for $7.46 million, pocketing the balance of the loan. An independent appraiser subsequently appraised the property for $5 million. Criminal forfeiture actions ultimately brought some restitution to the pension plan. The appraiser, however, was not a fiduciary under the current regulation.

Under Section 502(a)(2) of ERISA, a loss remedy is only available from plan fiduciaries. As a result, under the current regulatory structure, neither the Secretary nor plan participants can hold the appraiser directly accountable for disloyal or imprudent advice about the purchase price, no matter how critical that advice was to the transaction. The sole recourse available to the Secretary and plan participants is against the trustee who relied on the advice, rather than against the professional financial expert who rendered the valuation opinion that formed the necessary basis for the transaction.

The Department appreciates the comments expressing concerns about potential cost increases and remains committed to ensuring that the benefits of any proposed changes outweigh the costs. However, plans and employers – especially small employers -- are ill-served by the current regulation's failure to hold advisers accountable for failing to properly discharge their responsibilities. Employers and participants will benefit from being able to rely on professional impartial advice that adheres to the fundamental fiduciary duties of prudence and loyalty.

<u>Kline Question 9:</u> During a recent hearing before the House Budget Committee, CBO Director Douglas Elmendorf confirmed that the new health care law will reduce employment by 0.5 percent by 2021. He stated that this "means that if the reduction in the labor used was workers working the average number of hours in the economy and earning the average wage, that there would be a reduction of 800,0000 workers." Has DOL conducted a study on the new health care law's effect

on the workforce? Do you disagree with Director Elmendorf's conclusion that the equivalent of 800,000 jobs will be lost because of the new health care law? If so, please supply data and information supporting your opinion or conclusion.

A. 1.) The Department of Labor is examining the issues of wages and employment in compliance with the requirements of the ACA.

2.) As I understand it, CBO Director Elmendorf was discussing labor supply effects. Some people work in order to have access to health insurance; with the ACA they will have access to affordable, high-quality health insurance even if an employer does not provide it. As a result, some people may choose to take earlier retirement, return to school, spend more time with family or realize their entrepreneurial dreams. In its proper context, the estimate of Mr. Elmendorf is not a loss of jobs, but a gain in freedom for Americans, and a gain for the economy from new entrepreneurs.

The ACA will also slow the rate of growth of health spending, which will lower health insurance costs, raise take-home wages, and increase labor supply by making work more remunerative. Ensuring access to affordable coverage will also increase the efficiency of the labor market by reducing job lock and increasing labor mobility as workers enjoy their new freedom to move to a more productive job or start their own small business.

On the issue of jobs, since enactment in March 2010, the economy has created nearly 1.7 million private sector jobs and experienced thirteen straight months of private sector job growth. The enactment of health reform has demonstrated a commitment to addressing the deficit and rising health costs, removing barriers to future growth, as opposed to pre-health reform when premiums on families and small businesses rose by double digits and coverage was denied or limited with no accountability or recourse.

Kline Question 10: The Patient Protection and Affordable Care Act contains a massive expansion of the Medicaid program in order to reduce the number of uninsured, which places heavy burdens on state budgets. Did the Department consider how states will respond to the expansion of the Medicaid program – for example, will some have to raise taxes on their citizens? Won't that discourage job creation in those states?

A. As you know, HHS is the agency with jurisdiction over the Medicaid program. The Department does not have authority over the Medicaid program.

By ensuring that more Americans are insured, the Affordable Care Act will substantially decrease the amount states spend to care for the uninsured, which in 2008 cost states $17.2 billion[1]. Overall, it is estimated that boosted federal

[1] White House Website, "Myths about Medicaid," November 16, 2010

Medicaid support to states will decrease the share of how much they spend to cover their Medicaid enrollees' health care expenses by 4.5 percent. States continue to make improvements to their Medicaid programs to provide better care and make these programs more efficient. These improvements combined with substantial resources from the federal government will help ensure states do not have to cut spending in other crucial areas to support their Medicaid programs.

Kline Question 11: GAO has uncovered instances in which the Wage and Hour Division (WHD) has failed to address workers' complaints. What has DOL done to specifically address the issues raised by GAO?

A: The Wage and Hour Division (WHD) has implemented the recommendations from the March 2009 GAO report. Specifically, the agency's Field Operations Handbook was revised to strengthen the customer service aspects of Wage and Hour's procedures. Additionally, all Wage and Hour staff were trained in customer service via a webinar on November 9, 2009 and the agency's performance plan now includes a customer service goal. Most importantly, the Wage and Hour Division hired over 300 new investigators to increase its capacity to respond to allegations of violations.

The 2009 revision to the Field Operations Handbook addressed in greater detail the procedures for handling incoming complaints by all staff, including managerial staff. It also reemphasized the necessity of entering all complaints into the data system and articulated a national policy of entering all conciliation actions, including those that are unresolved.

Moreover, after the GAO testimony, Wage and Hour Division senior national office staff attended every regional and district office staff meeting to discuss the findings of the audit. The national office staff played the hearing testimony at each of these meetings to ensure that everyone in the organization understood the seriousness of the issues disclosed by the audit and the importance of customer service and proper complaint handling.

As an outgrowth of the changes implemented in 2009, WHD again examined its policies related to complaint handling. The agency implemented some additional key changes in its policies and is piloting new telephone technologies in several district offices this year to improve quality and responsiveness of on-line information to callers.

Kline Question 12: Why has WHD not released its Notice of Proposed Rulemaking on pay disclosure? The Department's regulatory agenda stated it was supposed to come out in August 2010. Has OMB disapproved your cost benefit analysis?

A: WHD continues to consider changes to the Fair Labor Standards Act's (FLSA) implementing regulations that would ensure workers are provided with essential information about their employment, including information about the basis for their pay. Under current regulations, employers are required to keep detailed records about each employee's hours worked, pay rates, deductions from pay, bonuses paid, and other information concerning wages. The employer is not required, however, to provide this information to employees so they will know the basis upon which they are being paid; such information, if provided to the employee, would allow the employee to identify and discuss any errors with the employer.

WHD is carefully considering all the information received during extensive consultations with stakeholders and will propose regulatory changes when it believes that it has fully considered all possible approaches to this important issue.

Kline Question 13: The Fair Labor Standards Act includes language which identifies workers "employed in domestic service," and the companionship exemption within this section has been interpreted by DOL to include home-based caregivers. Is the Department considering issuing a proposed rule to address the scope of this exemption? Please provide the Committee with information on this proposal, including any consideration of such a proposal's affect on job preservation and job creation.

A: The Department has announced as part of its spring 2010 regulatory agenda that it will consider changes to the regulations governing the employment of companions for the aged and infirm. In recent years, questions concerning these workers' employment and exemption status have been the subject of numerous lawsuits. It is the intention of the Department to reconsider the conditions under which companionship employment is exempt from the FLSA's minimum wage and overtime pay protections. In doing so, the Department will consider any effect such a change might have on job creation and employment in this field, as well as the need to preserve the full protections of the FLSA for those workers who do not clearly fall within the scope of the companionship exemption. The need for home-based caregivers is projected to grow substantially in the coming years and this is an opportunity to clarify the rules governing their employment before this expansion occurs.

Kline Question 14: In 2006, the Department issued an opinion to the Mortgage Bankers Association interpreting DOL regulations on loan officer overtime rules. This opinion stated that typical loan officers were exempt from the Fair Labor Standards Act's requirements under the "administrative exemption." On March 24, 2010, the WHD issued an Administrator's Interpretation which reversed and withdrew the 2006 opinion letter. Why did the Department reverse this opinion?

Why did the Department not follow the statutory requirement to provide notice to stakeholders and hold a period for public comment? Considering that this change required an overhaul of employer compensation systems, why weren't any of these businesses provided a reasonable time to comply? Shouldn't the Department conduct a study of the cost and other implications of such a change before proceeding?

A: WHD enforces the FLSA, a statute intended to, among other things, extend the protections of the minimum wage and overtime provisions to those employees who are not clearly exempt from its provisions. The courts have consistently held that coverage of the FLSA is to be construed broadly and exemptions applied narrowly. Only those employees who clearly and unequivocally fall within the scope of an exemption are to be denied the FLSA's protections.

The Administrator's Interpretation (AI) concerning the exempt status of mortgage brokers interprets and applies the regulations that were revised in 2004 governing the administrative exemption found in 29 C.F.R. Sec. 541.200-.203. The AI was issued after reconsidering the basis for the 2006 opinion letter on mortgage loan officers, which relied on 29 C.F.R. Sec. 541.203(b), addressing the exempt status of employees in the financial services industry. The 2010 AI examined the typical duties of mortgage loan officers based on facts found in WHD investigations and facts set out in case law, and determined that the primary duty of mortgage loan officers is typically selling their employer's financial products. As stated in 541.203(b), "an employee whose primary duty is selling financial products does not qualify for the administrative exemption." As explained in the 2010 AI, the 2006 opinion letter inappropriately narrowed the definition of sales and appeared to assume, erroneously, that 541.203(b) established an alternative test to that in 541.200(a) rather than serving as merely an example of the test in 541.200(a).

Beginning with the initial enactment of the FLSA to the present, including issuance of the 2006 opinion letter at issue here, the Wage and Hour Administrator has exercised the authority provided by the Portal-to-Portal Act (29 U.S.C. § 259) to issue guidance to the regulated community about the application of the FLSA in a particular factual situation, or more broadly, in an industry that has typical employment practices. Under this authority, from time to time the WHD updates its interpretations, sometimes in response to new information such as court decisions, and may withdraw a ruling or interpretation in whole or in part. In this instance, the only court to consider the 2010 AI found it a persuasive and more accurate interpretation of the regulatory provisions governing mortgage brokers than the 2006 opinion letter. There is a case currently pending before a different district court in which the Mortgage Bankers Association has challenged the 2010 AI on administrative law and substantive grounds. As outlined in our pleadings in that case, the Department was not required to utilize notice and comment procedures to issue the 2010 AI, and the 2010 AI is consistent with the regulations at 541.200-.203.

<u>Kline Question 15:</u> The President has previously stated that jobs will be "the number one focus" of the administration. However, advocating for the "Employee Free Choice Act" (EFCA) was also a clear priority of the administration. Please provide the approximate number of staff hours devoted to promoting and passing EFCA in 2009 and 2010.

A. The Obama Administration and I continue to strongly support the Employee Free Choice Act. I am committed to working with the rest of the Administration to build support for it. Strong unions are a key to a strong economy. Union membership is the surest path to a secure middle class job.

I know from personal experience that union jobs are good jobs, pay higher wages, and provide flexibility and benefits like paid leave, child care, education assistance, and retirement security. The Employee Free Choice Act would ensure that workers have a free and fair choice to have union representation if they want it, toughen penalties against employers that break the law and violate workers' rights, and help workers and employers reach a first contract in a reasonable period of time and bring an end to costly and contentious delays.

Neither I nor the staff at the Department track the amount of time devoted to promoting or passing particular pieces of legislation.

<u>Kline Question 16:</u> The Office of Labor-Management Standards (OLMS) reports that in FY 2010, there were 5,551 delinquent filers of labor organization financial reports and 2,070 chronically delinquent filers of labor organization financial reports. For FY 2012, although modest, OLMS's target numbers are 5,251 for delinquent filers and 1,870 for chronically delinquent filers. How is OLMS planning to reduce delinquent filings?

A: OLMS plans to use a combination of programs to reduce delinquent filings, including a new Electronic Forms System (EFS), increased voluntary compliance agreements (VCAs) with national and international unions targeted at reducing delinquency of their affiliates, increased educational efforts with unions, and continuing our delinquency reporting and investigation program.

EFS is a secure, web-based system for completing and submitting Labor Organization Annual Reports, to replace OLMS' first generation system which required the purchase of digital signatures for the two required signatories. EFS went operational on October 1, 2010, for LM-2 filers. OLMS plans to expand its use to LM-3 and LM-4 filers later this spring. Electronic filing continues to be mandatory only for LM-2 filers and very few LM-3 and -4 filers used the previous system because of the cost of digital signatures and difficulties with the software. Because there is no charge and no digital signatures are required, EFS will be

accessible to and is likely to be used by a greater number of smaller filers. Increased use of EFS will increase the likelihood of on-time filing by eliminating photocopying, mailing, manual calculations and related steps associated with late filing.

With our Delinquent Affiliate Reporting System (DARS), OLMS regularly sends (monthly or quarterly) participating international and national unions listings of affiliates that are delinquent in filing for recent reporting periods. Participating unions contact delinquent affiliates directly and they often return the listings to OLMS with updated mailing and officer contact information. We repeatedly use DARS in outreach and training activities with unions as well.

OLMS is currently partnering through VCAs with international or national unions to improve on-time filing by their affiliates. Over the first year of this program, and using the DARs reporting methodology, for those 10 international/national unions participating at the time, the number of affiliates not filing timely reports decreased overall from 510 to 349. We have increased the number of voluntary compliance partners this year to 22 and expect to make further improvements by documenting and sharing best practices for means of reducing delinquent filers

Finally, OLMS will continue to investigate delinquent filers and audit chronically delinquent unions to review overall union LMRDA compliance, determine whether or not there is more serious financial malfeasance, provide compliance assistance, and attempt to deter and prevent delinquent filing in the future.

Kline Question 17: At the hearing you referred to a restructuring at OLMS that will allow it to do more enforcement without additional FTEs. According to DOL's congressional budget justification, it plans to eliminate the International Compliance Audit Program (ICAP) from OLMS's organizational structure and operating plan. ICAP's work previously resulted in an average of seven to eight audits per year. Starting in FY 2010 the goal became four, of which OLMS only achieved one. Now that OLMS has eliminated the program, what government agency will be auditing international labor organizations? How often can an audit be expected?

A: OLMS has determined that ICAP expenditures, which, as you noted, resulted in only seven or eight audits on average per year in the past, would be better used in OLMS's core mission work. OLMS will, however, continue to investigate possible financial improprieties involving international unions.

Kline Question 18: At the hearing you stated that DOL's decision to withdraw final rules on labor-management forms was based on the desire to keep filers from having to provide duplicative information. Please provide the Committee with

examples of duplication that were in the Form LM-2, Form LM-30, and the T-1. Does the Department apply this standard to its other agencies and regulations?

A: The Department has repeatedly stressed throughout recent Labor-Management Reporting and Disclosure Act (LMRDA) rule-making processes that the primary reason for these rules was to create a better balance between the twin goals of Title II of LMRDA: to further labor-management transparency while not unnecessarily interfering with legitimate labor organization activities and labor-management relations. Part of this balancing involved removal of duplicative reporting requirements.

Prior to the 2003 changes to Form LM-2, labor organizations already reported on the Form LM-2 financial information on any separate organization wholly-owned, -controlled and –financed by the labor organization (i.e., subsidiary organizations). Also prior to the 2003 revisions, labor organizations identified on the Form LM-2 all trusts that were not wholly-owned subsidiaries, including joint labor-management trusts.

With the prior Administration's publication of the prior Form T-1 rule in 2008, the reporting of subsidiary organizations and certain "significant" trusts were merged into the T-1 form. The Form T-1 thus duplicated reporting previously required by the Form LM-2 for subsidiary organizations. In addition, despite the Form T-1, labor unions were still required to continue to identify trusts on the Form LM-2, creating more redundant reporting. Paradoxically, had subsidiaries continued to be reported on Form LM-2, there would have been greater transparency. For example, the itemization threshold for the Form LM-2 is $5,000, compared with $10,000 on Form T-1; Form LM-2 requires itemization of assets and liabilities, while Form T-1 only required aggregate information on assets and liabilities.

Further, unions were required to file one T-1 Form per trust or subsidiary, even as other unions that belonged to the same labor-management trust were also required to file a Form T-1 report for the same trust, which would have created significant duplication by itself.

The December 2010 final rule rescinding Form T-1 reinstituted subsidiary reporting on Form LM-2 for the first time since 2003. Thus the Department here removed duplication *and* improved transparency.

The withdrawal of Form T-1 further reduces duplication because OLMS no longer allows unions to file a separate Form LM-2 report for each of its subsidiaries. Instead, they must file either a consolidated LM form or an equivalent CPA-certified audit.

Currently, proposed revisions to the 2007 version of the Form LM-30 (Labor Organization Officer and Employee Report) are in notice and comment

rulemaking. Comments outside the rulemaking process, beyond the published notice, would be inappropriate at this time.

In the promulgation of all of its regulations, the Department is sensitive to information requests that may be duplicative, outdated, or unnecessarily burdensome. In addition, in response to President Obama's Executive Order 13563, the Department has initiated a process of enhancing its existing regulatory review procedures and is soliciting public comments through an Internet portal launched on March 17, 2011. The Department publicized the portal through a *Federal Register* notice published on March 21, 2011 (76 FR 15224) and through the Department's website.

Kline Question 19: The administration has clearly demonstrated it places a higher priority on grants and contributions to international labor organizations than it places on enforcement staff for union financial integrity programs at OLMS. In FY 2010, funding for the Bureau of International Labor Affairs (ILAB) was more than double that of OLMS. The FY 2012 request for ILAB grant-making programs alone are almost 80 percent higher than the entire budget for OLMS. DOL's grant making and subsidies budget request for ILAB is $73.8 million. Please provide a list of all grants made by ILAB from the beginning of FY 2010 to today. Please highlight those grants that were competitively bid. If there was competitive bidding for any of these grants, please provide the number of applications that were submitted for each competition.

A: As I stated at the hearing, the Bureau of International Labor Affairs' (ILAB) mission is vitally important to help level the playing field for the American worker by promoting international labor standards for workers globally.

I also highlighted at the hearing that OLMS continues to improve case management and audit targeting, and find other efficiencies to fulfill its mission. Consistent with the budget constraints affecting all DOL agencies, OLMS is adequately funded and is well-positioned to maintain its historically strong enforcement record. In fact, our FY 2010 enforcement numbers demonstrate that we have continued to improve our criminal indictment and conviction production while handling a heavy workload in union officer election investigations. And FY 2009 enforcement numbers were also an improvement over previous yearly averages in most enforcement categories.

In FY 2010, ILAB received appropriations of $6.5 million "for model programs to address worker rights issues in countries with which the United States has trade preference programs" (Worker Rights program), activity initially funded under the Consolidated Appropriations Act, 2008. ILAB made the following grants under the Worker Rights program:

1. Afghanistan:

$500,000 to The Asia Foundation. The grant to the Asia Foundation was for phase II of a project to support the Afghanistan Ministry of Labor's capacity to work with employers and employer organizations and workers and worker organizations on application of internationally-recognized core labor standards, and to assist the Ministry in training the judiciary responsible for enforcing labor laws. The grant for phase II was a sole source grant, but allowed continuation of phase I (funded in FY 2008), which originally was competed under a Solicitation for Grant Applications (SGA).

2. Bangladesh, Vietnam, Cambodia

$5.36 million to the ILO. The grant to the ILO was a sole source grant to develop Better Work factory monitoring projects in Vietnam, Cambodia, and Bangladesh. The funding to Vietnam and Cambodia will contribute to existing Better Work projects, while the funding for Bangladesh will be for start-up of a new Better Work project. Better Work is a model developed and implemented solely by the ILO.

3. Maldives

$640,000 to the ILO. The grant to the ILO was a sole source grant to strengthen labor relations through labor law reform. It was requested by the Government of the Maldives to implement its responsibilities under the ILO Declaration.

In FY2010, ILAB received appropriations of $60 million for programs to combat exploitative child labor around the world. Of these appropriations, $40 million was Congressionally directed to the International Labor Organization's International Program on the Elimination of Child Labor (ILO-IPEC). ILAB made the following grants:

1. $40 million to the International Labor Organization's International Program on the Elimination of Child Labor (ILO-IPEC). Under a cooperative agreement with ILO-IPEC, funds were designated for seven projects.

a. West Africa - the Economic Community Of West African States (ECOWAS): $5 million towards elimination of the Worst Forms of Child Labor (WFCL) in West Africa by supporting action to monitor and combat exploitive child labor and the promotion of good practices and sub-regional cooperation through ECOWAS.

b. West Africa Cocoa Project: $10 million towards child labor free cocoa growing communities through an integrated area based approach.

c. Angola, Cape Verde, Guinea-Bissau, Mozambique, and Sao Tome and Principe: $500,000 to combat the worst forms of child labor in Lusophone African countries through South-South Cooperation and the sharing of good practices from Brazil.

d. El Salvador: $10 million to combat exploitive child labor in El Salvador through economic empowerment and social inclusion.

e. Jordan: $2 million to move towards a Child Labor-Free Jordan.

f. Thailand: $9 million to combat the WFCL in the shrimp and seafood processing sector.

g. Research: $3.5 million for research on child labor and support to Understanding Children Work (UCW)

2. $20 Million in Grants to Combat the Worst Forms of Child Labor

a. Bolivia: $6 million to Desarollo y Autogestiòn (DyA) to combat the WFCL. ILAB awarded this sole source grant to Desarollo y Autogestión (DyA) because of its unique qualifications and success in implementing their first program (awarded in FY2007) to eliminate child labor among indigenous groups in Bolivia.

b. Egypt: $500,000 to the World Food Programme for a cost increase on an existing project to combat the WFCL. The originally funded project was competitively bid in FY 2006.

c. Egypt: $9.5 million to the World Food Programme for a project to combat the WFCL in agriculture. This project was competitively bid, and three fully responsive applications were received.

d. Jordan: $3,998,881 to Save the Children Federation, Inc. to combat the WFCL. This project was competitively bid, and four fully responsive applications were received.

Kline Question 20: During your testimony you stated that reauthorizing the Workforce Investment Act, which expired in 2003, is a high priority for the administration. Yet, after more than two years, DOL has not proposed new legislation to replace the expired law, and your budget request for FY 2012 assumes no legislative changes to WIA. Does DOL plan to offer its own proposal to update WIA this year?

A: I strongly believe that reauthorization of WIA is more important than ever for the workers who need retraining and help finding new jobs and for the employers

who need qualified employees. The reauthorization of WIA presents an opportunity to promote innovation in the public workforce system, build on its strengths, and develop improved models for delivery of quality services. The Administration has identified several goals for reauthorization that include streamlining service delivery; one-stop shopping for high-quality services; engaging employers on a regional and sectoral basis; improving accountability; and promoting innovation and replicating best practices.

I also believe that the most efficient and effective approach to reaching these goals is to work directly with Congress. The Department has provided extensive technical assistance to the bipartisan staff of the Senate Committee on Health, Education, Labor, and Pensions, in support of WIA reauthorization efforts. The Department has also provided technical assistance to staff in the House of Representatives as requested. The Department continues to stand ready to support both Houses of Congress as they move forward with the WIA reauthorization process.

Kline Question 21: One of the criticisms of the WIA system is that a significant amount of Training and Employment Service funding remains unspent, and even unobligated by state and local workforce investment boards. Please provide the Committee with tables that show state and local unspent and unobligated balances for WIA's Adult, Youth, and Dislocated Worker Employment and Training Activities. The tables should include a breakdown by state for each of the individual categories.

A: The requested tables are attached. The WIA system is frequently criticized for having significant carry-over from year to year. However, these criticisms are often made without a full understanding of the public workforce system's structure. For example, WIA provides three years for state and local governments to spend their WIA allotments. Despite this three year limit, 97-98 percent of funds are generally expended by the end of the second year. Additionally, almost no WIA funds revert to the Treasury, which indicates that these resources are being used.

It is important to recognize the unprecedented nature of the economic recession that PY 2009 program exiters faced; most were receiving services during calendar year 2008, and completed the program during 2009. Current participants also face a similar situation today. According to the latest Job Openings and Labor Turnover Survey (JOLTS) conducted by the Bureau of Labor Statistics, the number of job seekers per job opening is holding steady at 5.0 as of January, 2011. The survey shows that only 20 percent of active job seekers are finding employment, while the average WIA program exiter's chances of finding work is significantly higher, at over 50 percent. Further, as evidenced by the outcomes for those receiving training services, almost 7 out of 10 individuals found employment after program completion.

Although obligation data provides further insight into how funds are being utilized by the workforce system, they do not provide a full picture. For example, accounting principles prevent local areas from obligating future semesters of training that may be required for a participant to earn a credential. In the current economy, longer term training is often needed by participants to secure employment and the Department has encouraged the workforce system to promote such opportunities. Therefore, funds that appear to be unobligated are often encumbered or set-aside for individuals enrolled in training.

Kline Question 22: How many individuals were enrolled in and received WIA Employment and Training's core services through the One-Stop Career system during Program Year 2009 and currently available data for Program Year 2010? How many of the individuals who received core services obtained unsubsidized employment? How long, on average, did it take for the workers having received core services to be hired by an employer? What was the average cost per participant who received these services? What was the average cost per participant who did not complete these programs?

A: For Program Year (PY) 2009 (July 1, 2009 through June 30, 2010), states reported that 2,547,957 participants[2] received staff-assisted core services through the approximately 3,000 One-Stop Career Centers nationwide. Staff-assisted core services are defined as "any activity with significant staff involvement." Some examples are: job search assistance, providing a job referral, or assessing personal barriers to employment.

The outcomes that follow are based on the number of exiters (program completers) reported. Due to the definitions of the outcome measures, the exiters actually received services prior to Program Year 2009. The definition of entered employment includes individuals who were unemployed when they started the program, and who found a job in the 3-month quarter after exiting the program. Employment retention includes individuals who were working in the 3 quarters (9 months) after exiting the program. The average earnings measure represents the wages earned by an individual in the 2nd and 3rd quarters (6-month period) after exiting the program.

For PY 2009, of the exiters (or program completers) included in the Entered Employment measure[3] who received core services only, 396,000, or 51.4 percent,

[2] A participant is defined as an individual who was enrolled in WIA services at any point between 7/1/2009 and 6/30/2010. Due to the nature of the service structure, an individual who received intensive services is also considered as receiving staff-assisted core services, and those received training services are also considered as receiving core and intensive services.

[3] For PY 2009 reporting, individuals exited the program during the period 10/1/2008 through 9/30/2009. For PY 2010 Q1, the exit time period was from 10/1/2009 through 12/31/2009.

of WIA Adults and Dislocated Workers found employment after program completion. An additional 80,000 individuals found work in the first quarter of PY 2010 (July 1, 2010 through September 30, 2010). For program completers in PY 2009, the average length of program participation for individuals receiving staff assisted core services was 125 days[4].

It is important to recognize the unprecedented nature of the economic recession that PY 2009 program exiters faced; most were receiving services during calendar year 2008, and completed the program during 2009. Current participants also face a similar situation today. According to the latest Job Openings and Labor Turnover Survey (JOLTS) conducted by the Bureau of Labor Statistics, the number of job seekers per job opening is holding steady at 5.0 as of January, 2011. The survey shows that only 20 percent of active job seekers are finding employment, while the average WIA program exiter's chances of finding work is significantly higher, at over 50 percent. Further, as evidenced by the outcomes for those receiving training services, almost 7 out of 10 individuals found employment after program completion.

States determine employment through use of administrative records, typically state wage records, which show quarterly wages only. Therefore, states are not able to report an exact hire date, nor are they able to report on the length of time necessary for these individuals to find employment. Additionally, for each level of service, the length of program participation is noted; however, states do not report financial obligations by level of service. Therefore, the Department is not able to calculate cost per participant information by level of service.

Kline Question 23: How many individuals were enrolled in and received WIA's Employment and Training's intensive services through the One-Stop Career system during the Program Year 2009 and currently available data for Program Year 2010? How many of the individuals who received intensive services obtained unsubsidized employment? How long, on average, did it take for workers who received intensive services to be hired by an employer? What was the average cost per participant who received these services? What was the average cost per participant? How many workers did not complete these programs?

A: For PY 2009 (July 1, 2009 through June 30, 2010), states reported 1,244,228 participants[5] received core and intensive services. Examples of this type of service include: comprehensive testing and assessment, developing an individual

[4] Time in service for core and intensive services is calculated at the number of days from first date of receipt of core or intensive services, respectively, to the date of exit.
[5] A participant is defined as an individual who was enrolled in WIA services at any point between 7/1/2009 and 6/30/2010. Due to the nature of the service structure, an individual who received intensive services is also considered as receiving staff-assisted core services, and those received training services are also considered as receiving core and intensive services.

employment plan, individual counseling and career planning, case management for training services, and work experience in the public or private sector.

The outcomes that follow are based on the number of exiters (program completers) reported. Due to the definitions of the outcome measures, the exiters actually received services prior to Program Year 2009. The definition of entered employment includes individuals who were unemployed when they started the program, and who found a job in the 3-month quarter after exiting the program. Employment retention includes individuals who were working in the 3 quarters (9 months) after exiting the program. The average earnings measure represents the wages earned by an individual in the 2nd and 3rd quarters (6-month period) after exiting the program.

For PY 2009, roughly 158,000 (52.0%) exiters who received core and intensive services, who were previously unemployed, found employment after program completion; an additional 46,000 exiters entered employment[6] in the first quarter of PY 2010 (July 1, 2010 through September 30, 2010). For program completers in PY 2009, the average length of program participation for individuals receiving intensive services was about 182 days.[7]

It is important to recognize the unprecedented nature of the economic recession that PY 2009 program exiters faced; most were receiving services during calendar year 2008, and completed the program during 2009. Current participants also face a similar situation today. According to the latest Job Openings and Labor Turnover Survey (JOLTS) conducted by the Bureau of Labor Statistics, the number of job seekers per job opening is holding steady at 5.0 as of January, 2011. The survey shows that only 20 percent of active job seekers are finding employment, while the average WIA program exiter's chances of finding work is significantly higher, at over 50 percent. Further, as evidenced by the outcomes for those receiving training services, almost 7 out of 10 individuals found employment after program completion.

States determine employment through the use of administrative records, typically state wage records, which show quarterly wages only. Therefore, states are not able to report extract hire data, nor are they able to report on the length of time necessary for these individuals to find employment. Additionally, for each level of service, the length of program participation is noted; however, states do not report financial obligations by level of service. Therefore, the Department is not able to calculate cost per participant information by level of service.

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[6] For PY 2009 reporting, individuals exited the program during the period 10/1/2008 through 9/30/2009. For PY 2010 Q1, the exit time period was from 10/1/2009 through 12/31/2009.

[7] Time in service for core and intensive services is calculated at the number of days from first date of receipt of core or intensive services, respectively, to the date of exit.

<u>Kline Question 24</u>: How many individuals were enrolled in and received WIA's Employment and Training's training services through the One-Stop Career system during the Program Year 2009 and currently available data for Program Year 2010? How many of the individuals who received training services obtained unsubsidized employment? How long, on average, did it take for workers having received training services to be hired by an employer? How many individuals that received training services obtained employment in the field relevant to their training? What was the average cost per participant who received these services? What was the average cost per participant who did not complete these programs?

A: For Program Year (PY) 2009 (July 1, 2009 through June 30, 2010), states reported 598,973 participants[8] received core, intensive and training services. Examples of training services include: on-the-job training; skills upgrading and retraining; and entrepreneurial, customized, and other occupational skills training.

The outcomes that follow are based on the number of exiters (program completers) reported. Due to the definitions of the outcome measures, the exiters actually received services prior to Program Year 2009. The definition of entered employment includes individuals who were unemployed when they started the program, and who found a job in the 3-month quarter after exiting the program. Employment retention includes individuals who were working in the 3 quarters (9 months) after exiting the program. The average earnings measure represents the wages earned by an individual in the 2nd and 3rd quarters (6-month period) after exiting the program.

For PY 2009, the Adult and Dislocated Worker exiters (or program completers) who received training services had the highest entered employment rate[9] at 72 percent. This equates to about 87,000 exiters who were unemployed when they started the program and after program completion found work. Over 27,000 more exiters who received training services found a job in the first quarter of PY 2010 (July 1, 2010 through September 30, 2010). For program completers in PY 2009 the average of program participation for individuals receiving training services was approximately 203 days[10].

States determine employment through use of administrative records, typically state wage records, which show quarterly wages only. Therefore, states are not

[8] A participant is defined as an individual who was enrolled in WIA services at any point between 7/1/2009 and 6/30/2010. Due to the nature of the service structure, an individual who received intensive services is also considered as receiving staff-assisted core services, and those received training services are also considered as receiving core and intensive services.

[9] For PY 2009 reporting, individuals exited the program during the period 10/1/2008 through 9/30/2009. For PY 2010 Q1, the exit time period was from 10/1/2009 through 12/31/2009.

[10] Time in service is the number of days from the start of training through the training completion date.

able to report an extract hire data, nor are they able to report on the length of time necessary for these individuals to find employment. Additionally, for each level of service, the length of program participation is noted; however, states do not report financial obligations by level of service. Therefore, the Department is not able to calculate cost per participant information by level of service.

Kline Question 25: How many One-Stop Career Centers were designated or certified through the competitive process outlined in section 121(c)(2)(A) of WIA during Program Year 2009 and currently available data for Program Year 2010? How many were designated or certified through the alternative process included in the law? Please provide the Committee with a chart detailing the number of entities responsible for operating One-Stop Career Centers broken down by the following categories: postsecondary educational institution; employment service agency; private, nonprofit entity; government agency; and other entities.

A: The Workforce Investment Act of 1998 (WIA) establishes a decentralized public workforce system, where the Department of Labor oversees the activities of its direct grantees, generally states, and states in turn oversee, and monitor activities of local workforce areas, including those of One-Stop Career Centers. Per Section 121(d) (1) of WIA—*One-Stop Operators Designation and Certification*, the local workforce board is authorized to designate or certify One-Stop operators and to terminate for cause the eligibility of such operators. The Department does not collect systematic data on the number of One-Stop Career Centers that local workforce areas have designated or certified under the eligibility requirements described in WIA Section 121(d)(2)(A) versus the alternative approach. Although the Department maintains listings of One-Stop Career Centers to provide the public information necessary to locate nearby Centers via America's Service Locator (www.servicelocator.org), states do not report specific information about the characteristics of the Centers' operators to the Department.

In 2003 the Department published a study entitled, *Creating Partnerships for Workforce Investment: How Services are Provided under WIA* as part of its ETA Occasional Paper Series. This study explored local workforce investment system variation and how local boards use non-profit, for-profit, educational, and governmental agencies to deliver WIA services. The study was based on case studies of sixteen local boards across eight states conducted between December 2001 and September 2002 and showed that no single type of organization dominates any particular type of services. This report provides insight into the characteristics of a small sample of One-Stop Center Operators, and its finding are not necessarily representative of WIA implementation in the rest of the country. The full report is available at: http://wdr.doleta.gov/research/FullText_Documents/Creating%20Partnerships%20for%20Workforce%20Investment%20-%20How%20Services%20Are%20Provided%20Under%20WIA.pdf.

In a Government Accountability Office (GAO) study entitled, *Workforce Development: Community Colleges and One-Stop Centers Collaborate to Meet 21st Century Workforce Needs, (GAO-08-547)*, published in 2008, GAO investigated the workforce development activities of 20 community colleges and surveyed 334 One-Stop Centers and 311 Workforce Investment Boards. Based on the data collected, GAO estimated that nationwide about 11 percent of One-Stops are operated solely or jointly by a community college. The GAO report is available at: http://www.gao.gov/new.items/d08547.pdf

Additionally, the Department has initiated an ongoing WIA Gold Standard Evaluation of the Adult and Dislocated Worker Programs, a random assignment evaluation of WIA, which will collect information on the characteristics of the One-Stop Centers in the approximately 30 Local Workforce Investment Areas. The Department is currently scheduled to receive the implementation report for this evaluation in the spring of 2013.

Kline Question 26: **During the hearing you told the Committee that you asked for a review of all job training programs as soon as you took office. How did the Department implement your request? When did it complete its internal evaluation? In what ways does DOL's evaluation agree with GAO's report on duplicative job training services? In what ways does it differ? How much in potential savings did your internal evaluation identify? In what ways has this assessment influenced DOL's budget requests for FY 2011 and FY 2012? Have you directed DOL to coordinate with other Departments and agencies to identify ways to end duplicative programs?**

A: Soon after my confirmation, I requested a thorough briefing on the Workforce Investment Act (WIA), including a discussion of the strengths and weaknesses of the system. In response, the Department's then-Recovery Act team with the assistance of Employment and Training Administration (ETA) career staff provided me, the Deputy Secretary, and other key Departmental staff comprehensive briefings in late March 2009.

I also requested, with the support of OMB, that the Employment and Training Administration (ETA) carry out an assessment and technical assistance consultation process of state and local workforce systems to gauge their readiness to implement the Recovery Act enacted February 17, 2009, and to determine technical assistance needs. Regional offices consulted with all 53 states and territories and over 150 local workforce areas, making over 200 site visits between mid-April and May 22, 2009. ETA incorporated the site reviews into briefings presented to the Office of the Secretary. The readiness review informed ETA about the level of preparation of states and localities to implement the Recovery Act activities and helped shape ETA's technical assistance plans in support of implementation.

As I have visited training programs over the last two years, I have met countless individuals whose lives have been turned around by getting training through DOL programs. While such anecdotes are meaningful, they do not equate to overall program effectiveness – performance outcomes and evaluation results do. We take the performance information for our workforce programs, and the integrity of the data that we use to report on our outcomes, very seriously. We use this information to manage our programs. For example, the majority of those who participate in WIA sponsored training programs gain employment. For Program Year 2009, 72 percent of the Adult and Dislocated Worker exiters (or program completers) who received training services found a job within three months of exiting the program.

At a time of slow private sector job growth as was the case of the past year, over 7.2 million program participants entered employment upon the completion of Wagner Peyser and/or WIA funded employment and training services. Additionally, funding made available through the WIA Adult and Dislocated Worker programs helped provide skill development training to nearly 215,000 program completers whose skill sets, job knowledge, or technical expertise did not match the needs of local area businesses before they entered training. When provided to participants, training yields higher placement outcomes for individuals when compared to those receiving only core and intensive services.

For the 12-month period ending June 30, 2010, the entered employment rate for WIA Dislocated Worker program completers who received training services was nearly 30 percentage points higher compared to those who did not receive training (76.2 percent versus 46.9 percent respectively). For the WIA Adult program during the same 12-month period, those receiving training had an entered employment rate of 69 percent compared to 53 percent for all other program participants. Also during the 12-month period, WIA Adult and Dislocated Worker program participants who received On-the-Job Training achieved significant outcomes. Adults found employment at a rate of 86 percent (32 percentage points higher than total adult participants), while dislocated workers found a job at 90.3 percent rate (nearly 40 percentage points higher than total dislocated workers participants). While we recognize that the populations may not be comparable, we think these results are noteworthy.

To build a stronger evidence base upon which to make decisions, I also established the position of Chief Evaluation Office to support the Department's efforts in conducting more rigorous evaluation studies. For example, we have already begun a random-assignment evaluation of the WIA Adult Worker and Dislocated Worker programs.

We agree with GAO that there are opportunities to improve the current system and are committed to doing so. In the current constrained fiscal environment there

is an even greater need to innovate and look for better, more cost-effective ways to deliver services in a way that does not leave disadvantaged populations behind. While we agree that it is important to minimize duplication and maximize efficiency, we believe that a coherent public workforce system does not necessarily mean a single program, supplier or agency. Our goal should be a rational system whose elements fit together logically, with minimal duplication, and provide ready and seamless access to services for jobseekers and other workers and employers. We will continue to work with Congress on a WIA reauthorization bill that streamlines service delivery, better meets the needs of employers and regional economies, improves accountability, and promotes innovation.

Kline Question 27: When the President requested and Congress passed 'economic stimulus' legislation in February 2009, he requested funding for "shovel ready projects." The American Reinvestment and Recovery Act (ARRA) included almost half-a-billion dollars in funding for Green Job training grants. Prior to receiving funding, did DOL conduct a feasibility study on the number of workers that would be needed in this field? If not, has DOL conducted any feasibility studies since February 2009? How many individuals have received training under this ARRA-funded program? How many individuals have completed this program with a certificate or accreditation? How many individuals obtained unsubsidized employment relevant to their training? How long, on average, did it take for the newly trained individuals to be hired?

A: Pursuant to the American Reinvestment and Recovery Act of 2009 (Recovery Act), Congress allotted the Department of Labor (DOL) $500 million for competitive grants to fund projects "for research, labor exchange, and job training projects that prepare workers for careers in the energy efficiency and renewable energy industries." These funds were designated to increase available information on green jobs and industries, support labor exchange information, and to provide training to enable individuals to participate in green jobs.

In June 2009, DOL announced the availability of such funds through five competitive grant solicitations: State Labor Market Information Improvement grants; Green Capacity Building grants; Energy Training Partnership (ETP) grants; Pathways Out of Poverty grants (Pathways); and State Energy Sector Partnership and Training (SESP) grants. Grants totaling approximately $490 million were awarded in December 2009 and in January 2010. The ETP, Pathways, and SESP grant programs are specifically geared towards providing training and placement services in the energy efficiency and renewable energy industries.

Prospective green jobs grantees were required to fully demonstrate, through their responses to the Solicitations for Grant Applications, the local need for workforce training and projected employment opportunities in targeted clean energy

industries. To do this, they were asked to describe: current and projected employment in the targeted clean energy industries and occupations in the local area; identification of specific employers targeted to employ participants trained through the grant, including the current hiring needs of the employers; and specific education, training, or other skill requirements of the occupations targeted, including an estimate of the skills gap between the targeted population to be trained and industry requirements. The data provided by grantees helped ensure that there was a strong demand for green jobs training in the local area(s) targeted by the grantees.

Further, the Recovery Act-funded State Labor Market Information Improvement grants are enabling State Workforce Agencies to collect, analyze, and disseminate labor market information and enhance the labor exchange infrastructure for careers within the energy efficiency and renewable energy industries. Through such targeted investments, states are expected to use workforce and labor market information and data as the foundation on which to build and implement effective workforce development strategies.

As of the quarter ending December 31, 2010, which is the most recent data available, 18,271 participants have begun education and training activities through these grants, 8,649 participants have completed education/training activities, and 7,505 credentials have been awarded.

A significant number of program participants are incumbent workers in training to upgrade their existing skills or acquire new skills their employers say are necessary to retain their jobs, and the purpose of their training is not to help them enter new jobs. While these workers are counted among the graduates they are not counted as having "entered employment" since they are already employed upon entering the program and are expected to return to that employer.

DOL's most recent data suggests that the number of program completers who were unemployed upon entering the program was 4,925. Of these, 1,700 participants or 35%, had entered a new position of unsubsidized employment as of December 31, 2010, and data indicates that the vast majority of these participants were unemployed or dislocated workers prior to enrolling in the grant. Further, 1,499 of those who entered employment, approximately 85%, found employment in training-related industries or occupations. It is important to note that the remaining 15% may be using the skills acquired in training in jobs held in non-training-related industries or occupations.

The number of graduates and other data for these grants, as for most workforce development grants, will grow at an increasing rate after the first few quarters of performance. Further, there is generally a period of time between when an individual graduates from a training program and when they find a job. This phenomenon is not captured precisely in point-in-time data and may be especially pronounced during challenging economic conditions. Grantees do not report, and

DOL does not collect, the length of time it takes for individuals that complete education/training activities to obtain employment.

<u>Kline Question 28</u>: ARRA dedicated $250 million in funding to Job Corps for "Training for Careers in Energy Efficiency and Renewable Energy Industries." How many students received training under this program? How many students ended the course with a certification or accreditation? On average how long did this training take? How many students obtained unsubsidized employment relevant to their training? How long, on average, did it take for newly trained workers to be hired?

A: Job Corps divided the appropriated $250 million among three categories: (1) Construction; (2) Operational Needs, and (3) Administration. The funds allocated the following amounts to each category:

Construction	$212,098,493
Operational Needs	$ 35,401,506
Administration	$2,500,000

Of the $35.4 million designated for Operational Needs, $9,967,000 was dedicated to Training for Careers in the Energy Efficiency and Renewable Energy Industries. This funding has supported training for 14,575 Job Corps graduates in manufacturing, construction, and automotive fields, as of March 2011.

Job Corps' Green Training Initiative is designed to ensure that students are exposed to the latest green technology and work practices as part of their career technical training. Each of the 14,575 program graduates who received green training, has attained at least one credential reflecting environmental or skill-based training directly linked to their Job Corps training.

The length of time it takes for a student to earn a credential is dependent on several factors, including the specific standards and requirements of the training field, the academic and technical competency level of students upon entry into Job Corps, and the type of credential to be acquired (knowledge-based, skill-based or a combination). On average, Job Corps students take approximately 8 to 12 months to successfully complete a full training program and earn an industry credential. Training associated with green training graduates was 244 days on average.

An estimated 6,979 green Job Corps graduates have already obtained training-related employment or placement in higher education or the military, as of March 2011. The average number of days between graduation status and the placement date was 86 days.

<u>Kline Question 29</u>: A number of DOL agencies and programs awarded grants for Green Jobs programs. Please list all competitions including dollar figures for green jobs-related grants that were not funded through the Green Jobs Innovation Fund. Did these grant competitions include requirements that applicants must work in partnership with a labor organization in order to be selected?

A: The American Recovery and Reinvestment Act provided the Department with $500,000,000 for a program of competitive grants to prepare workers to enter into or pursue careers in energy efficiency and renewable energy industries. The Department awarded these funds through five competitions that included:

1. Energy Training Partnership ($99,760,688; 25 grants awarded)
2. Green Capacity Building ($5,818,496; 62 grants awarded)
3. Pathways Out of Poverty ($147,811,701; 38 grants awarded)
4. State Energy Sector Partnership ($187,908,818; 34 grants awarded)
5. State Labor Market Information Improvement ($48,848,285; 30 grants awarded)

Three of the five competitions — Energy Training Partnership, Pathways Out of Poverty, and State Energy Sector Partnership — required applicants to work in partnership with a labor organization as well as with employers and other organizations such as non-profit or community-based organizations.

The Veterans Employment and Training Service (VETS) has had a green jobs focus for their Veterans' Workforce Investment Program grants in both 2009 and 2010. The amounts awarded in these years are listed below.

1. Veterans' Workforce Investment Program (2009): $7,568,149 (17 grants awarded)
2. Veterans' Workforce Investment Program (2010): 2010: $9,547,114 (22 grants awarded, 17 of which were grantees the previous year)

<u>Kline Question 30</u>: The Department's performance targets indicate that for every recipient completing employment training from Adult, Youth, Dislocated Worker, and Native American training programs, only about half are expected to enter employment within three months of completion. What does the Department plan to do to ensure that every worker who receives employment services will have a better than 50-50 likelihood of reentering the job market?

A: The Department has placed a strong emphasis on providing training services to program participants, including a service strategy that focuses on the attainment of industry-recognized credentials. During Program Year (PY) 2009, the period from July 1, 2009 through June 30, 2010, over 100,000 WIA Adults and Dislocated worker program exiters (or program completers) attained a credential. Seventy-eight (78) percent of those individuals entered employment,

and 88 percent of those individuals were still employed three quarters after program completion.

It is important to recognize the unprecedented nature of the economic recession that PY 2009 program exiters faced; most were receiving services during calendar year 2008, and completed the program during 2009. Current participants also face a similar situation today. According to the latest Job Openings and Labor Turnover Survey (JOLTS) conducted by the Bureau of Labor Statistics, the number of job seekers per job opening is holding steady at 5.0 as of January, 2011. The survey shows that only 20 percent of active job seekers are finding employment, while the average WIA program exiter's chances of finding work is significantly higher, at over 50 percent. Further, as evidenced by the outcomes for those receiving training services, almost 7 out of 10 individuals found employment after program completion.

Kline Question 31: The cost per participant in the National Farmworker Jobs Program is more than half of what the average trainee earns in half-a-year of employment. What plans have you made to improve the outcomes for those who receive services under this program?

A: This Administration is committed to advancing the skills and education of all workers, including those with significant barriers to employment. The migrant and seasonal farmworkers (MSFWs) served by the National Farmworker Jobs Program (NFJP) typically face multiple obstacles to obtaining stable year-round employment and experience chronic unemployment and underemployment inherent in the industry. Data from the National Agricultural Workers Survey show that on average the population served by the NFJP has a 7th grade attainment level and poor English skills, with 44 percent having no spoken English skills and 53 percent having no written English skills. The training and education services necessary to overcome these obstacles are generally intensive and longer-term. Despite these obstacles, participation in the NFJP results in positive earnings gains— the average increase (or decrease) to income earned from all employment sources during the six months following placement, compared to pre-participation employment income. For example, during the second quarter of Program Year 2010 (October 1-December 31, 2010), the earnings gain for NFJP was $6,425, an increase of $425 over the earnings gain that occurred during the second quarter of Program year 2009.

The Department provides technical assistance to NFJP grantees that is intended to continue to improve training strategies and encourage partnerships with educational institutions. For example, the Department provided training to NFJP grantees on February 18, 2011 that focused on the use of career pathways and credentialing, which are necessary components to improving the outcomes of NFJP participants. By providing this technical assistance to NFJP grantees, the Department believes NFJP participants will have greater access to credentials and

career pathways that will lead to increased average earnings and opportunities for advancement.

Kline Question 32: During the hearing, you stated your opinion that project labor agreements (PLAs) actually help bring down the cost of projects. Please provide the Committee with statistical evidence supporting this belief. How were PLAs implemented with the New Hampshire Job Corps Center? Please provide the Committee with a list of other DOL-related projects for which PLAs are part of the contract.

A: During the hearing I suggested that PLAs can be an effective tool to control costs and to ensure that large scale construction projects are completed on time and on budget. Having a steady stream of highly trained, high-skill workers is one way to ensure that projects are done right the first time and minimize delay and corrective actions on the worksite. Reducing delays in construction, and improving the quality of work are critical ways to help ensure that project costs are controlled. PLAs can be a speedy way of expanding the pool of high-skilled workers available to federal construction, without discriminating against workers based on their union membership.

There are independent studies that conclude that PLAs are either cost-neutral or help reduce costs of major construction projects. I have attached a study by Dale Belman (Michigan State University), Matthew Bodah, (University of Rhode Island) and Peter Phillips (University of Utah) that concluded that when projects are controlled for size, materials, and complexity, there is a statistically insignificant difference in the cost of projects under PLA and those without PLAs.

I have also attached to two feasibility studies conducted by construction management company, Hill International. In both studies, this company concluded that using a PLA would provide economic benefits to the owner.

The solicitation to procure a construction contract for the Manchester, New Hampshire Job Corps Center was published on the Federal Business Opportunities website (www.fbo.gov) on October 5, 2009. That solicitation did contain a requirement that each bidder have in place a project labor agreement (PLA) at the time of bid submission. We received a challenge to that solicitation after it was published. On November 5, 2009, the solicitation was cancelled, as the Department believed that it was in the public interest for the Department to further evaluate issues related to the PLA requirement.

The final rule amending the Federal Acquisition Regulation to implement Executive Order 13502, Use of Project Labor Agreements for Federal Construction Projects, was published in the Federal Register on April 13, 2010. The final rule established criteria for evaluating whether to include a PLA in a solicitation for large-scale construction projects that cost more than $25 million.

The PLA final rule preserves the flexibility agencies need to evaluate whether a project labor agreement is appropriate for that construction project on a case by case basis. The Department will be guided by those criteria for other large-scale construction projects. However, the Department infrequently has construction projects of this magnitude (mainly Job Corps Centers) and no other DOL projects have been solicited with a PLA requirement.

On the potential for future PLAs in upcoming DOL construction projects, the 2012 Budget's proposal to reduce Job Corps Construction would not affect the program's ability to finance construction of the New Hampshire center. However, the recently enacted FY 2011 budget agreement included a $75 million rescission in prior year balances. This rescission will require us to revisit the bid solicitation process for the New Hampshire center that was placed on hold when even larger cuts were proposed by the House in HR 1.

Representative Todd Rokita (IN)

Rokita Question 1: Employee Stock Ownership Plan (ESOP) companies must have annual valuations of their stock. Additional valuations associated with acquisitions and other business activity may need to be performed. It has been brought to my attention by constituents that a regulation proposed by the Department of Labor will redefine valuators of these companies' ESOPs as ERISA fiduciaries. (U.S. Department of Labor, Employee Benefits Security Administration, Definition of the Term fiduciary, Federal Register, October 22, 2010, page 65263.) It is my understanding that the proposed regulation will have an effect on many other activities in the financial sector, as well. This regulation will increase the cost of operating and establishing an ESOP by forcing valuators to obtain special ERISA fiduciary insurance, and in fact, many competent valuators may drop ESOP valuation work altogether, leaving less competition for ESOP companies to review before hiring a valuator.

I have been contacted by constituents in my area about this proposal that reverses the position of four Republican and two Democratic Administrations. You have received protests from the American Institute of CPAs, the American Council of Engineering Companies, the Food Marketing Institute, the Chamber of Commerce, and nearly all the employer groups.

A common complaint is your Department provides no data to support the claim that ESOP valuations are wrong. This proposal does not appear to address a documented problem and it will increase costs, discourage ESOP formation, and cause needless gridlock and confusion between ESOP trustees and the valuators. Please provide me with the data you used to document the need for regulatory action in this area and explain why this particular approach is the least burdensome means of achieving your objectives.

A: In the early 2000s, EBSA began to identify issues involving ESOPs, encompassing many different violations of ERISA and affecting over 500,000 participants. Based on this investigative experience, EBSA decided to address these issues through a national enforcement project which was established in FY 2005. EBSA continues to find fiduciary and self-dealing violations in connection with the ESOP enforcement project, and examples of these findings are set forth below.

In many instances, the most important investment advice to a plan concerns how much to pay for an asset. In the case of ESOPs, in particular, the key decision is typically not whether to buy stock – the plan was established precisely to buy and hold employer stock – but rather what price to pay for the stock. Accordingly, in the case of closely-held companies, ESOP trustees typically rely on professional appraisers and advisers to value the stock. Often, there is little or no negotiation over price. Because other plan fiduciaries are not valuation professionals, there is virtually total reliance on the appraiser and the price determined by the appraiser is often the price at which the transaction will take place. As a practical matter, the price is often effectively set by the appraiser. The appraisers routinely hold themselves out as offering a professional service to the plans that will be rendered with care, impartiality, and skill. Frequently, ESOP transactions involve most or all of a plan's assets, and the Department's own cases have involved transactions involving hundreds of millions of dollars and more. The proposed regulation reflects these realities. Although the current regulation expressly includes advice on the value of a security as covered advice, a 1976 Advisory Opinion stated that the valuation of closely held stock for ESOPs is not fiduciary advice. The proposed regulation simply corrects the Advisory Opinion, and ensures that appraisers can be held accountable under ERISA when they fall short of professional standards and cause losses to retirement plans.

ESOP transactions are not the only area where unqualified or conflicted appraisers can cause serious losses to retirement savings. In principle, we see no basis for distinguishing advice on how much to pay for an asset from advice on whether to buy an asset for a given price. Improper appraisals have been central to numerous Department investigations and enforcement actions. The Department has uncovered abuses reflecting flawed valuation methodologies, internally inconsistent valuation reports, the use of unreliable and outdated financial data, the apparent manipulation of numbers and methodologies to promote the preferred prices of selling shareholders (who are usually corporate insiders), and tax abuse. When an ESOP overpays for the stock of its employer sponsor, it is the workers in the plan that lose. Because under existing regulations the appraisers were not plan fiduciaries, however, they were not accountable for the losses that they caused to retirement plans. Examples from the Department's investigations and litigation include the following:

a. A valuation firm failed to properly consider $1.5 billion in debt on a company's books in addition to numerous other errors of analysis. The

case ultimately settled for $38.7 million, none of which was paid by the appraisal firm.

b. A major valuation firm used earnings figures that were significantly greater than justified by the company's audited financial statements, applied a 30% control premium although the plan did not acquire control, and inconsistently applied different earnings measures from year to year. The case settled for over $71 million, none of which was paid by the appraisal firm, and injunctive relief.
c. A valuation firm accepted unrealistic company earnings projections and failed to consider the company's ability to repay its obligations, among other errors. The case ultimately settled for $17.5 million, none of which was paid by the appraiser.
d. ESOPs of several related companies purchased employer stock in reliance on an appraiser who had previously been convicted of felony embezzlement from a trust, who used false qualifications, and who lacked even a college degree. The appraisals used financial performance estimates, which had little or no connection to actual financial performance, and assumed unjustified and unsupportable levels of growth, profitability, and freedom from competition. For example, one of the valuations posited a wholly unrealistic return on invested capital of more than 11,000%. This case is currently in litigation.
e. A major valuation firm advised a large company to engage in a stock transaction – nominally involving $1 billion – involving an ESOP that the participants did not even know existed. We concluded the transaction was a tax sham. In settlement, the company was required to refund all of the tax benefits to the U.S. Treasury, and the plan's trustee was required to refund all of its fees. More than $220 million was paid to the Treasury.
f. In various transactions involving the Genovese crime family, an appraiser valued property at inflated amounts to justify plan loans and purchases. In one of the transactions, a member of the crime family first agreed to buy real estate for $7.46 million; the appraiser then valued the property at $15.8 million. The plan in turn loaned out $15.8 million based on the appraisal and the member of the crime family used the loan proceeds to buy the property for $7.46 million, pocketing the balance of the loan. An independent appraiser subsequently appraised the property for $5 million. Criminal forfeiture actions ultimately brought some restitution to the pension plan. The appraiser, however, was not a fiduciary under the current regulation.

Under Section 502(a)(2) of ERISA, a loss remedy is only available from plan fiduciaries. As a result, under the current regulatory structure, neither the Secretary nor plan participants can hold the appraiser directly accountable for disloyal or imprudent advice about the purchase price, no matter how critical that advice was to the transaction. The sole recourse available to the Secretary and plan participants is against the trustee who relied on the advice, rather than against the professional financial expert who rendered the valuation opinion that formed

the necessary basis for the transaction. The Department appreciates the comments expressing concerns about potential cost increases, and remains committed to ensuring that the benefits of any proposed changes outweigh the costs. However, plans and employers – especially small employers -- are ill-served by the current regulation's failure to hold advisers accountable for failing to properly discharge their responsibilities. Employers and participants will benefit from being able to rely on professional impartial advice that adheres to the fundamental fiduciary duties of prudence and loyalty.

Further, with respect to additional data available on this question, the proposal specifically requests comment on the Department's cost estimate. We will actively consider the information provided to the Department in response to this request and expect to have a more fulsome economic analysis as part of the final regulation.

Representative Lou Barletta (PA-11)

Barletta Question 1: **On January 20, 2011, the Department announced the availability of $500 million for Trade Adjustment Assistance (TAA) Community College and Career Training Grants. I understand these grants will provide colleges with funds to expand and improve programs for workers who have lost their jobs, but I am also concerned about the large number of young workers who are unsuccessfully trying to find meaningful employment. My district has an unemployment rate of 9.8 percent, the highest in Pennsylvania, and many of these workers are recent high school graduates. Since my ultimate goal is to ensure that all citizens in my district will have greater access to lucrative careers, I would like to know what your department is doing to ensure recent high school graduates have increased choice and access to higher education.**

A: Post-secondary education is an important focus of the Department and the Administration. The Bureau of Labor Statistics projects that occupations that require a post-secondary degree are expected to account for nearly half of all new jobs from 2008 to 2018. There are a number of ways Department of Labor programs assist youth in gaining access to higher education, complementing student financial and programmatic assistance available through the Department of Education, which has primary responsibility for ensuring that recent high school graduates have access to higher education.

The Workforce Investment Act (WIA) youth program assists youth to prepare for success in the knowledge-based economy. WIA youth formula funds are provided to states that in turn allot funds to local workforce investment areas to assist low-income youth with barriers to employment, ages of 14 and 21, by providing services that prepare them for employment and post-secondary education. Youth can receive educational skills training, tutoring, alternative secondary school services, GED preparation as well as additional services through a nationwide

network of One-Stop Career Centers. Youth service providers, funded through WIA, work with young adults to help them access employment and post-secondary educational opportunities by stressing linkages between academic and occupational learning. They also assist youth by providing them a link to their local community college or other post-secondary education and training opportunities and information on financial student aid.

The Job Corps program provides economically at-risk youth who have specific barriers to employment, with comprehensive services that include career technical training based on industry standards, contextual learning combining academic and career training, and a variety of integrated, real-world learning experiences. Because of changing labor market needs, Job Corps seeks to equip students with the best set of skills, supported by the attainment of portable credentials, so that they may compete and advance in the workforce. This includes preparing students for advanced education and training.

In addition, the Department is currently working with the U.S. Department of Education- Federal Student Aid- Student Aid Awareness and Applicant Services Office on a College Checklist for Out of School Youth entitled *Redirecting YOUth on a College Pathway.* This document will provide young people who are out-of-school and those youth at-risk of dropping out, with references, resources, contact information, and instruction to ensure success with college admission. Later this year, *Redirecting YOUth on a College Pathway* will be published as a joint Department of Labor and Department of Education document and will be accessible via the internet to any youth and One-Stop Career Center around the country.

Representative Carolyn McCarthy (NY-04)

McCarthy Question 1: I think the Department of Labor has done a great job on a variety of fronts, and I commend you for your commitment to American workers.

Today's worker is much different than the worker of the past. There are different workplace demographics and different expectations for both employers and employees. There are surveys out there that conclude that women are now nearly 50 percent of the U.S. workforce, yet still barriers exist for them. One of the issues I have been most active on is breastfeeding, and what concerns me is the lack of federal attention to the issue.

Last Congress, I introduced a bill, the Exemplary Breastfeeding Support Act, which would have helped to implement programs in support of breastfeeding. I was pleased that the health care reform law includes language requiring employers to provide reasonable break times and private space for nursing mothers on the job.

Can you tell us a little bit about the implementation of this provision and its importance to fostering a fair and equal workplace?

A: As you know, on March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act, which amended Section 7 of the Fair Labor Standards Act (FLSA) to require employers covered by the FLSA's overtime pay requirements to provide "reasonable break time for an employee to express breast milk for her nursing child… and a place, other than a bathroom that is shielded from view and free from intrusion … which may be used by an employee to express breast milk."

The Department's Wage and Hour Division (WHD) is responsible for administering and enforcing the break time for nursing mother's law. Last summer, WHD issued Fact Sheet #73: "Break Time for Nursing Mothers Under the FLSA," providing the public with general information on the requirements of the new law with the plan of developing more specific guidance for employers and nursing mothers in the near future.

Due to the importance of this new law to workplace flexibility for family and personal care-giving, which is a key component of my vision of "Good Jobs for Everyone," the Department decided to issue a "Request for Information" (RFI) seeking public comment on the Department's preliminary interpretations of the law and anything else on which the public would like to comment related to implementation of the nursing breaks provision of ACA. We also launched a "nursing mothers" webpage that includes frequently asked questions, key news, and other useful resources for employers and employees, such as links to lactation tool kits and state workplace lactation laws and programs.

The RFI's public comment period closed on February 22, 2011. We received well over 1800 comments, the majority of which came from nursing mothers who shared their personal experiences returning to the workplace after the birth of a child. Currently, WHD is reviewing and categorizing all the comments received to determine what additional guidance would be most helpful to employers, nursing moms and the general public.

On January 20, 2011, the Surgeon General issued a call to action to support breastfeeding, which outlined the benefits of breastfeeding for families, children and the public health. The report identified ways that families, communities, employers and health care professionals can improve breastfeeding rates and increase support for breastfeeding, calling on employers to work toward establishing paid maternity leave and high-quality lactation support programs.

In addition to supporting a woman's desire to continue breastfeeding her infant child after she returns to work, this call to action fosters more fair and equal workplaces as it facilitates the return of many women to the workforce who normally would not come back after the birth of a child. Workplace lactation and

family wellness policies also allow women to continue in the positions they were in prior to having a child, which contributes to leveling the playing field for women regarding promotion opportunities and combating gender discrimination and retaliation.

Moreover, these workplace programs yield great economic benefits, particularly for employers in terms of containing high healthcare costs, minimizing absenteeism due to pregnancy complications and episodic childhood illness, and retaining employees following the birth of a child.

As the Congresswoman acknowledged, women comprise 48 percent of the workforce, and 3 out of 4 women of childbearing age are currently employed. It is important that our workplace policies change to accommodate this changing workforce and I am proud that the Department is playing a leading role in this effort.

McCarthy Question 2: I wanted to reiterate the concern my colleague Representative Biggert had brought to your attention regarding your Department's proposed rule expanding the definition of a fiduciary. As you mentioned, ERISA law has not been looked at in more than 30 years, and I do not deny that the Department of Labor should look into the law and its merits. However, as a member who both sits on this Committee as well as Financial Services, I implore you to work with your counterparts at the SEC and CFTC who have made proposals in this realm as result of the passage of Dodd-Frank last Congress. I firmly believe that ambiguity in this sector and a lack of dialogue will ultimately hurt consumers, so please keep me briefed as to your conservations with your counterparts, and I look forward to working with you on the issue.

A: On October 22, 2010, the Department published a proposed regulation that would protect beneficiaries of employee benefit plans and individual retirement accounts by revising its definition of the circumstances under which a person is considered to be a "fiduciary" under the Employee Retirement Security Act of 1974 ("ERISA") by reason of giving investment advice for a fee to an employee benefit plan or to individuals covered by the Plan or IRA. We have received a number of public comments on the proposed regulation which we are now evaluating. We also held a public hearing on March 1 and 2 to ensure that all issues are fully considered and interested persons had sufficient time to share their views on this important regulation.

The Department has been working closely with both the SEC and the CFTC to harmonize the respective agencies' rules to ensure that our policy initiatives do not conflict and are not unduly burdensome. The Department enjoys a positive working history with both agencies and we will continue to work with them, particularly as we address concerns raised by the Dodd-Frank Act. We are committed to striking an appropriate balance in any final rules so that the benefits

of increased transparency, accountability and eliminating conflicts of interest outweigh potential cost increases.

[The study, "Project Labor Agreements," 2007, may be accessed at the following Internet address:]

http://www.buildingtrades.org/BCTD/media/Documents/Field%20Services/PLA/NECA-PLA-Report.pdf

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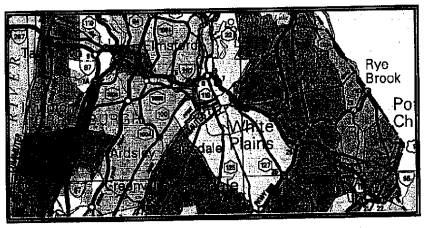
LABOR ANALYSIS AND REPORT

ON

FEASIBILITY FOR A PROJECT LABOR AGREEMENT ON THE

I-287 / CROSS WESTCHESTER EXPRESSWAY PROJECT



Prepared For

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DEPARTMENT OF TRANSPORTATION

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I. EXECUTIVE SUMMARY

Hill International has been retained by the New York State Department of Transportation (NYSDOT), through its design consultant, HNTB, to conduct a labor analysis and study and to prepare a report concerning the feasibility and appropriateness of utilizing a Project Labor Agreement (PLA) on the I-287/Cross Westchester Expressway (CWE) Project (the Project). Hill was selected, in part, because of its experience and participation, for the New York State Thruway Authority (NYSTA), in the similar study and subsequent negotiations, drafting, execution, administration and legal defense of the PLA for the Tappan Zee Bridge (TZB). That PLA has been in effect and has been considered highly satisfactory to all parties since June, 1994, the commencement of the TZB project construction.

This report describes a PLA as a type of collective bargaining agreement utilized on large, lengthy, complex projects employing multiple contractors and trades. It provides for standardized work practices; hours; holidays; grievance, arbitration and jurisdictional dispute procedures; and, for overall labor/management harmony. A PLA precludes strikes, lockouts, work stoppages and any other work disruption for the duration of the Project. It is mandatory that all parties both union and non-union sign the PLA, which supersedes all pre-existing agreements.

Following the U.S. Supreme Court decision in the Boston Harbor case and the New York Court of Appeals decision in the Tappan Zee Bridge case, Executive Order No. 49, Project Labor Agreements was issued on February 12, 1997, by Governor Pataki directing state contracting authorities to adhere to the policies and procedures set forth in the Order in determining whether a PLA should be utilized on certain projects to achieve the goals of timeliness, cost effectiveness, fairness, equity and conformity to law. Case law in New York and the majority of cases nationally have upheld the validity of PLAs when challenged on major capital construction projects.

The Project has been undertaken jointly by the NYSDOT and NYSTA and involves the design and construction of structural, operational and safety improvements on the section of I-287/CWE from the TZB toll plaza to Rt. 120, a distance of approximately 9 ½ miles. It is the largest project of its kind ever undertaken in the area and consists of seven separate contract phases with a duration of six years at an estimated cost in excess of $265 million. The Project is a result of more than 15 years of studies by NYSDOT and others and is the one selected from several alternatives to alleviate as quickly and as cost effectively as possible the high accident rate, the traffic bottlenecks and the severely deteriorated road and structure conditions.

Analysis of the workforce in the area reflects a highly unionized labor pool. All of the major ($10 + million) highway/bridge construction projects which have been awarded in the area during the past five years have been to union contractors. Notwithstanding that the New York metropolitan area is one of the most highly unionized areas in the nation, non-union contractors have made significant strides in obtaining major contracts in the construction industry in the area over the past several years. Not surprisingly, there have been some recent significant demonstrations by unionized labor, which have resulted in work stoppages, strikes, major traffic disruption in midtown Manhattan and substantial interference with the activities and business of the general public as well as with those targeted by the demonstrations.

Construction in the Northeastern U.S. and in the New York metropolitan area specifically, is at the highest level it has been in many years and is projected to continue to increase for the next several years. The unprecedented number of other similar construction projects in the same general area at the same time as the Project is under construction is likely to cause shortages in manpower generally, but particularly in highly skilled trades. Labor leaders state that they have never failed to adequately man a job and that if shortages occur, they will draw the necessary manpower from union locals elsewhere, in or out of the state.

Based upon the recent history of major highway and bridge contract awards in the area, it is considered highly probable that most, if not all, of the prime Project

contracts will be awarded to union contractors. The current collective bargaining agreements of each of the eleven local unions that will be involved in the Project construction were reviewed and analyzed. Pertinent provisions were compared to determine expiration dates and areas where standardization might be achieved to effect cost savings in construction manning and scheduling. It was determined that each agreement would expire and be renegotiated at least once, and several of them twice, during the term of Project construction, leaving the Project vulnerable to lawful strikes and/or work disruption absent a "no strike" agreement. It was also determined that there was great diversity among the trades with regard to hours of work; shifts; flextime; holidays; grievance, arbitration and jurisdictional dispute resolution procedures; management rights; apprentices; and Equal Opportunity objectives. These areas as well as the rates and instances of premium pay are all subject to standardization to conform with Project objectives and requirements.

An analysis of the economic benefits which might be realized by utilization of a PLA was based upon certain assumptions regarding construction scheduling and utilization of the Tappan Zee Bridge PLA as a model for particular provisions. It is estimated that the employment of a PLA on the Project would result in a savings of approximately $8.4 million resulting from anticipated concessions together with savings from standardized work rules.

The study concluded that, given the predominantly unionized composition of the workforce; the high level of on-going and projected similar construction in the area and consequential potential skilled manpower shortages; the number of trades and contractors involved; and the likelihood of union contractors receiving most, if not all, contract awards, a Project Labor Agreement is considered appropriate for the Project. A PLA should be a mandatory requirement included in the bid documents. In the event an award should be made to a non-union contractor absent a PLA, labor demonstrations and disruptions are almost a certainty. It is estimated that the economic impact on the traveling public of any Project construction schedule delays would amount to $20,000 per day. In addition, the success of and satisfaction with the TZB PLA, which is still in effect on a contiguous project employing the same workforce which will be manning the

current Project, indicates the appropriateness of a PLA, if only for conformity of work rules. Further, it is believed that should a shortage of skilled labor occur, the only reliable manpower source will be through the union locals in the area and/or elsewhere as may be required.

The objective that bidding be open equally to union and non-union contractors should be a requirement of a PLA for the Project. That provision of the TZB PLA was specifically addressed and upheld by the courts and would be included in the PLA recommended here.

The following summarizes Hill's recommendations:

- A PLA should be required by the bid specifications for each of the Project contracts.
- A PLA should be negotiated with the NYSBCTC utilizing the TZB PLA as a model, obtaining suggested additions, deletions, and/or changes from the parties prior to formal negotiations.
- The PLA should include a provision permitting use of Alternative Dispute Resolution (ADR) in workers' compensation matters. This is permitted by a recent NY statute and can save 15 – 20% of total workers compensation premium costs.
- NYSDOT and NYSTA should advise the NYSBCTC of their decision as soon as possible in order that PLA negotiations may proceed in a timely manner.
- Upon agreement of the PLA terms and conditions, NYSDOT should coordinate with NYSDOL regarding any necessary waivers required by Section 220 of the New York Labor law. Similar waivers were issued for the TZB PLA.

II. INTRODUCTION AND BACKGROUND

Hill International, Inc., has been retained by the New York State Department of Transportation (NYSDOT) through its construction manager, HNTB, to conduct a study, including an analysis of the labor market, work history, potential economic benefits, delay impact and other relevant factors pertaining to the feasibility of utilizing a Project Labor Agreement (PLA) in the construction of the I-287/Cross Westchester Expressway Project from the Tappan Zee Bridge toll plaza to Rt. 120 (The Project). The study and report, consistent with existing case law, the Governor's Executive Order No. 49 (Appendix A) and NYSDOT policies and procedures contains the analysis, recommendations and the requisite supporting information and documentation with respect to the feasibility and appropriateness of a PLA for the Project.

What is a Project Labor Agreement?

A Project Labor Agreement (PLA), sometimes referred to as a "Pre-Hire Agreement," is a type of collective bargaining agreement commonly used for decades on large private construction projects, and for the past several years, with increasing frequency, on large public construction projects. On projects where a PLA is used, i.e. one involving multiple contractors and many trades, it is normally mandatory for both union and non-union contractors (employers) to accept the PLA as a condition of being awarded the contract. This has resulted in legal challenges by non-union or "open-shop" contractors and/or contractor associations, which perceive PLAs as unfairly pro-union.

It is important to note that a PLA, by definition, applies only to a single project and has no bearing or relevance to any other work a contractor or union may be involved in during the same period of time. A Project Labor Agreement is a specific contract for construction of a specific project during a specific period of time. All parties to be involved in the construction, unions, contractors, owners (often through a Construction Manager) are required to be signatories to the PLA, which supersedes any prior-existing agreements. The PLA provides for standardized work practices, hours, holidays, grievance, dispute and arbitration procedures, and overall labor/management harmony

for the duration of the project. Most importantly, the PLA precludes any strikes, lockouts, work stoppages and/or any other disruption of work for any reason during the term of the PLA. The term "Pre-Hire" is derived from the agreement by the parties, prior to construction, to hire workers through the respective union hiring halls.

The Boston Harbor Precedent

Although there is a history of at least limited use of PLAs in public projects going back to the Grand Coulee Dam on the Columbia River in the 1930's, the first legal challenge occurred in the early 1990's, at which time a PLA was required by the public entity owner for the massive, multibillion dollar, multi-year project involving the clean-up of Boston Harbor. The project involved scores of contractors and unions, all of which were required to become signatories to a PLA. The challenge was made on a federal pre-emption theory, arguing that the government entity (owner) requirement that all successful bidders become parties to a PLA constituted an impermissible state intrusion into the labor relations of project contractors, and was pre-empted by the National Labor Relations Act (NLRA).

In its March 1993 landmark decision, Associated Builders and Contractors of Massachusetts/Rhode Island, Inc. v. Massachusetts Water Resources Authority (commonly known as Boston Harbor), the US Supreme Court held that although the government could not impose a PLA in its regulatory capacity, it was not prohibited from benefiting from a PLA on a specific project wherein the government entity was acting in its proprietary capacity as an owner or a purchaser of construction in the construction industry marketplace. This decision has provided the impetus for public sector PLAs across the nation and for the resulting legal challenges based predominantly on the theory that the PLAs violate the respective state competitive bidding statutes, favoring union over non-union bidders.

Soon after the Boston Harbor decision, then Governor Cuomo's office issued a memorandum to all state agencies and authorities, referencing the "Boston Harbor Agreement" and directing that said construction agencies and authorities:

> *"...evaluate the benefits, for appropriate projects, of negotiating a pre-hire agreement, ... Such benefits may include the promotion of labor stability, timeliness of completion and efficiency."*

New York and The Tappan Zee Bridge PLA

The New York State Thruway Authority (NYSTA) was at that time preparing to undertake a major rehabilitation and construction project on the Tappan Zee Bridge involving multiple contractors, some twenty unions, a minimum of a four-year construction schedule with an estimated cost of $130 million. Hill International, Inc., was then under contract to the NYSTA, and was directed to pursue with the New York State Building and Construction Trades Council (NYSBCTC), local union representatives and other appropriate parties a determination as to whether a PLA could be negotiated which would conform to the guidelines in the Governor's memorandum as well as:

- provide economic savings in the construction process through changes in work rules and practices and improve productivity, safety, efficiency and timeliness of construction;
- provide for the enhancement of employment opportunities for minority, women and disadvantaged persons; and
- allow all successful bidders, including open-shop contractors, to utilize a portion of their regular work force on the Project.

After an in-depth analysis of the existing labor market; a thorough review and comparison of the nineteen individual collective bargaining agreements; a review of the recent work history and of labor unrest; numerous meetings and interviews with contractors and their associations' representatives; and more than four months of

intensive labor negotiations, a draft PLA, acceptable to all parties, was submitted to the NYSTA Board of Directors, together with the Hill report recommending approval. The report identified areas and estimated amounts of cost savings, as well as the additional benefits to be derived from the proposed PLA, which was modeled after the Boston Harbor PLA and contained all of the concessions obtained from the negotiations with local labor.

The PLA was approved, executed by the necessary parties and included as part of the specifications in the first bid package issued by the NYSTA for the Tappan Zee Bridge Project. The PLA was immediately challenged in the New York State Supreme Court by the open shop contractors and their associations. After a brief Temporary Restraining Order, the lower court refused to grant an injunction. Construction on the project proceeded utilizing the PLA while the litigation continued through the New York Court of Appeals, where the validity of the PLA ultimately was upheld.

The Court of Appeals noted that since a PLA is a significant restriction on the bidding process, the contracting authority must demonstrate that both the purpose and the effect of the PLA requirement will meet the objectives of the state competitive bidding laws and that the facts and circumstances of each PLA required review on a case-by-case basis. The Court of Appeals held that the purposes of the state competitive bidding statutes were (1) guarding against fraud, favoritism and extravagance, and (2) ensuring honest competition to obtain the best work at the lowest possible price. The Court found that the first purpose was served by the PLA in that equal access to the bidding process and PLA benefits was available to both union and non-union contractors and that award would be made without regard to union status. The PLA also prohibited discrimination by unions and contractors against employees regardless of union/non-union status in either work referral from the hiring halls or on the job.

The second purpose was found to be served by the PLA requirement in that it created cost savings in several ways, thus protecting the "public fisc." The court noted specific areas of cost savings from concessions such as the four 10-hour days at straight

time, standardization of working hours, holidays, etc. The Court specifically noted the potential substantial savings from the PLA's comprehensive "no-strike" clause, which precluded labor disruptions for the duration of the project, and further that such disruptions would likely cause a diversion of bridge traffic and loss of toll revenues in addition to the usual delay costs resulting from work stoppages. The stated purposes of the statute therefore having been met, the requirement of the PLA was upheld by the Court.

A companion case considered by the same Court and decided at the same time as the Tappan Zee Bridge case involved a PLA for construction at the Roswell Park Cancer Center owned by the New York State Dormitory Authority (DASNY). The Court invalidated the PLA in that case noting that the DASNY did not adequately consider whether a PLA would provide cost savings before deciding on a PLA. In fact, six construction contracts had been let prior to requiring a PLA for the remainder of the project. No reduced cost efficiencies, no labor disputes or other problems were evident in the absence of a PLA on those contracts, nor was the project nearly as complex as the Tappan Zee Bridge Project. The Court referred to that PLA requirement as "post hoc rationalization" and invalid. In comparing the two decisions, the Court reiterated that PLA requirements must be reviewed on a case-by-case basis.

New York Law and Executive Order No. 49

There have been several lower court decisions in New York since the Tappan Zee/Roswell Park decisions and the law of the Tappan Zee Bridge case has become settled as the law of New York State regarding the validity and use of PLAs. In Flex Electrical Contractors v. County of Orange the Court utilized a four-step analysis, which since seems to have been adopted by other courts:

1. the purpose of the project and the impact of delay;

2. cost savings advantages to be realized from use of the PLA;

3. the local history of unionism and labor unrest, and the impact of a PLA on these factors; and

4. the provisions of the PLA in issue.

On February 12, 1997, Governor Pataki promulgated Executive Order No. 49 Project Labor Agreements (Appendix A), which, citing the Tappan Zee Bridge decision as authority, sets forth that PLAs are one of many tools which may be used by management and labor and which may, under certain circumstances, assist in achieving the goals of timeliness, cost effectiveness, fairness, equity and conformity to the law. It sets forth the policies and procedures to be followed by agencies in determining whether a PLA should be utilized; and if so, the interaction between Article 8 of the Labor Law and the PLA.

PLAs Nationwide

With public construction in the United States exceeding $100 billion annually, PLAs are becoming increasingly more popular; and, in the great majority of cases in which they have been challenged, courts have upheld their validity without nearly the amount of detailed analysis required by the New York courts. In at least eight states, PLAs have been upheld merely on the findings of a rational basis such as promoting timely and therefore cost effective project completion and/or that they are available to all contractors both union and non-union. In New Jersey, the two PLAs considered before the state Supreme Court were both found invalid. The Court, citing the Tappan Zee Bridge case, stated, however, that there were cases where a PLA requirement would be valid and that the circumstances should be considered on a case-by-case basis until such time as the legislature provided specific guidelines.

The great weight of legal authority across the country at this time permits the use of PLAs in the construction of capital public projects. This is evidenced, for example, by the repeated use of PLAs on such major public construction projects in the past few years as the Chicago, Detroit, Orlando, Philadelphia (2 PLAs) and San Francisco

Airports; the Central Artery Project in Boston, Boston Harbor; and, of course, the Tappan Zee Bridge.

III. PROJECT DESCRIPTION (SCOPE)

The Project

The New York State Department of Transportation (NYSDOT), together with the New York State Thruway Authority (NYSTA), have undertaken the design and construction of structural, operational and safety improvements for the section of the I-287/Cross-Westchester Expressway (CWE) corridor, beginning at the toll plaza of the Tappan Zee Bridge (TZB) and extending eastward past the Hutchinson River Parkway to Rt. 120 (the Project). The construction will span approximately nine and one half (9-1/2) miles in length.

The Project includes:

- rehabilitation and/or replacement of roadway surfaces and bridge structures;
- remedy of existing safety and operational concerns;
- enhancement of the motorists' ability to enter and exit the roadway safely; and
- use of state-of-the-art technology in improving the travelers' accessibility to helpful, current traffic and other pertinent information.

This is the largest project of its kind ever undertaken in the area and consists of seven separate contract phases totaling in excess of $265 million. It includes forty-three (43) bridges, twenty-four (24) of which will be totally removed and replaced while fourteen (14) will be completely rehabilitated including seismic retrofitting and five (5) entirely new bridges will be constructed. The estimated cost of just the bridge replacement, rehabilitation and new construction alone is approximately $105 million.

This section of roadway is a multi-lane freeway comprising segments of the New York State Thruway and the CWE. The CWE is six lanes wide while the Thruway varies

from thirteen lanes at the toll plaza to six lanes. The roadway is utilized by more than 125,000 motorists daily, serving both long distance travelers and commuters in the tri-state area of northern New Jersey, New York and southern Connecticut. Moderate to severe traffic congestion and delays have been experienced for several years and are becoming increasingly more severe. Accidents are frequent and are also becoming increasingly more frequent, resulting in accident rates from 3 to 5 times the New York State norm. Both the road surfaces and bridges require substantial and immediate reconstruction and/or replacement for reasons of safety and also to preserve the integrity of the highway system.

Project History

The NYSDOT has been conducting studies of the I-287/CWE corridor for more than fifteen (15) years with the goal of identifying existing and potential transportation deficiencies and resolving them in the most expeditious, cost effective and timely manner possible. During this period, a High Occupancy Vehicle/Transportation Systems Management (HOV/TSM) Task Force was formed to review alternative proposed solutions; to generate public input; and to evaluate interim transportation measures. The task force was comprised of local and county officials, representatives from transportation service providers, transportation advocacy groups, environmental groups, the State Police, the Thruway Authority, and the NYSDOT.

These developmental studies including the Major Investment Study analysis for the Project and supplemented by the task force effort are set forth in detail in the appendix to the Environmental Impact Statement (EIS) prepared by the NYSDOT and the Federal Highway Administration (FHWA) published in June, 1997. As a result of the developmental studies and the endeavors of the task force, four alternative improvement options were progressed through the Preliminary Design stage and were examined, evaluated and presented in the EIS.

The No-Build and Six Lane Maintenance alternatives did not provide for additional roadway capacity, while the eight Lane alternative planned to improve traffic flow by constructing additional general use travel lanes and the HOV Alternative

provided for an exclusive bus/carpool lane in the median of I-287. All four options included plans to improve (to varying degrees) the traffic operations and safety for motorists.

In October of 1997, after meeting with environmental and business organizations, it was decided that the (HOV) lane option would not be pursued. NYSDOT was instead focused on traffic flow and safety issues such as ramp bottlenecks, interchange safety, pavement and bridge conditions, and acceleration/deceleration lane improvements. The Federal Highway Administration (FHWA) signed a Record of Decision (ROD) and granted design approval for the Six Lane Alternative on April 19, 1998. These FHWA actions allowed NYSDOT to proceed with detailed design of the Six Lane Alternative.

At the same time that NYSDOT ended plans to build the reversible HOV lane, the Governor announced that he was creating a broad-based task force to recommend alternatives for addressing transportation issues in the lower Hudson Valley. The task force was led by the Chairman of the Metropolitan Transportation Authority, and included the Commissioners from NYSDOT, the Empire State Development Corporation, and the New York State Department of Environmental Conservation, and the Executive Director of the Thruway Authority. A twelve-member advisory committee consisting of representatives from the local building trades, the environmental community and other community and business leaders was also named.

The purposes of the task force and its advisory committee can be summarized as follows:

- to develop recommendations to the Governor after analysis of short and long term trends for the I-287 corridor to reduce congestion and improve the movement of people and goods in the corridor;

- to undertake a comprehensive analysis of travel in the lower Hudson Valley to develop transportation system alternatives including enhanced mass transit, light rail, travel demand management, congestion pricing on the Tappan Zee, utilization of advanced technology (ITS) and highway improvements and overall improvement of mobility in the I-287 corridor; and,

- to foster a cooperative atmosphere to encourage new ideas and innovations, allowing potential solutions to be fairly evaluated and given adequate consideration by the various transportation operating entities in the region.

Soon after the formation of the Governor's Task Force, the April 10, 1998, Department Procedure (Code:2.13-8) Procedures To Consider use of Project Labor Agreements was issued by the NYSDOT Office of Legal Affairs to establish procedures for compliance with Executive Order No. 49 (Appendix A). The Department Procedure noted that, "Complex projects where delay could cause extreme disruption to the traveling public or economic hardship to the surrounding communities are the most likely candidates for the utilization of a PLA."

In a May 19, 1998 memorandum to the Assistant Commissioner, Office of Engineering, the Regional Director, Region 8, referenced the Department Procedure and the above quoted language. He stated that the CWE project has the potential to be that type of project and suggested that the Department consider whether a study should be initiated to determine if a PLA would be appropriate relative to construction of the Project.

After an exchange of memoranda among the cognizant Department officials, a meeting was held on June 11, 1998, attended by the Deputy Commissioner & Chief Engineer; the Assistant Commissioner & Chief Counsel; the Assistant Commissioner, Office of Operations; and the Acting Regional Director, Region 8. The meeting resulted in the implementation of the procedures for conduct of a study to develop the project specific "Record" upon which to base a decision on the appropriateness of a PLA for the Project, in accordance with Executive Order No. 49 and NYSDOT Procedure Code 2.13-8.

Subsequently, Hill International was engaged to conduct the study and prepare this report of findings and recommendations.

NYSTA Segment

The Thruway segment of the Project is the portion of the corridor along the NYS Thruway from the TZB toll plaza to Interchange No. 8 where the Thruway splits off to the South toward New York City and the CWE begins. This section is owned and operated by the NYSTA and construction is scheduled to begin in June, 2000. The improvements address both the critical safety and operational deficiencies currently existing, which include:

- Adding continuous south and northbound auxiliary lanes between the TZB toll plaza and the CWE;
- Widening median shoulders;
- Installing a concrete median barrier separating the two mainline traffic movements;
- Toll plaza pavement rehabilitation;
- Toll barrier modifications to accommodate better E-Z Pass operations;
- Deployment of corridor/system ITS technology; and,
- Not precluding options for intermodal operations within the right-of-way.

The existing highway will be modified where severe bottlenecks exist to improve safety and service. The entire cross-section, including shoulders, will be reconstructed with standard NYSDOT modified asphalt concrete pavement except for the Talleyrand Swamp area where an asphalt overlay will be used. The Talleyrand Swamp is a New York State and Federal wetland extending approximately 2000 feet along the roadway. All environmental considerations have been provided for in this area of the construction.

Two bridges, the Broadway Bridge and the Meadow Street Bridge, will be modified and reconstructed within existing constraints.

In addition to the safety concerns and deteriorating physical condition of the facility, progressively worsening operational deficiencies mandate immediate remedial action. The 13 lanes of traffic leaving the toll plaza are constricted to 3 travel lanes and one exit lane. The daily bottleneck backs up traffic to the tollbooths, negating the advantage of E-Z Pass. Traffic volumes are projected to continue to increase, which will continue to worsen the condition.

Bottlenecks occur between Interchanges 8 and 9 in each direction, respectively at peak hours; the necessity for excessive weaving; the high rate of accidents; and, the projected growth in volume of traffic all contribute to worsening stop-and-go conditions, longer peak periods of traffic and the potential for an even higher rate of rear-end accidents.

The Project objectives include:

- Elimination of serious bottlenecks to improve operations and minimize safety problems.
- Providing satisfactory lane balance on the Thruway between the toll plaza and Interchange 8. Also, whatever weaving is required should be accomplished more safely with these auxiliary lanes.
- Alleviating the bottlenecks, both southbound and northbound, at the Broadway Bridge.
- A reconstructed pavement system using standard NYSDOT modified asphalt concrete pavement.
- Improvement of safety by separating movements with concrete barriers, providing adequate breakdown shoulders, and reducing weaving conflicts.
- Elimination or minimization of the potential for post-construction settlements in the Talleyrand Swamp section.
- Maintenance of air quality and noise at acceptable levels. Noise barriers will be constructed where necessary.
- Minimizing discharge of stormwater pollutants into wetlands.

- Not precluding options for intermodal operations within the right-of-way.

Construction of this portion of the Project is scheduled for completion in December 2002 with an estimated cost of $28.1 million (Appendix B).

NYSDOT Segment

The remainder of the Project (the CWE) will be completed by NYSDOT in six stages. The estimated construction costs and schedules (Appendix B) will be included in separate contract awards as follows:

Stage	Scope	Construction Schedule	Estimated Cost
Stage No. 2A	Rt. 100 to Bronx River Parkway.	11/99 - 12/00	$21.4 Million
Stage No. 1	Interchange No. 8	6/00 - 6/02	$60 Million
Stage No. 2	Saw Mill River Parkway. to Rt. 100	4/01 - 8/03	$45.1 Million
Stage No. 3A	Bronx River Parkway to Central Westchester Parkway.	4/02 - 12/03	$32 Million
Stage No. 3B	Central Westchester Parkway to Bloomingdale Rd.	4/03 - 10/04	$36 Million
Stage No. 4	Bloomingdale Rd. to Rt. 120	4/04 - 6/06	$42.5 Million
		TOTAL	$237 Million

The entire roadway surface will be replaced with modified asphalt concrete pavement. All roadway features identified as contributing to the higher than average accident rate and traffic operational problems such as weaving sections, ramp

bottlenecks, and short acceleration deceleration lanes will be mitigated as practicable. A concrete median barrier will be installed and all bridges will be rehabilitated or replaced.

The work on Interchange 8 will be completed in conjunction with the NYSTA portion of the Project to facilitate continuous traffic flow between the CWE and the Tappan Zee Bridge.

In response to an FHWA request to consider additional safety and operational improvements beyond those included in the Six-Lane Rehabilitation project described in the Final Environmental Impact Study and Record of Decision, NYSDOT conducted additional studies of accident records, traffic operations and road surface and structure conditions on the CWE. These studies reinforced earlier findings regarding the increasing accident rate, which is 3 to 5 times the statewide average, and noted that most of these accidents result from weaving and merging at the interchanges, both entering and exiting the roadway. The studies also noted the excessive delays resulting from these accidents, citing the "rule of thumb," set forth in the FHWA Incident Management Handbook by Dunn Engineering, that every minute of an incident translates to seven minutes of delay. This means that a "fender bender" that takes ten minutes to clear off the road, will result in a seventy-minute delay.

These studies resulted in the addition of nine operational improvements to the final design of the Six-Lane Alternative. There are five eastbound and four westbound improvements, all of which are designed to improve safety and reduce the potential for accidents in the respective locations. Their inclusion will reduce the number of delays and bottlenecks and result in a smoother flow of traffic.

In addition, NYSDOT is implementing a state-of-the-art Intelligent Transportation System (ITS) to provide travelers with up-to-the-minute information regarding traffic conditions. The new ITS components will cover I-287 from The New York State Thruway to I-95 and augment the ITS components already in place in the Thruway/CWE corridor. This system is designed to improve mobility by constantly relaying travel conditions to a traffic management center via cameras and traffic detectors. The

management center can then dispatch travel information in a number of ways, a few of which are listed below:

- *Variable Message Signs* are electronic message signs placed at strategic locations, advising drivers of traffic conditions so that they may choose an alternate route and avoid traffic delays.

- *Highway Advisory Radio* will offer recorded traffic information via a radio station when on the Thruway, the CWE and nearby roadways.

- *E-mail or Computer Bulletin Board* travel notifications will be available through a web site to provide commuters travel information prior to leaving home or work.

Through improved communication between the traffic management center, motorists and emergency response teams, accidents can be responded to and cleared faster. ITS also provides timely information that enables motorists to plan their best route to minimize delays.

The entire project, including both the NYSTA and NYSDOT segments, is scheduled to begin construction in November, 1999 and be completed by June, 2006, at an estimated cost in excess of two hundred sixty-five million dollars ($265,000,000).

IV. CONSTRUCTION AND LABOR ANALYSIS

A. Labor Force

In reviewing the number, size and cost of major capital construction projects which have been undertaken during the past five years, are currently in progress and/or are planned for the immediate future, it is readily apparent that the construction activity in the New York metropolitan area is at its highest level in years. Many of the local unions belonging to the Building and Construction Trades Councils in both Westchester County and in New York City are currently in the process of, or are about to commence negotiating their respective collective bargaining agreements (CBAs). In light of the current construction climate, they are in a much stronger position than in the past two negotiation cycles which took place during a period of high unemployment and a general construction recession. Organized labor is attempting to win stronger wage increases as well as to regain benefits lost in previous negotiations. The goal, according to union officials, is to do better than merely stay ahead of New York's 1.5% annual inflation rate, while at the same time not drive up construction costs to the point where they can not be competitive with the non-union contractors. Three-year agreements with annual increases of 3-4% have been or will be signed during the current CBA negotiations.

Though the New York metropolitan area is one of the most highly unionized workforces in the nation, non-union contractors have made significant inroads in the construction industry during the past few years. According to labor leaders this is, to some extent, a result of the Wicks Law, which requires the award of four prime contracts in public construction costing more than $50,000. The legislation was enacted more than 75 years ago and was designed to fight cronyism in the award of public contracts. Though many argue that the Wicks Law favors unions and inflates construction costs, the unions argue that the current system gives non-union firms an unfair advantage because it places too much emphasis on merely selecting the lowest bidder for a project. The argument continues that many of these non-union construction companies employ less skilled and often unqualified workers and should be disqualified from bidding.

Though the Wicks Law and the resulting arguments are not applicable to this highway/bridge Project, the existing union vs. non-union adversarial atmosphere, for whatever the reason, is a significant factor to be considered in light of the increasing number of non-union contractors emerging on the labor scene. At the same time the competition from non-union workers has been increasing, the unions have been growing in numbers and in strength.

A serious labor confrontation erupted last summer when some 40,000 union workers demonstrated in mid-town Manhattan to protest the award by the Metropolitan Transit Authority (MTA) of a multi-million dollar public works project to a non-union contractor. Every union job then in progress in the entire city was shut down and the workers congregated at the rally outside MTA headquarters offices. Traffic in mid-town was paralyzed for hours, Grand Central Station was isolated, and there were several clashes with police. The associated costs resulting from this incident, though certainly high, are incalculable in terms of delay, public disruption and inconvenience.

A similar demonstration occurred earlier this year at the construction site at Baruch College where an award by the New York State Dormitory Authority to a non-union contractor (the same one as on the MTA job) resulted in work stoppage, picketing, cancellation of appearances by the Mayor and Governor for ground-breaking ceremonies, traffic disruption, overall labor disturbance, construction delays and the substantial associated resulting costs to the project and to the general public.

In Westchester County, the last major labor demonstration occurred on the Tappan Zee Bridge and the Thruway/I-287 in the early 1990's, prior to the execution of the PLA in 1994. The bridge was closed and traffic halted for several hours when union demonstrators marched in protest of a major contract award by the NYSTA to a non-union contractor. Since that time, there have been only minor isolated instances of picketing or work disruption on specific jobs where union vs. non-union issues have arisen locally. It should be noted that since the Tappan Zee Bridge PLA, all major (in excess of $10 million) public highway and bridge construction projects (totaling in excess of $218 million) have been awarded to union contractors. Many of the smaller county

and municipal projects have employed PLAs, which were negotiated by the parties at the bidding stages of the respective projects. There have been no work disruptions or other significant labor problems on any of those projects.

Studies have been conducted within the industry over the past several years to determine the economic impact of construction delays upon the general or traveling public. Models and formulas have been developed to calculate the costs of such delays on any given project. Should work disruption or stoppage occur on the Project, even assuming that three lanes of traffic would continue to flow in each direction, the construction completion schedule would be delayed. Based upon the volume of traffic, the Project size, location, and other relevant factors; it is estimated that the minimum cost impact to the traveling public of any such construction delays would amount to twenty thousand dollars ($20,000) per each day of delay. However, the extreme disruption to the traveling public and the economic hardship to the surrounding communities which would result from extended disruption in traffic flow in either or both directions is incalculable.

Union membership in most of the building trades has also been steadily increasing over the past few years. All trades are actively recruiting and training new members and retraining current workers to improve their skills on newer, state-of-the-art, more productive tools, equipment and materials. Training facilities and apprentice programs are filled to capacity and are being expanded in an effort to accommodate the rapidly increasing number of new workers and applicants. Union leadership in all of the trades stress the importance of maintaining a continuous supply of trained, skilled workers necessary to man not only the high level of existing construction but the unprecedented level of similar highway and bridge construction projected for the next several years. It is well known and understood in the industry that large construction projects create a drain on available local skilled trade workers and sometimes create shortages in particular skills.

Although no critical shortages in skilled workers have been experienced to date in any of the respective trades required on the Project, it is difficult at this time to

determine whether the necessary numbers of skilled workers will be available locally throughout the duration of the Project based upon information currently available regarding the size and number of similar construction projects which will be in progress simultaneously. There is, however, little fear on the part of the unions of such shortages occurring on the Project since, historically, regional trades faced with labor supply problems have drawn workers from less active market areas in New York and/or from other states as required. According to knowledgeable union officials, there has never been an instance when they were unable to obtain the necessary skilled manpower for a project within a very short period of time.

B. Current and Projected Construction

The extremely high level of currently ongoing, planned and projected construction in the New York metropolitan area, including Westchester and the adjacent counties, could have significant manpower ramifications with respect to the Project.

Following is a partial list provided by the contracting authorities and contractors of current and planned similar projects which are or will be in construction during the next 3-4 years and will consequently impact upon the Project manpower pool:

Westchester County

• Hutchinson Parkway	$35 million, bid, not awarded
• County projects – various	$20 million, to be bid $15 million, underway
• Local municipal work in aggregate	$10 million, 40% underway
• Private Site work	$20 million, 20% underway
• Thruway projects, including TZB	$60 million, underway

Rockland, Duchess, Putnam Counties

• Palisades Parkway	$54 million, underway
• Rte. 59 improvements	$12 million, underway

Rockland, Duchess, Putnam Counties

• Other State DOT Work	
• Rte. 202	$6 million, underway
• Main St. Nyack	$6 million, recently bid
• Private site work	$5 million, underway
• Local projects – DPW	$2.5 million
• Taconic Parkway	$14 million, underway
• Various others	$15 million, underway

New York City

• JFK rail	$1.5 billion, to be bid over five or more years
• Bruckner Interchange	$260 million
• LIE/HOV	$220 million
• Williamsburg Bridge	$210 million
• Various water/sewer/street	$200 million
• Private site work	$200 million
• Port Authority and TBTA work	$100 million

The foregoing list is by no means complete, but is based upon information currently available and contains conservative cost estimates. It is meant merely to provide an indication of the projected level of construction which will be ongoing simultaneously with the Project and which will draw upon the same manpower pool as the Project.

V. CURRENT COLLECTIVE BARGAINING AGREEMENTS

In view of the recent history of major bridge and highway contract awards in the Project geographic area, it is highly probable that most, if not all, of the prime Project contracts will be awarded to union contractors. All contractors, whether union or non-union, will be required by law to pay workers the prevailing wage rates, which rates are derived from the area collective bargaining agreements. A minimum of eleven trades will be involved in the Project construction, all of which are members of a local and/or state Building and Construction Trades Council. The current collective bargaining agreement (CBA) of each of the following local unions representing each respective trade was reviewed and analyzed:

1.	Bricklayers	Local No. 5
2.	Carpenters	Westchester District Council
3.	Dockbuilders (Heavy Construction)	Local No. 1456
4.	Electrical Workers	Local No. 3
5.	Ironworkers	Local No. 40
6.	Laborers	Local No. 60
7.	Lathers	Local No. 46
8.	Operating Engineers	Local No. 137A, B, C, R
9.	Painters	Local No. 9
10.	Plumbers/Pipefitters	Local No. 21
11.	Teamsters	Local No. 456

The significant and pertinent provisions of each agreement were analyzed to determine where terms and conditions varied from each other and where they were not in conformity with the characteristics and requirements of the Project construction. With respect to Project concerns, the most important provision of each CBA is its duration. In the past, most CBAs have had a two-year duration, while the trend in the current negotiations is for three-year agreements. In either case, each of the eleven CBAs will expire at least once, and some twice, during the term of the Project. With each of these dozen or more expirations will come the risk that any of the new negotiations will break

down. Workers covered by that agreement may then lawfully strike to obtain particular contract concessions regarding issues such as wages, benefits or hours and which have nothing to do with the Project construction. Such strikes would be expected to spread to every project in which the local contractors are employed, notwithstanding the fact that the Project owner or construction manager was not involved in, nor did it have any control over, the negotiations in issue.

Given the high percentage of unionization in the area, such a strike, even by a relatively minor trade, has the potential to shut down, at least for a short time, an entire project. A lawful picket line at an entrance to a construction site might be honored by every other trade worker who would refuse to cross the picket line and would not work. A Reserve Gate System, which is difficult to employ on a highway/bridge construction site, would ultimately get the sympathy strikers back on the job, but would not help the contractor which was the target of the original strike.

There is great diversity among the CBAs with regard to hours of work (length of work day and work week); shifts; flextime; holidays; grievance, arbitration and jurisdictional dispute resolution; management rights; apprentices; and Equal Opportunity objectives. The rates and instances of premium pay also vary greatly and there are a significant number of miscellaneous clauses which appear in one or more agreements and not in others. (Appendix C)

Following are examples of some of the differences among the provisions of the respective agreements which might be standardized by use of a PLA:

- Hours of Work

There is significant diversity among the local agreements in these areas. Though most provide for a 40-hour work week, three (3) provide for a 35-hour work week. In most agreements, starting and quitting times are set with union approval required for changes and premium pay for hours worked before and/or after. Under the existing agreements, the contractor has limited flexibility in varying the scheduling of working hours without premium payments and prior approval from the unions.

- Shifts

Existing agreements require almost uniformly that a first shift be worked in order for a second and/or a third shift to be scheduled. The numbers of hours worked, the amounts of pay for hours worked and the inclusion or exclusion of a lunch period or other work breaks varies greatly among the trades and between the second and third shifts. Some agreements are silent with regard to shift differential pay, some provide for a dollar amount per hour, while others contain formulas. Shift differentials for a second shift currently vary among the trades from 0 – 25% and for a third shift from 0 – 29%.

- Holidays

The existing 11 Agreements provide for as many as 13 possible holidays annually with a minimum of 7 recognized by the respective unions. Whether holidays are paid and the rates of premium pay vary greatly among the trades.

- Flextime

Most agreements provide for premium pay for work started prior to a set starting time and for hours worked after a set quitting time. Some agreements are silent with regard to working four ten-hour days (4-10's) in a work week. Others provide for time and one-half pay for hours 9 and 10 and at least one major union provides for double time if 4-10's are worked with no day shift working. Since it is quite probable, that the contractor will schedule substantial night work, Monday – Thursday to minimize interference with daytime and weekend traffic flow, these provisions could have a significant impact on construction costs and scheduling.

- Miscellaneous

Various agreements provide for payments for such items as bereavement pay, non-working stewards, personal days, jury duty, travel time and others. No standardization exists among the trades.

- Jurisdictional Disputes

Procedures for dealing with jurisdictional work assignments and consequential disputes are not uniform or consistent. Agreements vary with regard to costs, binding effect of award, and work disruption pending decisions.

Most importantly, there is no existing method, means, or procedure to insure that there will be no strike, lockout, work stoppage or other work disruption as a result of pending resolution of such a dispute.

- Grievances/Arbitration

Though local labor-management grievance procedures exist, they vary greatly among specific crafts and contractor associations. No standardized, binding forum exists with authority over all respective parties.

- Management Rights

Most of the existing agreements do not contain a "Management's Rights" clause. Those that exist are either ambiguous or inadequate to provide the contractor with the assistance and/or flexibility required for necessary control and management of the Project work.

- Apprentices

Though most local unions have existing apprenticeship and/or training programs, they do not provide for sufficient numbers to meet the Project goals for craft entry opportunities for minorities, women and economically disadvantaged non-minority males.

- Equal Employment Opportunity

Although most of the existing agreements contain language prohibiting discrimination on the basis of race, creed, color, sex, national origin or age, non of them contains language regarding commitments to meet minority, women or disadvantaged goals. They are also silent with regard to the contractors' rights to request such persons.

All of the foregoing examples, as well as the rates and instances of premium pay are subject to standardization to conform with Project objectives and requirements.

VI. ANALYSIS OF ECONOMIC BENEFITS OF A PLA

A. Labor Assumptions

In order to perform a comprehensive analysis which would result in meaningful and supportable findings and conclusions it was necessary initially to separate the Project into its seven basic contracts, i.e. NYSTA and NYSDOT contracts 1, 2, 2A, 3A, 3B, and 4. Then, assuming that certain economic provisions would be negotiated into a PLA for the Project, and utilizing engineering best estimates, these contracts were each separated into basic components including, total cost, total labor cost, man-hours, duration, total work months and average workforce size. Estimates of each of these components were calculated by trade involved in the projected contract work. Utilizing these assumptions and estimates together with the actual and projected prevailing wage rates reflected in the individual local union collective bargaining agreements, the weighted average labor rate was calculated for the project (Appendix D., p.1.). For purposes of the estimates which have been calculated, it is assumed that the contractors will work shifts of 5 – 8 hour days for 70% of the Project construction and 4 – 10 hour nights for 30% of the Project construction.

B. Hours of Work

1. Work Day/Work Week

A PLA negotiated for this Project should provide for a standard 40 hour workweek at straight time pay; either 5, 8 hour days, Monday – Friday, or 4, 10 hour days, Monday – Thursday. The Contractor should be provided with 3 hours flexibility in starting times (6 – 9 am) and 5 hours in quitting times (2:30 – 7:30 pm) without premium penalty. By standardizing the workweek at 40 hours for all trades, the cost savings may appear modest; however, avoidance of scheduling and related contract administration problems is significant. These savings are the result of not having to pay premium rates

for 5 hours each week during the duration of the Project for the 3 unions which currently work a 35 hour week, and one of which pays double time for all hours over 35. Estimated cost savings resulting from this standardized 40 hour work week amount to $563,260. (Appendix D, p. 4)

The contractor would be able to schedule a work week as required and could schedule a make-up work day at straight time up to a 40 hour week when time was lost due to weather or other unforeseen cause. Estimated cost savings resulting from standardization of the work day and flexibility in starting and quitting times amounts to $864,538 (Appendix D, p. 4), assuming a standard day shift starting time of 7:00 AM. If the contractor chose to start at 6:00 AM or 6:30 AM, the savings would be even greater.

2. Night Shift

No provision was assumed for a third shift since it is not contemplated that three shifts would be employed on the project. It is expected, however, that a second shift would regularly include work hours which would normally have been included in a third shift.

- A day shift would not be required in order to schedule a second shift.
- An 8 or 10 hour shift would be worked at straight time plus 15% shift differential in lieu of overtime.
- Starting times would be scheduled by the contractor to meet Project requirements.

For purposes of calculating the potential cost savings from a PLA, it was assumed that 30% of the work will be done at night and that the contractor will utilize the 4, 10's workweek for the night work. The estimated cost savings is $969,448 and is attributed to the elimination of premium pay for hours 9 and 10 as well as the elimination of the requirement for a first shift and resulting premium pay.

3. Holidays

The existing 11 Agreements provide for as many as 13 holidays annually with a minimum of 7 recognized by the respective unions. Whether holidays are paid and the rates of premium pay vary greatly among the trades. It is quite common in the normal course of construction that any given building trade will require the support and/or assistance of one or more other trades in the performance of routine work. It is imperative, therefore, that for efficient scheduling and cost control purposes, the contractor can depend upon the entire workforce being on the job on the same days.

A PLA negotiated for this project should provide for standard holidays for all trades. For purposes of calculating the potential cost savings from a PLA, the following eight holidays were assumed:

New Year's Day	Labor Day
President's Day	Veterans' Day
Memorial Day	Thanksgiving Day
Fourth of July	Christmas Day

Regular holiday pay, if any, and/or premium pay for work performed on a recognized holiday would be in accordance with respective local agreements. No holidays other than the above would be recognized or observed.

Although the positive effect upon construction planning and scheduling is significant, but is not quantifiable, the cost impact of standardizing on eight specific holidays for all trades utilizing the existing prevailing wage results in an estimated savings of $3,272,888. (Appendix D, p. 4) These figures were derived by applying the weighted average labor rate to the number of holidays to which each trade would be entitled over the term of the Project vis-à-vis the numbers of holidays provided for in a PLA which would impact upon the Project work.

4. Apprentices

The substantial increase in the utilization of apprentices provided for in a PLA (proposed as one apprentice for every three journeymen) would achieve, to some extent, not only the public policy goals desired, but potential labor cost savings on the Project. The increased ratio of apprentices would be utilized on all seven construction contracts comprising the Project in 9 of the 11 trades involved. The total estimated savings would be $1,032,878. (Appendix D, p. 5)

5. Alternative Dispute Resolution (ADR) For Workers' Compensation

New Worker's Compensation legislation adopted in New York permits the use of Alternative Dispute Resolution (ADR) in the Workers' Compensation process where employers elect to participate in a collectively bargained program. The process must protect the worker and have Workers' Compensation Board (WCB) approval of the agreement signed by labor and management. Such an ADR agreement has been executed, and is on file, by the BCTC and CIC of Westchester and Putnam counties. Credits in Workers' Compensation premiums may be realized by contractors (employers) of from 10 to 20%:

- Participation in ADR Process 5%
- Utilization of Agreed Managed Care 10%
- Participation in Drug Testing Program 5%

The ADR procedure replaces the existing WCB adjudication with a more expeditious non-adversarial process and can result in estimated savings on Workers' Compensation premiums of $485,526 (Appendix D, p. 5).

A PLA provision that would mandate the use of a managed care program for Workers' Compensation could result in estimated savings on Workers' Compensation premiums of $1,280,981 (Appendix D, p. 5).

A detailed summary of the economic benefits which would result from a PLA is set forth in Appendix D., p. 6. The summary reflects totals by contract, by PLA Provision, and by trade in dollars and per cent of total labor costs.

It is estimated that as a result of entering into a Project Labor Agreement, modeled after the Tappan Zee Bridge Project Labor Agreement, the NYSDOT and the NYSTA would save an estimated $8,419,518 or 8.82% of the total estimated labor costs for the Project. (Appendix D, p. 6)

VII. CONCLUSIONS AND RECOMMENDATIONS

A PLA is considered both feasible and appropriate for this Project.

Based upon recent history of major highway and bridge contract awards in the New York metropolitan area and in Westchester County specifically, it is highly probable that most, if not all, of the seven Project contracts will be awarded to union contractors. In the event a major contract is awarded to a non-union contractor absent a PLA, labor demonstrations and disruptions are almost a certainty based upon the experience of recent similar events and knowledge of the workforce.

Each of the current collective bargaining agreements (CBAs) of the eleven union locals that will be involved in the construction will expire at least once during the Project construction period. This exposes the Project to the possibility of not less than eleven strikes should negotiations break down when any one of the CBAs is being renegotiated. Such strikes would be completely lawful and, in all probability, the issues involved would have nothing to do with the Project. Further, the Construction Manager, contractor or owner on the Project would not be a party to these negotiations and would have no control over their outcome. The length and costs of resulting delays could be substantial in terms of lost time, increased costs and potential lost bridge revenue (tolls). The daily TZB toll revenue is approximately $185,500. The minimum cost to the traveling public of any Project construction schedule delays is estimated at $20,000 per day. However, the extreme disruption to the traveling public and the economic hardship to the surrounding communities which would result from extended disruption in traffic flow in either or both directions is incalculable.

A strong "no strike" clause in a PLA, precluding strikes, lockouts, work stoppages, disruptions or other delays, would supercede the terms of the CBAs and require that work on Project construction continue regardless of CBA status. A properly crafted "no strike" clause will preclude work disruption for any reason during the term of the Project construction. Even a non-union contractor would have no power to waive its

employees' rights to strike, nor could a non-union employer guarantee that it would continue non-union for the term of the Project. The "no strike" clause is considered the most important provision of a PLA.

The diversity among the CBAs regarding work rules can be and has been standardized by PLA provisions which ensure uniform working hours, shift times, scheduling, holidays, overtime, premium pay and other terms and conditions of employment. Also, by providing a standard procedure for grievance, arbitration and jurisdictional dispute resolution, together with a strong management rights provision, the contractor can maintain firm control of the Project manning, scheduling and administration. A comprehensive "Management Rights" clause applicable to all contractors and all unions would enumerate the powers and exclusive authority of the contractor for management and control of project operations including: Direction of workforce (numbers and qualifications); assignment and schedule of work (regular hours and overtime); promulgation of work rules; and determination of choice of equipment, materials, techniques, methods and technology utilized on the Project, regardless of their source.

The level of construction that is on-going and projected in the area for the next several years is another very important consideration in determining the feasibility of a PLA. Given the volume of similar highway/bridge construction which will be underway simultaneously with the Project and drawing from the same labor pool, the only realistic source of necessary manpower (particularly skilled labor) in the event of shortages will be though the union locals both in and out of the area. Failure to properly man the Project at critical times would result in delays which always translate into additional costs.

Finally, it cannot be ignored that the TZB is contiguous to this Project which begins at the TZB toll plaza. The TZB PLA has been in effect for five years, involves the same unions, one of the same owners, and perhaps some of the same contractors. It has been tested in court and; equally importantly, it has been tested by time on the job. That PLA has successfully withstood those tests and has been endorsed by those who

have worked on the TZB Project, both labor and management. As with any complex agreement, it can be improved upon. Most of the flaws or shortcomings in the PLA have been discovered by this point in time and can be corrected in a subsequent agreement. The TZB PLA has successfully survived and accomplished what was intended and to the general satisfaction of all the concerned parties. The intended economic benefits, public policy objectives and timely, quality construction have been achieved on schedule and within budget. Hill believes that it is both logical and consistent to continue with a substantially similar PLA on this Project. To do otherwise would result in an almost certain vehement reaction from organized labor.

The TZB PLA also achieves the all-important and court tested goal of providing equal bidding opportunities to both union and non-union contractors and a PLA on this Project should do the same. A PLA clause providing that a non-union bidder could utilize a fixed number or percentage of its workforce on the Project while bringing in the remainder of the workforce through the union halls meets the required court tests and satisfies the requirements of Executive Order No. 49.

The PLA and bid document language should state explicitly that the bidding and selection processes are open to union and non-union contractors alike and that union affiliation would not be a factor in selection. The PLA should also state that it is applicable and binding upon all successful bidders on the same terms and conditions, notwithstanding union/non-union status. Non discrimination with regard to union/non-union affiliation should also apply to the hiring of workers through the hiring halls.

Recommendations:

1. A PLA should be a requirement in the bid specifications for each of the Project contracts.

2. Using the TZB PLA as a model, recommended additions, deletions and/or changes should be obtained from the NYSTA, NYSDOT, NYSBCTC and the Construction Industry Council (CIC).

3. Negotiate terms and conditions of a PLA for the Project with the NYSBCTC and the union locals involved.

4. Include in the PLA a provision permitting use of Alternative Dispute Resolution (ADR) for Workers' Compensation matters. This has been permitted in collective bargaining by a recent a New York State statute and can result in 15 to 20% savings in Workers' Compensation premium costs.

5. Upon agreement of PLA terms and conditions, NYSDOT should coordinate with NYSDOL concerning any waiver(s) required by Article 8, Section 220 of the New York Labor Law (e.g. straight time for hours 8 and 9 of each day of a four 10-hour day work week). Similar waivers were issued for the TZB PLA.

VIII. APPENDICES

A. Executive Order No. 49 – Project Labor Agreements, dated February 12, 1997 and NYSDOT Procedure (Code:2.13-8) Procedures To Consider use of Project Labor Agreements

B. I-287/CWE Project Estimated Costs and Schedule

C. Analysis of Local Labor Agreement Provisions for the Project

D. Analysis of Economic Benefits of a PLA for the Project

Labor/Cost Analysis & Report
on
Feasibility for a Project Labor Agreement
Covering Construction and Renovation
of the
Jacob K. Javits Convention Center

Prepared for
Tishman Construction Corporation
on behalf of
The Convention Center Development Corporation

by
Hill International, Inc.

April 2007

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I. EXECUTIVE SUMMARY

A. Introduction

Hill International was retained through Counsel, Bond, Schoeneck and King (BSK), by Tishman Construction Corporation of New York (Tishman) acting as Owner's Representative for the Convention Center Development Corporation (CCDC) to conduct a labor and cost analysis and study and to prepare a report addressing the feasibility, economic benefits and appropriateness of utilizing a Project Labor Agreement (PLA) in connection with certain construction and renovation work at the Jacob Javits Convention Center (the Project) in New York City. Hill was selected because of its extensive experience and participation in similar studies involving more than two dozen major public projects and its familiarity with construction in the NYC Metropolitan area.

A PLA is a type of collective bargaining agreement often utilized as a tool for the expeditious, cost effective construction of large, lengthy and/or complex projects employing multiple contractors and trades. It provides for standardized work practices; hours; holidays; grievance, arbitration and jurisdictional dispute procedures; and, for overall labor/management harmony. A PLA precludes strikes, lockouts, work stoppages and any other work disruption for the duration of the work covered by the PLA. It typically is mandatory that all parties both union and non-union sign the PLA, which supersedes all pre-existing agreements. A PLA also provides that the bidding and selection process is open to union and non-union contractors equally. Its benefits and terms are applicable equally to all successful contractors on the same terms regardless of union or non-union status; and no discrimination in hiring hall referrals or in employment of workers based upon union membership is permitted.

Following the U.S. Supreme Court decision in the Boston Harbor case and the New York Court of Appeals Tappan Zee Bridge (TZB) decision, case law in New York and the overwhelming majority of cases nationally have upheld the validity of public owner PLAs on major capital construction projects. Outside New York, courts have found public owner PLAs valid at the federal level and in at least thirteen states. The importance and viability of PLAs in major capital public projects is reflected not only in

the court decisions, but in the repeated and expanding utilization of PLAs over the past several years nationwide on projects including major buildings, schools, airports, seaports, highways and bridges and extensive water resources projects in the west and southwest United States.

B. The Project

1. Description

The Jacob K. Javits Convention Center Expansion and Renovation Civic Project and Land Use Improvement Project (or the "Project"), bounded by 40th Street at the north, 33rd Street at the South, 11th Avenue at the east and 12th Avenue at the west, and 36th on the north, 35th Street on the south, and 11th Avenue on the west and Hudson Boulevard on the east is made up of four principal elements:

- The renovation and expansion of the existing Jacob K. Javits Convention Center (or "Javits") located on the superblock bounded by West 34th Street, 11th Avenue, West 39th Street, and 12th Avenue in Manhattan;
- The creation of a multi-level combination truck security screening, marshalling, and loading facility on the site located along 12th Avenue south of 40th Street;
- The development of a convention center hotel on the site located between Eleventh Avenue and the to-be-constructed Hudson Boulevard from 35th to 36th Streets (the "35/36 Site"); and
- Commercial and residential development of the block bounded by West 34th Street, 11th Avenue, West 33rd Street, and 12th Avenue (the "33/34 Site").

2. Estimated Construction Cost and Schedule

Renovation and expansion of the existing Javits Center is scheduled to begin with demolition and site clearance in January 2007 and to be completed by December 2012, with estimated construction costs of $1.27 billion. Construction of the hotel and 33/34 Site is scheduled to begin in the first quarters of 2009 and 2010 respectively.

C. The Project Labor Agreement (PLA)

Recognizing the potential for savings and other benefits which a PLA might provide in completing construction, representatives from Tishman, together with Counsel (BSK), entered into discussions with the Building and Constructions Trades Council of Greater New York ("Council") as well as with individual local unions (which together with all local union affiliates are referred to as "Unions") regarding the possibility of a PLA for this work. After a number of face to face and telephonic negotiation sessions, Tishman and the Unions reached a tentative agreement in February 2007, regarding terms of a PLA for the Project. Acceptance of the PLA is contingent on the results of this study and approval by the CCDC Board of Directors. This study analyzes the impact of the more significant provisions of that tentative PLA as negotiated together with the impact of an exemption from the Wicks Law requirement for use of multiple prime contractors for Project construction. A copy of the PLA as negotiated is attached as Appendix C.

D. Analysis and Study

Analysis of the construction workforce in the NYC area generally reflects a highly unionized labor pool (45+% union increasing to 95% on public projects). Virtually all major public construction projects awarded in NYC during the past decades have been to union contractors. When non-union contractors have received significant awards there have been demonstrations by unionized labor which have resulted in work stoppages, strikes, major traffic disruption and interference with the activities and business of the general public as well as with those targeted by the demonstrations. In view of the long history of public contract awards in the metropolitan area, it is considered highly probable that most, if not all of the Project contracts will be awarded to union contractors.

The current collective bargaining agreements of each of the local unions that will likely be involved in the Project construction were reviewed and analyzed as part of this study. Pertinent provisions were compared to determine expiration dates and areas where special provisions of the PLA could affect cost savings. It was determined that each of those local agreements would expire and be renegotiated at least once during the term of Project construction, leaving the Project vulnerable to lawful strikes and/or

work disruption absent a comprehensive "no strike" agreement. It was also determined that there was diversity among the trades' local agreements with regard to hours of work; shifts; flextime; holidays; grievance and arbitration procedures; and Equal Opportunity objectives. Of particular importance is the PLA requirement for significant concessions with regard to a standard 40 hour work week at straight time and standardized 8 holidays for all trades. In addition, the PLA permits implementation of an Alternative Dispute Resolution (ADR) procedure for the processing of Workers' Compensation Claims, as provided for in New York State legislation relating to collective bargaining, which could at the option of the owner, result in added cost savings.

Construction in the Northeastern U.S. and in the New York Metropolitan area specifically, is at a peak level and is projected to remain so for the next several years. The significant number of other major construction projects in the area scheduled during the same period that the Project will be under construction, including the World Trade Center reconstruction, may cause shortages in manpower generally, but particularly in highly skilled trades. The hiring hall provisions of the PLA provide assurances that local labor will be used to the maximum; and, if that is insufficient, the halls will be able to draw the necessary manpower from union locals elsewhere, in or out of the state as may be required.

It is estimated that the use of the PLA on the Project can result in savings in connection with the Javits Center itself excess of $27 million from standardization of the 40 hour work week and other work rules together with substantial non-quantifiable economic benefits resulting from the no strike and management rights clauses. Implementation of a Worker's Compensation ADR provision could result in additional savings of $6.2 million.

In addition, based upon the studies conducted by the New York City School Construction Authority (SCA) and more than ten years construction experience, it is estimated that an additional $12.51 per square foot or $20.016 million can be saved on the Javits Center construction as a result of the PLA exemption from the Wicks Law, enabling the owner to proceed with construction utilizing a single prime contractor.

As explained further below, application of the PLA to the Hotel and 33/34 Site development components of the Project also provides significant benefits.

E. Conclusion and Recommendations

Because of the predominantly unionized composition of the workforce; the high level of on-going and projected construction in the area and consequential potential skilled labor shortages; the size of the Project and the number of trades and contractors involved, as well as the economic impact of the Wick Law exemption, the PLA negotiated by Tishman and counsel, is considered appropriate for the Project and should be implemented.

The most significant impacts and benefits of the PLA for the Project are: (1) the assurance that the construction of all components will be completed without strikes, delay or disruption, precluding the significant costs, schedule ramifications and economic impact on the city of New York associated with such delays, and (2) significant direct labor cost savings.

Accordingly, the following recommendations are made:

- The PLA negotiated with the Building and Construction Trades Council of Greater New York, annexed as Appendix C, should be approved and executed.
- Further discussions between the parties regarding implementation of Worker's Compensation Alternative Dispute Resolution (ADR) should be held. This Owner's option, permitted under NY law can save 5% – 20% of total Workers' Compensation premium costs as well as additional savings in ultimate claims costs.
- The PLA, open to all bidders (union or non-union), should be required by the bid specifications for each of the Project contracts (bid packages).

II. INTRODUCTION AND BACKGROUND

Hill International, Inc. has been retained through counsel, Bond, Schoeneck and King (BSK) by Tishman Construction Corporation of New York (Tishman) acting as owner's representative for the Convention Center Development Corporation (CCDC), to conduct a study, and analysis of the labor market, work history, potential economic benefits including exemption from the Wick's Law, and other relevant factors pertaining to the feasibility of utilizing a PLA in connection with construction and renovations for the expansion and modernization of the Jacob R. Javits Convention Center. Hill was selected because of its familiarity, experience and participation in similar studies on more than two dozen other major public projects for public entities including NYSDOT, NYSTA, NYCSCA, County and local governments and numerous school districts. Hill has participated in every aspect of the PLA process including the feasibility study, drafting, negotiation, administration and legal defense, and, has recommended both for and against the use of PLAs, based on the best interests and needs of the specific owner and project.

A. What is a Project Labor Agreement?

A PLA, sometimes referred to as a "Pre-Hire Agreement," is a type of collective bargaining agreement commonly used for decades as a management tool for expeditious, cost effective construction on private construction projects, and for the past several years with increasing frequency, on large, time-sensitive or other special needs public construction projects. On projects where a PLA is used, i.e. one involving multiple contractors and many trades, it is normally mandatory for both union and non-union contractors (employers) to accept the PLA as a condition of being awarded the contract. This has resulted in legal challenges by non-union or "open-shop" contractors and/or contractor associations, which perceive PLAs as unfairly pro-union.

A PLA typically applies to a single project or series of projects as part of a construction program, and has no bearing or relevance to any other work a contractor or union may be involved in during the same period of time. A PLA is a specific contract for construction of a specific project or program, including its component parts or packages

during a specific period of time. All parties involved in the construction are required to be signatories to the PLA, which supersedes any prior-existing collective bargaining agreements which might otherwise apply to the work. A PLA typically provides for standardized work practices, hours, holidays, grievance, dispute and arbitration procedures, and overall labor/management harmony for the duration of the project. PLAs often contain economic concessions and, as importantly, a PLA typically precludes any strikes, lockouts, work stoppages and/or any other disruption of work for any reason during the term of the PLA.

B. The Boston Harbor Precedent

Although there is a history of use of PLAs on public projects going back to the Grand Coulee Dam on the Columbia River in the 1930's, the first legal challenge occurred in the early 1990's, at which time a PLA was required by the public entity owner for the massive, multi-billion dollar, multi-year project involving the clean-up of Boston Harbor. The project involved scores of contractors and unions, all of which were required to become signatories to a PLA. The challenge was made on a federal preemption theory, arguing that the government entity-owner requirement that all successful bidders become parties to that PLA constituted an impermissible state intrusion into the labor relations of project contractors, and was pre-empted by the National Labor Relations Act (NLRA).

In its March 1993 landmark decision, Associated Builders and Contractors of Massachusetts/Rhode Island, Inc. v. Massachusetts Water Resources Authority (commonly known as Boston Harbor), the US Supreme Court held that although the government could not impose a PLA in its regulatory capacity, it was not prohibited from benefiting from a PLA wherein the government entity was acting in its proprietary capacity as an owner or a purchaser of construction services in the construction industry marketplace. This decision has provided the impetus for public sector PLAs across the nation. It also has forced opponents of PLAs to base their challenges primarily on a theory that a PLA violates a State's competitive bidding statutes, because it allegedly favors union over non-union bidders.

Soon after the Boston Harbor decision, then Governor Cuomo's office issued a memorandum to all state agencies and authorities, referencing the "Boston Harbor Agreement" and directing that said construction agencies and authorities:

> *"...evaluate the benefits, for appropriate projects, of negotiating a pre-hire agreement,... Such benefits may include the promotion of labor stability, timeliness of completion and efficiency."*

C. New York and The Tappan Zee Bridge PLA

The New York State Thruway Authority (NYSTA) was at that time preparing to undertake a major rehabilitation and construction project on the Tappan Zee Bridge involving multiple contractors, nineteen unions, a minimum of a four-year construction schedule with an estimated cost of $130 million. Hill International, Inc., was then under contract to the NYSTA, and was directed to pursue with the New York State Building and Construction Trades Council (NYSBCTC), local union representatives and other appropriate parties a determination as to whether a PLA could be negotiated which would conform to the guidelines in the Governor's memorandum as well as:

- provide economic savings in the construction process through changes in work rules and practices and improve productivity, safety, efficiency and timeliness of construction;
- provide for the enhancement of employment opportunities for minority, women and disadvantaged persons; and
- allow all successful bidders, including open-shop contractors, to utilize a portion of their regular work force on the Project.

After an in-depth analysis of the existing labor market; a thorough review, analysis and comparison of the nineteen individual collective bargaining agreements; a review of the recent work history and labor unrest; numerous meetings and interviews with contractors and their associations' representatives; and more than four months of intensive labor negotiations, a draft PLA, acceptable to all parties, was submitted to the NYSTA Board of Directors for consideration together with the Hill report recommending

approval. The report identified cost savings, as well as other benefits, to be derived from the proposed PLA, which was modeled after the Boston Harbor PLA.

The PLA was approved, executed by the necessary parties and included as part of the specifications in the first bid package issued by the NYSTA for the Tappan Zee Bridge Project. The PLA was immediately challenged in the New York State Supreme Court by open shop contractors and their associations. After a brief Temporary Restraining Order, the lower court refused to grant an injunction. Construction on the project proceeded utilizing the PLA while the litigation continued through the New York Court of Appeals, where the validity of the PLA ultimately was upheld.

The Court of Appeals noted that since a PLA is a restriction on the bidding process, the contracting authority must demonstrate that both the purpose and the effect of the PLA requirement will meet the objectives of the state competitive bidding laws, and that the facts and circumstances of each PLA be reviewed on a case-by-case basis. The Court of Appeals held that the purposes of the state competitive bidding statutes were (1) guarding against fraud, favoritism and extravagance, and (2) ensuring honest competition to obtain the best work at the lowest possible price. The Court found that the first purpose was served by the PLA in that case because equal access to the bidding process, and the PLA's benefits, were available to both union and non-union contractors on the same terms and that ultimate contract award was to be made without regard to union status. The PLA also prohibited discrimination by unions and contractors against employees regardless of union/non-union status in either work referral from the hiring halls or on the job; thus, further ensuring equal treatment.

The second purpose was found to be served by the PLA requirement in that it created cost savings for the NYSTA in several ways, thus protecting the "public fisc." The court noted specific areas of cost savings from concessions such as four 10-hour days at straight time, standardization of working hours, holidays, etc. The Court also specifically noted the potential substantial savings from the PLA's comprehensive "no-strike" clause, which precluded labor disruptions for the duration of the project. The

stated purposes of the statute therefore having been met, the requirement of the PLA was upheld by the Court.

D. Executive Order No. 49

On February 12, 1997, then Governor Pataki promulgated Executive Order No. 49 Project Labor Agreements (Appendix A), which, citing the Tappan Zee Bridge decision as authority, sets forth that PLAs are one of many tools which may be used by management and labor and which may, under certain circumstances, assist in achieving the goals of timeliness, cost effectiveness, fairness, equity and conformity to the law. It sets forth the policies and procedures to be followed by State agencies in determining whether a PLA should be utilized; and if so, the interaction between Article 8 of the Labor Law and the PLA. Though Executive Order No. 49 is not binding upon the CCDC, it is a valuable reference and has been often cited with approval by the New York Courts.

E. PLAs Nationwide

With public construction in the United States at an unprecedented high, PLAs are becoming increasingly more popular; and, in the great majority of cases in which they have been challenged, courts have upheld their validity without nearly the amount of detailed analysis required by the New York courts. In at least thirteen states, PLAs have been upheld merely on the finding of a rational basis for the PLA (such as promoting timely and therefore cost effective project completion).

Clearly, the weight of authority both in New York and nationwide permits the use of PLAs in the construction of capital public projects. This is reflected not only in the court decisions and executive action, but in the repeated and expanding utilization of PLAs over the past few years on such major public projects as the Chicago, Orlando, Philadelphia and San Francisco ($2.4 billion) airports, the Central Artery/Third Harbor Tunnel and Boston Harbor, the Tappan Zee Bridge, the I-287/Cross Westchester Expressway, and the Los Angeles County and many other School Construction Programs.

The senior members of the Hill team and the methodology employed by Hill in the conduct of this study, analysis, and report have been substantially identical to those employed by Hill on the Tappan Zee Bridge, the I-287/CWE, and the many other varied projects in New York and neighboring states. The PLA recommended for this Project was negotiated and drafted by BSK, the same counsel involved in the drafting and/or negotiation and defense of many PLAs in New York, including I-287/CWE, NYCSCA, as well as the Court approved Tappan Zee Bridge PLA.

F. The Wicks Law

The New York General Municipal Law, Section 101 sets forth the pertinent provisions of the Wicks Law which requires the use of multiple prime contractors by the owner for any public construction, reconstruction, or alteration of buildings with costs in excess of $50,000. Separate bids and specifications are required for plumbing; heating ventilation and air conditioning (HVAC) and electrical.

Many states have enacted multi-prime statutes similar to Wicks and they typically provide for five or six contracts, e.g. (1) civil and architectural (GC), (2) electrical, (3) plumbing, (4) HVAC, (5) plumbing, (6) structural steel.

Many studies have been undertaken and published regarding the pros and cons and the economic impact of multi-prime versus single-prime construction and until recently, the results were inconclusive.

In 1993, the New York City School Construction Authority (NYCSCA) commissioned a report, The Impact of the Wicks Law on Public Construction in New York City, by Ashenfelter and Ashmere (A&A), March 1993. The report concluded that mandatory multi-prime laws (Wicks) increase construction costs by 5% to 10% and require one to two additional years from start of design to completion. The NYCSCA received an exemption from Wicks and proceeded with school construction for the succeeding several years utilizing a single prime contractor. In 1998, in order to maintain and renew its exemption, the NYCSCA again retained Ashenfelter and

Ashmere (A&A) and Price Waterhouse Coopers (PWC) to update and verify the earlier study results.

The study employed the statistical technique known as "multiple regression analysis" which effectively eliminates all non Wicks/Non-Wicks variables. The study included 522 projects (282 Wicks and 240 non-Wicks) completed between 1981 and 1998 and included schools; colleges, firehouses, police facilities, libraries, office buildings and public works facilities. Data was collected from more than a dozen agencies including NYCBOE, DASNY, DOCS, DDC, NYCDGS, NYSDEL, USGSA, NYCSCA and others.

The measured costs went beyond direct contract costs and included all aspects of the project including payments for design and construction management, payments for change orders during construction and for payments arising from claims and litigation.

The study also included internal agency indirect costs, stating:

In addition to these direct costs, the project costs include all internal or indirect costs for agency personnel involved with the project. These personnel may have been involved in such areas as design or design supervision, bidding and contract negotiation, project management, invoice processing and payment, contract administration, construction management, construction work actually performed by agency personnel, and litigation and settlement of claims. It is especially important to include these costs in any study of the impact of the Wicks Law on construction costs since it is often asserted that the Wicks Law has the effect of increasing the burden on agency personnel due to the requirements of multiple contract bidding and coordinating multiple contracts as well as the shifting of supervisory functions that are included in external or direct costs on single-prime contracts but which must be performed by agency personnel on jobs built under the Wicks Law.

The study concluded that:

1. Wicks projects cost $10.17* per square foot more than non-Wicks projects in construction costs.

2. Wicks projects took almost 13 months longer to complete than non-Wicks projects.

3. The Wicks Law has a larger impact upon internal agency costs than on external payment to contractors.

4. The exact calculation of additional interest carrying and opportunity costs depend upon many factors including the agency's cost of capital, rental market, etc.

* $10.17 in 1999 is equivalent to $12.51 in 2007.

III. THE PROJECT

A. Background

The Javits Center currently contains about 790,000 square feet of exhibition and meeting space and about one million square feet of support and staging areas on the superblock between West 34th and West 39th Streets between 11th and 12th Avenues.

It lacks a sufficient amount of prime exhibition space, including an inadequate amount of contiguous space to attract the largest conventions and trade shows which would potentially utilize the Javits Center. It is critically deficient in meeting room space with the lowest ratio (1:25) of meeting room to exhibit space of all major competing convention centers in the country. It has no ballroom space, nor an adjacent or contiguous convention center hotel. The existing facility is in dire need of repair and rehabilitation with, among other problems, significant roof leaks and a wholly deficient and inadequate HVAC system.

The center lacks an efficient truck marshalling operations facility to effectively service the facility and to alleviate surrounding street traffic congestion.

The Javits Center is currently 16th in size in relation to the other major convention centers throughout the country. In order to compete, the Javits Center Expansion and Modernization Project will eliminate existing deficiencies, create a state-of-the-art facility of sufficient size, flexibility and convenience to attract the largest and best conventions and trade shows, and provide for a critical adjacent Hotel.

B. Project Description

The Project, as described in the General Project Plan, Phase I,[1] will:

1. Expand northward as far as West 40th Street to create contiguous prime exhibition space of approximately 550,000 square feet on a single level, and provide

[1] Final design and construction could vary from the General Project Plan Phase I description. While those changes might have some impact on the final size of the Project and thus projected cost savings, those changes should not significantly alter the overall savings expected from use of the PLA.

ballroom and meeting room space in this expansion structure on two levels above the exhibition space. In Phase I, the following would be added: 340,000 square feet of exhibition space; 180,000 square feet of meeting room space; and 990,000 square feet of back of house and core space. The Proposed Modifications would eliminate the need to relocate the Quill Bus Depot. The Proposal Modifications would also eliminate the need to provide a through-the-building public passageway near West 39th Street because West 40th and West 41st Streets would remain open.

2. Create a truck marshalling, security screening, unloading, loading, queuing, parking and storage facility located along Twelfth Avenue south of West 40th Street, connecting directly to the expanded Convention Center at each exhibit floor level, thereby eliminating the need for a separate marshalling facility on the 33/34 Site and eliminating the need for below-grade truck lanes running alongside the Empire Line connecting the 33/34 Site and the Javits. The marshalling facility will have a north/south orientation with an entrance on Twelfth Avenue close to 34th Street.

3. Reorganize the Eleventh Avenue façade of the existing building, eliminating the depressed driveway, to provide space for meeting rooms, a large, glass enclosed entry area, vehicle drop off, and 3.2 acres of public open space, extending from West 34th Street to West 40th Street, including large public plazas at the northern and southern ends.

4. While retaining the West 34th Street truck exits, reconfigure the West 34th Street façade to provide additional public open space.

5. Use the 35/36 Site, which CCDC owns, and approximately 2,988 square feet of adjacent property to the east (that would be acquired by CCDC from the City) as the site for the Convention Center hotel. Provide a connection directly to the Convention Center underneath the Eleventh Avenue viaduct through an existing passage now controlled by the Convention Center.

6. Allow development of the 33/34 Site for residential and commercial use at a density and configuration consistent with that of the Special Hudson yards District. The commercial development on the 33/34 Site would be on the eastern portion of the authorized for the 35/36 Site under the Hudson yards rezoning. Commercial floor area above grade would be up to 1.45 million gross square feet, which is equivalent to approximately 1.24 million zoning square feet. Residential gross floor area above grade would be allowed up to approximately one million gross square feet, which are equivalent units of housing at an approximate average of 1,000 gross square feet per unit. Two residential towers of approximately 500 units each would be built on the western portion of the block. Each of the residential towers would have ground floor retail. Linking the residential and commercial developments would be approximately 1.25 acres of publicly accessible open space, including 0.5 acres of active open space. Parking for 500 vehicles would be provided below grade.

7. In Phase II, Javits would be expanded vertically by adding another floor to both the Javits and the marshalling, security screening, loading facility.

8. With the Proposed Modifications, the only street that would be closed would be West 39th Street between Eleventh and Twelfth Avenues. The Proposed Modifications also included certain traffic and pedestrian improvements to improve circulation on Javits and on certain streets adjacent to or near Javits.

C. Project Estimated Schedule & Costs

Phase I Project construction of the Javits Center itself began with demolition and site work in January 2007 and will continue through 2012 at an estimated construction cost of $1.27 billion and total cost of $1.68 billion. Construction of an adjacent Hotel is scheduled to begin in the first quarter 2009, and, development of the 33/34 Site is anticipated to start in the first quarter of 2010.

IV. CONSTRUCTION AND LABOR ANALYSIS

The peak level of ongoing, planned and projected construction in the New York metropolitan area, and neighboring counties, could have significant staffing ramifications with respect to the Project.

In excess of $16 billion in major capital construction is currently in progress or projected to be in progress in the New York metropolitan area during the next five years. This known construction, including the World Trade Center reconstruction, will be ongoing simultaneously with the Project and will draw upon the same pool of skilled workers.

Union membership in most of the building trades has been increasing over the past few years. All trades are actively recruiting and training new members and retraining current workers to improve their skills on newer, state-of-the-art, more productive tools, equipment and materials. Training facilities and apprentice programs are filled to capacity and are being expanded in an effort to accommodate the rapidly increasing number of new workers and applicants. Union leadership in all of the trades stress the importance of maintaining a continuous supply of trained, skilled workers necessary to man not only the high level of existing construction, but also the unprecedented level of major capital construction projected for the next several years. It is well known and understood in the industry that concurrent large construction projects create a drain on available local skilled trade workers and sometimes create shortages in particular skills.

Added to the problem is the retirement of significant numbers of the most senior and skilled craftsmen in all trades who are members of the "baby boomer" generation and historically retire somewhat earlier than those in other industries. Apprentices and other entry-level members are not coming into the trades at the same rate as retirees are leaving.

Although few critical shortages in skilled workers have been experienced recently in any of the respective trades required on the Project, recurring shortages in some skills

(e.g. welders and electricians) are increasing in frequency. It is difficult at this time to project whether the necessary numbers of skilled workers will be continuously available locally throughout the duration of the Project based upon information currently available regarding the size, number and schedules of similar construction projects, which will be in progress simultaneously. The unions are confident, however, that no serious shortages will occur on the Project since, historically, regional trades faced with labor supply problems are effectively organized to draw workers from less active market areas in New York and/or from other states as required. This is a significant difference in the ability of union contractors, versus non-union contractors, to staff projects. Knowledgeable union and contractor sources agree that there has never been an instance when the Building Trades were unable to supply the necessary skilled craft workers for a project within a very short period of time.

The most established and reliable method of ensuring an adequate supply of trained, qualified skilled workers on a project is through local trade unions and their affiliates located elsewhere if necessary. Non-union employers typically do not have training facilities, and they often cannot draw upon outside sources to obtain trained skilled craft workers because such sources typically to not exist.

V. CURRENT COLLECTIVE BARGAINING AGREEMENTS

In view of NYC labor force makeup, it is probable that some of the Project contracts would be awarded to non-union contractors creating a potentially hostile atmosphere affecting the timely completion of the Project. All contractors, whether union or non-union, will be required by law to pay workers the prevailing wage rates, which rates are derived from the area collective bargaining agreements. At least twenty-two (22) locals could be involved in the Project construction, most of which are members of the Building and Construction Trades Council of Greater New York.[2] The collective bargaining agreement (CBA) of each of the following local unions representing each respective trade was reviewed and analyzed as part of this study:

1. Asbestos Workers (Local 12)
2. Boilermakers (Local 5)*
3. Bricklayers/Masons (Local 1)
4. Carpenters (DC)*
5. Cement Masons/Concrete Workers (Local 780)*
6. Electricians (Local 3)*
7. Elevators Constructors (Local 1)
8. Ironworkers (Local 40)*
9. Laborers (Local 731)
10. Lathers (Local 46)*
11. Mason Tenders (Local 79)
12. Operating Engineers (Local 14)*
13. Operating Engineers (Local 15)
14. Painters (DC 9)*
15. Plasters (Local 530)*
16. Plumbers/Pipefitters (Local 1)*
17. Roofers (Local 8)*
18. Sheetmetal Workers (Local 28)
19. Steamfitters (Local 638)*
20. Tapers (Local 1974)*
21. Teamsters (Local 282)
22. Tilesetters (Local 456)*

* Trades with 35 hour work week

The significant and pertinent provisions of these local agreements were analyzed to determine where terms and conditions varied from each other or were not in conformity with the characteristics and requirements of the Project construction; and, where the consistency and concessions included in the PLA could provide cost savings or more efficient construction. One particular area of concern was the duration of the local agreements, all of which will expire at least once during Project construction

[2] This list reflects the Local Unions most likely to be involved in the construction. The vast majority have agreed to the PLA through the Council. Tishman remains in negotiations with a small number of the listed unions because they operate in this regard more independently of the Council (i.e., Teamsters Local 282, Operating Engineers Locals 14 and 15, Laborers Local 731, and Bricklayers/Masons Local 1). While it is anticipated that these five (5) Locals will agree to the PLA, if they do not, Tishman has the option under the PLA to have the work performed by other trades. As a result, whether these five Locals, or some other Locals, are used to perform covered work has no significant impact on an analysis of the PLA.

through 2012. With each of these expirations comes the risk that any one of the new negotiations between the Unions and the local Contractor Associations will break down. (As an illustration, just this past summer, members of the Operating Engineers went on strike in NYC during the course of a local area agreement renegotiation, resulting in a shut down of many large construction projects across the City.) Workers covered by those agreements may then lawfully strike over any number of issues, including many which might have nothing to do with this Project construction. Such strikes could be expected to spread to every Project site on which the local contractors are employed, notwithstanding the fact that neither the Project owner nor the contractor was involved in, nor did they have any control over, the negotiations in issue.

Given the high percentage of unionization in the labor force, such a strike, or action against non-union contractors, even by a relatively minor trade, has the potential to shut down, at least for a short time, an entire project. A lawful picket line at an entrance to a construction site is often honored by every other trade worker, who refuses to cross the picket line and will not work. The Owner may ultimately get some strikers back on the job, but can not help the contractor which is the target of the original strike.

Strikes not only drive up construction costs, but they disrupt construction progress resulting in completion delays. In this case, delay in construction completion also means delay in realizing anticipated revenues from an expanded Javits Center operation. The expanded Center is projected to create additional gross revenues of approximately $4.25 million per month. Additionally, any strike could disrupt the scheduled calendar of events at the existing Javits Center, since it is intended to continue its normal schedule of conventions, trade shows and other events throughout construction. Most all of the non-management operating and maintenance employees are union members and many are members of the various Building Trades. Also, those involved in the delivery of show freight (obviously critical to Center operations) are often unionized. Any strike by the construction workers may be honored by some of those employees. If so, scheduled events could be disrupted or canceled. Given that the Center currently generates more than $11 million per month, this is obviously an extremely important revenue generating asset warranting protection. The PLA's no

strike clause virtually eliminates strike activity as a cause of project delay or disruption of scheduled events.

Also, there is diversity among the local agreements with regard to hours of work (length of workday and workweek); holidays; grievance, arbitration and jurisdictional dispute resolution and management rights. The rates and instances of premium pay also vary and there are a number of miscellaneous clauses which appear in one or more agreements and not in others.

Following are examples of some of the differences among the provisions of the respective agreements which will be standardized under the PLA:

- Hours of Work

  There is significant diversity among the local agreements in these areas. Though eight (8) provide for a 40-hour workweek, fourteen (14) locals provide for a 35-hour workweek. In most agreements, starting and quitting times are set, with union approval required for changes and premium pay for hours worked before and/or after. Under the existing local agreements, the contractor has limited flexibility in varying the scheduling of working hours without premium payments and prior approval from the unions. The PLA provides for a uniform 40 hour week at straight time with a two (2) hour "window" at the beginning of the workday.

- Holidays

  The existing Agreements provide for as many as eleven (11) possible holidays annually with a minimum of seven (7) recognized by the respective unions. Whether holidays are paid and the rates of premium pay vary among the trades. The PLA provides for eight (8) holidays with payment for work on those days as set forth in the local agreements.

- Jurisdictional Disputes
  Procedures for dealing with jurisdictional work assignments and consequential disputes are not uniform or consistent. Agreements vary with regard to costs, binding effect of award, and work disruption pending decisions. The PLA provides for a uniform jurisdictional dispute resolution mechanism.

  Most importantly, there is no existing method, means, or procedure to insure that there will be no strike, lockout, work stoppage or other work disruption pending resolution of such a dispute. The PLA provides for protection against work disruption during jurisdictional disputes.

- Grievances/Arbitration
  Though local labor-management grievance procedures exist, they vary among specific crafts and contractor associations. No standardized, binding forum exists with authority over all respective parties. The PLA provides for a uniform procedure.

- Management Rights
  Many of the existing agreements do not contain a "Management Rights" clause. Those that exist are often ambiguous or inadequate to provide the contractor with the authority and/or flexibility required for necessary control and management of the Project work. The PLA contains a broad management rights clause giving the contractor control of the schedule and manning as well as "means and methods."

All of the foregoing examples are addressed and standardized in the proposed PLA (Appendix C) to conform with Project objectives and requirements, as well as to provide the contractor with manning and scheduling control necessary to affect cost savings through efficient construction management.

VI. ANALYSIS OF ECONOMIC BENEFITS OF A PLA

A. Labor Impact on the Javits Center

1. Thirty Five Hour Work Week

Hill working together with the architect and Tishman technical staff, divided the project construction into fifteen separate components reflecting the percentage of the total construction cost of each in terms of labor and material (Appendix B).

The savings derived from the PLA standardized forty (40) hour week at straight time amounts to 6.25% in labor costs for each of the fourteen trades with a 35 hour work week (2.5 hours/40 hours = .0625). Applying this 6.25% to the weighted (by trade) trade labor percentages of the respective construction model components in Appendix B results in a labor cost savings of $27,066,600 (Appendix B).

2. Alternative Dispute Resolution (ADR) For Workers' Compensation

Worker's Compensation legislation adopted in New York permits the use of Alternative Dispute Resolution (ADR) in the Workers' Compensation process where employers elect to participate in a collectively bargained alternative program. The process must protect the worker and have Workers' Compensation Board (WCB) approval. Such an ADR agreement has been executed, and is on file, by the BCTC and CIC of Westchester and Putnam counties and is currently in effect on the I-287/CWE and Mt. Vernon Schools Projects. Credits in Workers' Compensation premiums may be realized by contractors (employers) of from 5% to 20% and passed on to the owner:

- Participation in ADR Process 5%
- Utilization of Agreed Managed Care 10%
- Participation in Drug Free Workplace 5%

The ADR procedure replaces the existing WCB adjudication with a more expeditious non-adversarial process and could result in substantial savings on Workers'

Compensation premiums. Under the PLA, use of ADR is at the option of the Owner and could be exercised at a later point in the project.

For illustration purposes, applying the above percentage savings to estimated Worker's Compensation costs for this work could save approximately $1.25 million per year or approximately $6.25 million over the life of the Project. This estimate is based upon worker's compensation insurance premiums estimated in contractor's bids at approximately 1% of total labor costs.

B. Wicks Law Exemption for the Javits Center

The Wicks exemption for the Project set forth in pertinent part in, McKinney's Session Law of New York, 2004, Chapter 3., states:

> *(7) Any contract for the convention center, including the expansion project and any convention center hotel shall not be governed by section 135 of the state finance law if the development corporation and/or the operating corporation chooses to utilize a project labor agreement when the record supporting the decision to enter into such an agreement establishes that it is justified by the interests underlying the competitive bidding laws.*

Based upon the NYCSCA studies in 1994 and 1999 discussed in Section II.F. herein together with its school construction experience under the Wicks Law exemption; cost savings resulting from the PLA exemption to the Wicks Law on this 1.6 million square foot Project will amount to approximately $20 million in construction costs. (1.6 mm sq. ft. x $12.51* = $20.016 mm)

* $10.17 savings in 1999 dollars is equivalent to $12.51 in February 2007 dollars derived from the Engineering New Record (ENR) Cost Data Index In 20 Cities, 1972 – 2007).

The additional cost savings resulting from a shorter time to complete for non Wicks projects are not quantifiable, though they could be substantial. The longer the Project takes to complete, the greater interest and carrying costs incurred, and the longer it takes to reap the direct economic impact of an expanded Javits Center (from

the increased revenues it will generate), as well as the indirect economic impact on the NYC economy generally, e.g. hotels, restaurants, travel, etc.

C. Impact on the Hotel and 33/34 Site Developments

Because the structure and details of the Hotel and 33/34 Site development portions of the Project have not been finalized, it is not possible to specifically quantify the economic benefits of the PLA on those components. Regardless of structure and details, however, in the absence of a PLA, these components would similarly be constructed largely by unionized contractors. Thus, at a minimum, these project components will benefit from the uniform 40 hour work week. Similarly, if a Workers' Compensation ADR program is adopted, those benefits, as well, will apply to these components. To the extent the structure of these components would otherwise dictate application of the Wicks Law, the PLA's extension to them brings that significant economic benefit as well.

Perhaps as important, however, is the continued application of the PLA's comprehensive no strike protection. The Hotel in particular is a critical part of the overall Javits Center expansion and delays in its completion will directly adversely effect anticipated revenue generation from the expanded Center. Thus ensuring timely and uninterrupted completion of the Hotel is a direct economic benefit to the CCDC.

D. No Strike Provision

The General Conditions budget for the Project is approximately $100 million, with a total construction schedule of roughly 50 months, for an average of $2 million per month. Though it is not possible to predict the length of a potential strike or work stoppage, these general conditions costs alone would amount to some $91,000 per day exclusive of any other delay or lost revenue costs.

($2,000,000 ÷ 22 work days = $90,909)

VII. CONCLUSIONS AND RECOMMENDATIONS

A PLA is considered both feasible and appropriate for this Project.

Because of the predominantly unionized composition of the area workforce and contracting history; the high level of on-going and projected construction in the New York Metropolitan area and the need for securing and maintaining a skilled manpower pool; the number of trades and contractors involved; and the economic and standardization provisions of the PLA which will provide substantial cost savings, a PLA is considered appropriate for the Project and should be a mandatory requirement included in the bid documents.

All of the unions which will be involved in the Project construction have been involved in other PLA projects and are familiar with the work rules under a PLA. The PLA recommended for this Project (Appendix C) is modeled after those PLAs with changes necessary to conform to Project requirements.

All of the current collective bargaining agreements (CBAs) of the 22 union locals that will be involved in the construction will expire at least once during the Project construction period. This exposes the Project to the possibility of strikes should negotiations break down when any one of those agreements is being re-negotiated. A strike or strikes would be completely lawful and, in all probability, the issues involved would have nothing to do with the Project. Further, neither Tishman nor CCDC would be a party to those negotiations and would have no control over their outcome. The length and costs of resulting delays could be substantial.

A strong "no strike" clause is provided in the PLA, precluding strikes, lockouts, work stoppages, disruptions or other delays. It supersedes the terms of the local agreements and requires that work on Project construction continue regardless of CBA status. The "no strike" clause precludes work disruption for any reason during the term of the Project construction. Even a non-union contractor or employer could not guarantee that it would continue non-union for the term of the Project.

The diversity among the CBAs regarding work rules has been standardized by PLA provisions which ensure uniform working hours, shift times, scheduling, holidays, overtime, premium pay and other terms and conditions of employment. Also, by providing a standard procedure for grievance, arbitration and jurisdictional dispute resolution, together with a strong management rights provision, the contractor can maintain firm control of the Project staffing, scheduling and administration. The comprehensive "Management Rights" clause applicable to all contractors and all unions enumerates the powers and exclusive authority of the contractor for management and control of project operations including: direction of workforce (numbers and qualifications); assignment and schedule of work (regular hours and overtime); promulgation of work rules; and determination of choice of equipment, materials, techniques, methods and technology utilized on the Project, regardless of their source.

The PLAs after which the proposed PLA is modeled also achieved the all-important and court tested goal of providing equal bidding opportunities to both union and non-union contractors. The PLA clause providing that a non-union bidder can utilize a fixed number or percentage of its workforce on the Project while bringing in the remainder of the workforce through the union halls parallels the provisions approved by the Court of Appeals in the Tappan Zee Bridge decision.

The PLA and bid document language should state explicitly that the bidding and selection processes are open to union and non-union contractors alike and that union affiliation will not be a factor in selection. The PLA provides that it is applicable and binding upon all successful bidders on the same terms and conditions, notwithstanding union/non-union status. Non discrimination with regard to union/non-union affiliation also applies to the hiring of workers through the hiring halls.

Adding the $27.1 million savings from the 35 hour work week and the $20.016 million construction cost savings from the Wicks Law exemption results in estimated cost savings of $47.12 million or 7.5% of total labor costs for the Javits Center alone. A carefully executed Worker's Compensation ADR provision could result in an additional $6.25 million in savings. Although not quantifiable, substantial additional savings for the

Javits Center will inure to the CCDC as a result of the PLA's no-strike protection, management rights provisions as well as from the staffing and scheduling coordination and flexibility the PLA permits. No strike protection will also protect an important revenue generating asset (the current Javits Center) as well as help ensure timely completion of a new revenue generating asset (the expanded Javits Center).

Comparable benefits will be realized by the PLA's application to the Hotel and 33/34 site development projects.

The following is recommended:

- The PLA negotiated between the Building and Construction Trades Council of Greater New York and Tishman, attached as Appendix C, should be approved and executed by the parties.
- The PLA, open to all bidders (union or non-union), should be required by the bid specifications for each of the Project components (bid packages).
- The parties should continue discussions to implement an Alternative Dispute Resolution (ADR) Program for Workers' Compensation claims.

VIII. APPENDICES

A. Executive Order No. 49

B. Analysis of Economic Benefits of a PLA for the Project

C. Proposed Draft PLA

Workforce Investment Act
Formula Obligations
Program Year 2009
(July 1, 2009 – June 30, 2010)

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 through 06/30/10
State Level Obligation (Non-ARRA)

Reg.	State	Unobligated Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	FY 2010	Total	Total Available	State Obligations: $ 7/1/09 - 06/30/10	as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
	Total	$235,301,750	$264,801,240	$402,131,463	$666,932,703	$902,234,453	$634,267,297	70.3%	$267,967,156	$267,578,296
3	Alabama	1,783,116	2,664,379	3,813,311	6,477,690	8,260,806	6,428,051	77.8%	1,832,755	1,832,755
6	Alaska	2,389,096	819,265	1,079,267	1,898,532	4,287,628	1,698,576	39.6%	2,589,052	2,589,052
6	Arizona	3,124,994	3,593,893	5,028,471	8,622,364	11,747,358	3,725,709	31.7%	8,021,649	8,021,649
4	Arkansas	4,709,495	1,943,695	1,867,332	3,811,027	8,520,522	3,107,081	36.5%	5,413,441	5,413,441
6	California	12,319,444	49,493,709	78,110,957	127,604,666	139,924,110	118,090,981	84.4%	21,833,129	21,833,129
4	Colorado	1,386,579	2,432,379	4,771,834	7,204,213	8,590,792	5,540,334	64.5%	3,050,458	3,050,458
1	Connecticut	1	3,101,926	5,025,868	8,127,794	8,127,795	4,914,027	60.5%	3,213,768	3,210,764
2	Delaware	509,012	494,414	416,430	910,844	1,419,856	1,024,677	72.2%	395,179	395,179
2	District of Columbia	1,152,631	750,942	1,022,757	1,773,699	2,926,330	1,065,399	36.4%	1,860,931	1,860,931
3	Florida	15,209,106	9,162,642	15,740,585	24,903,227	40,112,333	25,639,097	63.9%	14,473,236	14,473,236
3	Georgia	2,826,949	9,008,504	14,836,655	23,845,159	26,672,108	25,832,698	96.9%	839,410	832,525
6	Hawaii	36,414	496,975	520,877	1,017,852	1,054,266	949,653	90.1%	104,613	104,613
6	Idaho	729,999	640,080	881,632	1,521,712	2,251,711	1,471,938	65.4%	779,773	779,773
5	Illinois	8,695,412	14,006,029	19,653,378	33,659,407	42,354,819	32,727,060	77.3%	9,627,759	9,627,759
5	Indiana	9,942,624	6,033,838	9,211,837	15,245,675	25,188,299	18,214,855	72.3%	6,973,444	6,973,444
5	Iowa	1,486,966	1,099,377	1,409,742	2,509,119	3,996,085	2,731,757	68.4%	1,264,328	1,264,328
5	Kansas	1,064,614	1,518,225	2,009,307	3,527,532	4,592,146	2,669,892	58.1%	1,922,254	1,922,254
3	Kentucky	9,303,947	4,468,918	6,896,795	11,365,713	20,669,660	18,185,160	88.0%	2,484,500	2,484,500
4	Louisiana	3,936,727	3,727,221	4,422,739	8,149,960	12,086,687	6,695,906	55.4%	5,390,781	5,390,781
1	Maine	733,584	1,079,219	1,643,316	2,722,535	3,456,119	2,457,245	71.1%	998,874	998,874
2	Maryland	731,904	2,566,949	3,565,917	6,132,866	6,864,770	5,772,157	84.1%	1,092,613	1,092,613
1	Massachusetts	8,290,824	5,658,375	7,990,838	13,649,213	21,940,037	14,060,671	64.1%	7,879,366	7,879,366
5	Michigan	22,417,973	16,273,220	22,431,059	38,704,279	61,122,252	39,653,468	64.9%	21,468,784	21,468,784
5	Minnesota	253,313	4,097,334	5,809,500	9,906,834	10,160,147	9,617,141	94.7%	543,006	543,006
3	Mississippi	28,078	3,209,534	3,137,684	6,347,218	6,375,296	1,728,989	27.1%	4,646,307	4,646,307
5	Missouri	837,431	6,242,609	9,341,840	15,584,449	16,421,880	15,383,376	93.7%	1,038,504	1,038,504
4	Montana	805,319	587,025	747,664	1,334,689	2,140,008	1,416,498	66.2%	723,510	723,510
5	Nebraska	2,230,179	575,298	710,224	1,285,522	3,515,701	1,037,588	29.5%	2,478,113	2,478,113
6	Nevada	1,624,965	1,994,576	3,327,966	5,322,542	6,947,507	3,199,003	46.0%	3,748,504	3,734,109
1	New Hampshire	1,081,157	583,249	664,507	1,247,756	2,328,913	1,110,996	47.7%	1,217,917	1,217,917
1	New Jersey	5,074,893	6,406,599	9,790,056	16,196,655	21,271,548	11,777,141	55.4%	9,494,407	9,494,407
4	New Mexico	1,157,802	1,048,963	1,081,110	2,130,073	3,287,875	1,785,216	54.3%	1,502,659	1,502,659
1	New York	17,848,815	12,846,212	29,121,292	41,969,504	59,818,319	43,144,232	72.1%	16,674,087	16,674,087
3	North Carolina	8,607,156	8,215,468	14,405,690	22,621,158	31,228,314	18,833,761	60.3%	12,394,553	12,132,345
4	North Dakota	795,422	464,954	353,591	818,545	1,613,967	917,913	56.9%	696,054	696,054
5	Ohio	11,666,300	14,440,199	21,552,240	35,992,439	47,658,739	31,618,036	66.3%	16,040,703	16,040,703
4	Oklahoma	870,618	1,835,294	2,438,589	4,273,883	5,144,501	3,627,654	70.5%	1,516,847	1,516,847
6	Oregon	2,790,889	3,122,885	4,593,780	7,716,665	10,507,554	7,258,250	69.1%	3,249,304	3,249,304
2	Pennsylvania	9,718,453	10,103,974	15,214,231	25,318,205	35,036,658	22,843,808	65.2%	12,192,850	12,091,422
1	Puerto Rico	16,023,181	9,070,816	12,435,574	21,506,390	37,529,571	23,362,507	62.3%	14,167,064	14,166,129
1	Rhode Island	893,661	1,612,697	1,632,485	3,245,182	4,138,843	1,932,121	46.7%	2,206,722	2,206,722
3	South Carolina	4,129,598	5,366,755	7,326,355	12,693,110	16,822,708	13,394,846	79.6%	3,427,862	3,427,862
4	South Dakota	222,102	404,126	285,474	689,600	911,702	757,986	83.1%	153,716	153,716
3	Tennessee	3,780,910	6,114,416	9,142,673	15,257,089	19,037,999	14,349,203	75.4%	4,688,796	4,688,796
4	Texas	18,117,119	10,402,509	18,898,494	29,301,003	47,418,122	28,281,207	59.6%	19,136,915	19,136,914
4	Utah	1,442,712	865,796	850,888	1,716,684	3,159,396	2,020,060	63.9%	1,139,336	1,139,336
1	Vermont	837,051	470,325	206,253	676,578	1,513,629	733,343	48.4%	780,286	780,286
2	Virginia	2,734,517	3,283,925	4,996,934	8,280,859	11,015,376	7,598,716	69.0%	3,416,660	3,416,660
6	Washington	5,004,599	5,268,739	4,367,544	9,636,283	14,640,882	10,045,485	68.6%	4,595,397	4,595,397
2	West Virginia	1,046,190	1,121,231	1,501,173	2,622,404	3,668,594	2,617,607	71.4%	1,050,987	1,050,987
5	Wisconsin	2,390,565	3,589,394	5,520,408	9,109,802	11,500,367	10,380,209	90.3%	1,120,158	1,120,158
4	Wyoming	507,344	420,164	326,340	746,504	1,253,848	838,013	66.8%	415,835	415,835

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFAS/11 0322

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 per 06/30/10 Reports as of 01/13/11

Local Level Obligation (Non-ARRA)

Reg	State	Unobligated Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: FY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	State Obligations: $ 7/1/09 - 06/30/10	State Obligations: as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
	Total	$241,403,508	$1,126,369,881	$1,154,665,991	$2,281,035,872	$2,522,439,380	$2,237,289,864	88.7%	$285,149,516	$284,782,266
3	Alabama	5,880,116	11,517,591	12,567,790	24,085,381	29,965,497	21,394,540	71.4%	8,570,957	8,570,957
6	Alaska	1,871,505	3,712,131	3,766,646	7,478,777	9,350,282	7,821,608	83.7%	1,528,674	1,528,674
6	Arizona	8,669,552	16,225,241	16,903,867	33,129,108	41,798,660	26,108,077	62.5%	15,690,583	15,690,583
4	Arkansas	3,241,116	11,014,274	10,581,548	21,595,822	24,836,938	21,446,266	86.3%	3,390,672	3,390,672
6	California	23,301,789	180,093,707	189,191,668	369,285,375	392,587,164	355,357,261	90.5%	37,229,903	37,229,903
4	Colorado	4,694,297	12,177,750	12,033,542	24,211,292	28,905,589	28,905,589	100.0%	0	0
1	Connecticut	0	10,845,363	11,481,004	22,326,367	22,326,367	22,326,366	100.0%	1	1
2	Delaware	690,180	2,701,689	2,756,573	5,458,262	6,148,442	5,540,213	90.1%	608,229	608,229
2	District of Columbia	2,214,343	3,832,370	3,795,624	7,627,994	9,842,337	7,197,808	73.1%	2,644,529	2,644,529
3	Florida	1,075,324	51,921,639	67,431,525	119,353,164	120,428,488	103,600,244	86.0%	16,828,244	16,828,244
3	Georgia	6,204,258	31,236,192	34,048,843	65,285,035	71,489,294	59,974,922	83.9%	11,514,372	11,514,372
6	Hawaii	1,811,474	2,732,201	2,735,636	5,467,837	7,279,311	5,271,785	72.4%	2,007,526	2,007,526
6	Idaho	330,779	2,771,366	2,835,113	5,606,479	5,937,258	5,067,324	85.3%	869,934	869,934
5	Illinois	2,723,239	60,768,440	64,406,280	125,174,720	127,897,959	115,397,285	90.2%	12,500,674	12,500,674
5	Indiana	3,904,803	22,335,154	22,262,384	44,597,538	48,502,341	46,973,645	96.8%	1,528,696	1,528,696
5	Iowa	0	4,811,627	4,407,625	9,219,252	9,219,252	7,337,578	79.6%	1,881,674	1,881,674
5	Kansas	1,035,893	6,249,886	5,443,410	11,693,296	12,729,189	9,842,352	77.3%	2,886,837	2,886,837
3	Kentucky	6,472,437	16,859,735	17,709,803	34,569,538	41,041,975	37,488,608	91.3%	3,553,367	3,553,367
4	Louisiana	13,011,725	16,980,948	14,440,363	31,421,311	44,433,036	37,143,736	83.6%	7,289,300	7,289,300
1	Maine	942,442	4,047,603	4,090,428	8,138,031	9,080,473	7,260,205	80.0%	1,820,268	1,820,268
2	Maryland	4,648,426	10,982,483	11,208,814	22,191,297	26,839,723	23,949,965	89.2%	2,909,758	2,909,758
1	Massachusetts	2,902,251	22,464,550	21,042,383	43,506,933	46,409,184	39,893,688	86.0%	6,515,496	6,515,496
5	Michigan	8,697,150	71,860,259	75,713,591	147,573,850	156,271,000	150,724,237	96.5%	5,546,763	5,546,760
5	Minnesota	33	17,529,082	18,555,356	36,084,438	36,084,471	36,084,471	100.0%	0	0
3	Mississippi	6,449,999	17,530,540	17,780,210	35,310,750	41,760,749	37,713,204	90.3%	4,047,545	4,047,545
5	Missouri	2,988,511	23,691,243	23,436,009	47,127,252	50,115,763	46,622,361	93.0%	3,493,402	3,493,402
4	Montana	238,566	2,532,198	2,231,215	4,763,413	5,001,979	4,846,560	96.9%	155,419	155,419
5	Nebraska	3,554,991	2,791,236	2,840,893	5,632,129	9,187,120	6,627,800	72.1%	2,559,320	2,559,320
6	Nevada	2,499,459	8,602,589	11,358,441	20,161,030	22,660,489	20,277,008	89.5%	2,383,481	2,383,481
1	New Hampshire	(1)	2,738,413	2,825,535	5,563,948	5,563,947	5,349,993	96.2%	213,954	213,954
1	New Jersey	4,585,638	21,510,624	26,123,394	47,634,018	52,219,657	47,026,499	90.1%	5,193,158	5,193,158
4	New Mexico	740,785	4,779,465	4,299,455	9,078,920	9,819,705	9,819,705	100.0%	0	0
1	New York	9,721,358	70,319,993	61,689,941	132,009,934	141,731,292	130,583,381	92.1%	11,147,911	11,147,911
3	North Carolina	18,568,492	26,463,050	30,901,540	57,364,590	75,933,082	56,233,662	74.1%	19,699,420	19,332,175
4	North Dakota	0	2,426,417	2,049,960	4,476,377	4,476,377	4,476,377	100.0%	0	0
5	Ohio	18,340,075	52,186,078	52,181,323	104,367,401	122,707,476	100,836,369	82.2%	21,871,107	21,871,107
4	Oklahoma	(76,451)	7,675,532	6,939,350	14,614,882	14,538,431	14,522,051	99.9%	16,380	16,380
5	Oregon	5,029,394	15,166,840	16,268,406	31,435,246	36,464,640	31,043,225	85.1%	5,421,415	5,421,415
2	Pennsylvania	4,447,314	38,940,829	37,695,802	75,736,631	80,183,945	74,006,842	92.3%	6,177,103	6,177,103
1	Puerto Rico	28,638,553	38,047,145	36,748,866	74,796,011	103,434,564	84,356,218	81.6%	19,078,346	19,078,346
1	Rhode Island	1,093,091	5,544,612	6,842,486	12,387,098	13,480,189	8,720,334	64.7%	4,759,855	4,759,855
3	South Carolina	25,557	23,707,008	24,586,808	48,293,816	48,319,373	48,198,478	99.7%	120,895	120,895
4	South Dakota	1,321,919	2,497,390	2,143,694	4,641,084	5,963,003	4,988,738	83.7%	974,265	974,265
3	Tennessee	10,207,801	24,381,929	25,885,610	50,267,539	60,475,340	49,107,611	81.2%	11,367,729	11,367,729
4	Texas	10,065,716	78,348,130	67,347,337	145,695,467	155,761,183	147,425,071	94.6%	8,336,112	8,336,112
4	Utah	(176)	4,548,827	4,159,105	8,707,932	8,707,756	8,707,756	100.0%	0	0
1	Vermont	419,732	2,647,015	2,767,871	5,414,886	5,834,618	5,458,932	93.6%	375,686	375,686
2	Virginia	1,806,306	12,224,396	12,194,990	24,419,386	26,225,692	23,926,390	91.2%	2,299,302	2,299,300
6	Washington	2,756,409	21,905,635	24,749,404	46,655,039	49,411,448	45,283,880	91.6%	4,127,568	4,127,568
2	West Virginia	616,836	4,734,545	4,418,427	9,152,972	9,769,808	9,201,573	94.2%	568,235	568,235
5	Wisconsin	1,655,226	13,075,993	12,940,849	26,016,842	27,672,068	24,497,606	88.5%	3,174,462	3,174,462
4	Wyoming	1,365,274	2,380,928	1,849,254	4,230,182	5,595,456	5,324,467	95.2%	270,989	270,989

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFAS/ 11.0322

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Obligations for Program Year 2009 through 06/30/10
Adult Statewide 15% (Non-ARRA)

Reg.	State	Unobligated Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	State Obligations: 3 7/1/09 - 06/30/10	State Obligations: as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
	Total	$49,374,536	$19,429,946	$109,604,465	$129,034,411	$178,408,947	$115,161,948	64.5%	$53,246,999	$63,235,937
3	Alabama	348,085	231,244	1,101,017	1,332,261	1,680,346	1,201,946	71.5%	478,400	478,400
6	Alaska	609,946	76,105	362,355	438,460	948,406	397,031	41.9%	551,375	551,375
6	Arizona	1,039,453	344,852	2,080,154	2,425,006	3,464,459	1,344,616	38.8%	2,119,843	2,119,843
4	Arkansas	1,322,919	229,881	1,094,523	1,324,404	2,647,323	1,330,502	50.3%	1,316,821	1,316,821
6	California	2,278,550	3,630,557	17,286,055	20,916,612	23,195,162	14,984,072	64.6%	8,211,090	8,211,090
4	Colorado	409,715	217,188	1,033,969	1,251,156	1,660,870	988,422	59.5%	672,448	672,448
1	Connecticut	1	198,714	946,129	1,144,843	1,144,844	584,532	51.1%	560,312	557,308
2	Delaware	79,962	55,937	266,332	322,269	402,221	310,696	77.2%	91,525	91,525
2	District of Col	246,594	69,918	332,901	402,819	649,413	122,416	18.9%	526,997	526,997
3	Florida	4,048,198	881,290	4,196,053	5,077,343	9,125,541	9,125,541	100.0%	0	0
3	Georgia	114,852	554,480	2,870,537	3,425,017	3,539,869	3,539,436	100.0%	433	432
6	Hawaii	23,245	55,937	266,332	322,269	345,514	294,883	85.3%	50,631	50,631
6	Idaho	228,861	55,937	266,332	322,269	551,130	333,046	60.4%	218,084	218,084
5	Illinois	1,900,101	1,168,706	5,564,520	6,733,225	8,633,326	6,239,442	72.3%	2,393,884	2,393,884
5	Indiana	2,108,208	425,667	2,026,711	2,452,378	4,560,586	2,972,280	65.2%	1,588,306	1,588,306
5	Iowa	292,012	70,458	335,467	405,925	697,937	463,696	66.4%	234,241	234,241
5	Kansas	110,513	122,446	582,969	705,415	815,928	395,537	48.5%	420,389	420,389
3	Kentucky	1,676,792	371,226	1,767,527	2,138,753	3,815,525	2,801,660	73.4%	1,013,865	1,013,865
4	Louisiana	1,104,144	388,893	1,883,303	2,272,196	3,376,340	1,085,849	32.2%	2,290,491	2,290,491
1	Maine	135,121	81,935	390,108	472,043	607,164	499,362	82.2%	107,802	107,802
2	Maryland	39,579	222,488	1,059,317	1,281,803	1,321,382	1,321,382	100.0%	0	0
1	Massachusetts	1,749,682	456,490	2,173,470	2,629,960	4,379,642	3,251,503	74.2%	1,128,139	1,128,139
5	Michigan	3,339,067	1,396,321	6,660,778	8,056,099	11,395,166	6,924,343	60.8%	4,470,813	4,470,813
5	Minnesota	124,379	315,033	1,499,956	1,814,989	1,939,368	1,902,695	98.1%	36,673	36,673
3	Mississippi	0	352,225	1,677,040	2,029,265	2,029,265	392,903	19.4%	1,636,282	1,636,282
5	Missouri	47,414	474,995	2,261,579	2,736,574	2,783,988	2,394,628	86.0%	389,360	389,360
4	Montana	331,340	55,937	266,333	322,270	653,610	371,849	56.9%	281,761	281,761
5	Nebraska	564,215	55,937	266,332	322,269	886,484	271,275	30.6%	615,209	615,209
6	Nevada	439,699	153,719	731,888	885,606	1,325,305	629,482	47.5%	695,823	687,636
1	New Hampshire	307,005	55,937	266,333	322,270	629,275	325,339	51.7%	303,936	303,936
1	New Jersey	1,092,269	425,348	2,025,195	2,450,543	3,542,812	1,601,976	45.2%	1,940,836	1,940,836
4	New Mexico	142,444	120,628	573,870	694,398	836,842	432,175	51.6%	404,667	404,667
1	New York	5,818,099	0	8,227,997	8,227,997	14,046,096	8,984,846	64.0%	5,061,250	5,061,250
3	North Carolina	16,643	488,430	2,230,322	2,696,752	2,715,395	1,856,174	68.4%	859,221	859,221
4	North Dakota	285,059	55,937	266,332	322,269	607,328	323,838	53.3%	283,490	283,490
5	Ohio	3,339,041	1,144,636	5,138,797	6,283,433	9,622,474	5,502,570	57.2%	4,119,904	4,119,904
4	Oklahoma	182,638	165,408	737,552	902,960	1,105,598	902,611	81.6%	202,987	202,987
6	Oregon	686,145	249,506	1,183,204	1,431,710	2,117,855	1,231,582	58.2%	886,273	886,273
2	Pennsylvania	3,656,374	749,772	3,569,870	4,319,643	7,976,017	6,594,676	82.7%	1,381,341	1,381,341
1	Puerto Rico	726,895	912,135	4,342,921	5,255,056	5,981,951	2,121,247	35.5%	3,860,704	3,860,704
1	Rhode Island	26,281	95,458	454,503	549,961	576,242	264,171	45.8%	312,071	312,071
3	South Carolina	0	472,058	2,247,595	2,719,653	2,719,653	2,459,060	90.4%	260,593	260,593
4	South Dakota	93,399	55,937	266,332	322,269	415,668	357,319	86.0%	58,349	58,349
3	Tennessee	435,404	491,028	2,337,919	2,828,947	3,264,351	3,003,094	92.0%	261,257	261,257
4	Texas	4,570,809	0	8,966,483	8,966,483	13,537,292	5,442,685	40.2%	8,094,607	8,094,607
4	Utah	520,120	80,143	387,965	468,108	988,228	779,757	78.9%	208,471	208,471
1	Vermont	320,528	55,935	0	55,935	376,463	265,697	70.6%	110,766	110,766
2	Virginia	378,362	236,891	1,127,902	1,364,793	1,743,155	1,629,736	93.5%	113,419	113,419
6	Washington	1,344,197	439,297	2,091,612	2,530,909	3,875,106	1,940,690	50.1%	1,934,416	1,934,416
2	West Virginia	365,437	109,215	520,000	629,215	994,652	761,515	76.6%	233,137	233,137
5	Wisconsin	290,856	234,907	1,118,455	1,353,362	1,644,220	1,569,166	95.4%	75,054	75,054
4	Wyoming	190,902	55,937	266,333	322,270	513,172	326,919	63.7%	189,253	189,253

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFAS/ 11 0322

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Obligations for Program Year 2009 through 06/30/10
Youth Statewide 15% (Non-ARRA)

		PY 2009 Availability					State Obligations			
		Unobligated Carry-In To PY 2009	New PY 2009 Funds			Total Available	$ 4/1/09 - 06/30/10	as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
Reg	State		PY 2009	FY 2010	Total					
	Total	$47,413,938	$135,846,611	$0	$135,846,611	$183,260,546	$143,533,693	78.3%	$39,726,853	$39,722,651
3	Alabama	522,020	1,358,965	0	1,358,965	1,880,985	1,399,891	74.4%	481,094	481,094
6	Alaska	703,089	459,236	0	459,236	1,162,325	412,974	35.5%	749,351	749,351
6	Arizona	681,356	2,081,396	0	2,081,396	2,762,752	1,450,450	52.5%	1,312,302	1,312,302
4	Arkansas	0	1,407,753	0	1,407,753	1,407,753	46,437	3.3%	1,361,316	1,361,316
6	California	7,608,533	21,774,196	0	21,774,196	29,382,729	25,449,558	86.6%	3,933,171	3,933,171
4	Colorado	713,985	1,385,517	0	1,385,517	2,099,502	1,272,084	60.6%	827,418	827,418
1	Connecticut	0	1,287,481	0	1,287,481	1,287,481	1,229,039	95.5%	58,442	58,442
2	Delaware	161,907	340,461	0	340,461	502,368	402,873	80.2%	99,495	99,495
2	District of Col	407,950	463,180	0	463,180	871,130	87,589	10.1%	783,541	783,541
3	Florida	2,253,527	5,002,254	0	5,002,254	7,255,781	7,255,781	100.0%	0	0
3	Georgia	711,497	3,659,134	0	3,659,134	4,370,631	4,367,262	99.9%	3,369	3,369
6	Hawaii	0	340,461	0	340,461	340,461	340,461	100.0%	0	0
6	Idaho	109,033	340,461	0	340,461	449,494	219,099	48.7%	230,395	230,395
5	Illinois	1,829,166	7,257,605	0	7,257,605	9,086,771	9,086,771	100.0%	0	0
5	Indiana	3,757,835	2,762,590	0	2,762,590	6,520,425	4,245,686	65.1%	2,274,739	2,274,739
5	Iowa	410,176	603,465	0	603,465	1,013,641	701,599	69.2%	312,042	312,042
5	Kansas	138,405	830,873	0	830,873	969,278	969,258	100.0%	20	20
3	Kentucky	1,153,135	2,066,300	0	2,066,300	3,219,435	2,824,673	87.7%	394,762	394,762
4	Louisiana	1,029,850	2,334,938	0	2,334,938	3,364,788	2,259,868	67.2%	1,104,920	1,104,920
1	Maine	70,456	500,968	0	500,968	571,424	457,016	80.0%	114,408	114,408
2	Maryland	48,674	1,351,755	0	1,351,755	1,400,429	1,400,429	100.0%	0	0
1	Massachusetts	970,589	2,897,988	0	2,897,988	3,868,577	2,782,011	71.9%	1,086,566	1,086,566
5	Michigan	1,820,095	8,628,085	0	8,628,085	10,448,180	10,397,114	99.5%	51,066	51,066
5	Minnesota	128,934	2,075,559	0	2,075,559	2,204,493	2,204,493	100.0%	0	0
3	Mississippi	1	2,180,315	0	2,180,315	2,180,316	2,159,764	99.1%	20,552	20,552
5	Missouri	0	2,963,564	0	2,963,564	2,963,564	2,963,564	100.0%	0	0
4	Montana	226,975	340,462	0	340,462	567,437	340,462	60.0%	226,975	226,975
5	Nebraska	501,115	343,564	0	343,564	844,679	246,754	29.2%	597,925	597,925
6	Nevada	492,999	883,257	0	883,257	1,376,256	686,272	49.9%	689,984	685,782
1	New Hampshire	226,974	340,462	0	340,462	567,436	322,382	56.8%	245,054	245,054
1	New Jersey	0	2,430,827	0	2,430,827	2,430,827	1,988,876	81.8%	441,951	441,951
4	New Mexico	312,285	727,550	0	727,550	1,039,835	916,833	88.2%	123,002	123,002
1	New York	1,859,300	8,345,365	0	8,345,365	10,204,665	7,088,222	69.5%	3,116,443	3,116,443
3	North Carolina	1,446,121	2,925,133	0	2,925,133	4,371,254	3,628,766	83.0%	742,488	742,488
4	North Dakota	341,955	340,461	0	340,461	682,416	354,670	52.0%	327,746	327,746
5	Ohio	2,772,272	6,552,315	0	6,552,315	9,324,587	7,140,482	76.6%	2,184,105	2,184,105
4	Oklahoma	13,583	1,016,013	0	1,016,013	1,029,596	1,008,499	98.0%	21,097	21,097
6	Oregon	360,212	1,523,663	0	1,523,663	1,883,875	1,544,813	82.0%	339,062	339,062
2	Pennsylvania	2,449,041	4,742,595	0	4,742,595	7,191,636	3,638,667	50.6%	3,552,969	3,552,969
1	Puerto Rico	314,317	4,953,684	0	4,953,684	5,268,001	1,971,815	37.4%	3,296,186	3,296,186
1	Rhode Island	155,857	654,676	0	654,676	810,533	787,621	97.2%	22,912	22,912
3	South Carolina	2,094,095	2,883,316	0	2,883,316	4,977,411	4,693,400	94.3%	284,011	284,011
4	South Dakota	0	340,461	0	340,461	340,461	247,349	72.7%	93,112	93,112
3	Tennessee	0	2,928,449	0	2,928,449	2,928,449	2,922,412	99.8%	6,037	6,037
4	Texas	7,296,341	9,567,464	0	9,567,464	16,863,805	10,066,970	59.7%	6,797,835	6,797,835
4	Utah	457,704	589,524	0	589,524	1,047,228	577,420	55.1%	469,808	469,808
1	Vermont	226,974	340,461	0	340,461	567,435	250,161	44.1%	317,274	317,274
2	Virginia	0	1,514,751	0	1,514,751	1,514,751	1,285,881	84.9%	228,870	228,870
6	Washington	0	2,632,614	0	2,632,614	2,632,614	2,632,614	100.0%	0	0

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 through 06/30/10
Dislocated Workers Statewide 15% (Non-ARRA)

		PY 2009 Availability					State Obligations			
		Unobligated Carry-In To PY 2009	New PY 2009 Funds			Total Available	$ 7/1/09 - 06/30/10	Bal % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
Reg	State		PY 2009	FY 2010	Total					
	Total	$69,275,964	$46,838,874	$132,249,452	$178,088,326	$247,364,290	$170,635,702	69.0%	$76,728,588	$76,634,124
3	Alabama	500,357	537,085	1,356,147	1,893,232	2,393,589	1,916,820	80.1%	476,769	476,769
6	Alaska	978,814	144,368	364,532	508,900	1,487,714	639,962	43.0%	847,752	847,752
6	Arizona	1,299,877	708,441	1,788,820	2,497,261	3,897,138	650,309	16.7%	3,246,829	3,246,829
4	Arkansas	1,740,018	306,061	772,809	1,078,870	2,818,888	909,880	32.3%	1,909,008	1,909,008
6	California	0	9,033,359	22,809,338	31,842,697	31,842,697	31,842,697	100.0%	0	0
4	Colorado	253,227	588,836	1,486,818	2,075,654	2,328,881	1,596,176	68.5%	732,705	732,705
1	Connecticut	0	605,899	1,529,902	2,135,801	2,135,801	1,426,364	66.8%	709,437	709,437
2	Delaware	132,022	83,016	150,098	233,114	365,136	232,460	63.7%	132,676	132,676
2	District of Col	496,965	154,398	389,856	544,254	1,041,219	511,853	49.2%	529,366	529,366
3	Florida	7,626,212	3,279,098	8,279,763	11,558,861	19,185,073	6,547,772	34.1%	12,637,301	12,637,301
3	Georgia	240,463	1,783,080	4,502,298	6,285,378	6,525,841	6,524,502	100.0%	1,339	1,339
6	Hawaii	13,169	87,977	222,145	310,122	323,291	281,060	86.9%	42,231	42,231
6	Idaho	197,710	115,318	291,179	406,497	604,207	329,125	54.5%	275,082	275,082
5	Illinois	2,108,095	2,789,860	7,044,428	9,834,288	11,942,383	8,953,677	75.0%	2,988,706	2,988,706
5	Indiana	3,000,935	1,067,093	2,694,423	3,761,516	6,762,451	4,979,717	73.6%	1,782,734	1,782,734
5	Iowa	779,565	212,727	537,138	749,865	1,529,845	948,026	62.0%	581,819	581,819
5	Kansas	136,023	211,839	534,847	746,686	881,709	710,844	80.6%	170,865	170,865
3	Kentucky	1,410,321	761,772	1,923,483	2,685,255	4,095,576	3,019,703	73.7%	1,075,873	1,075,873
4	Louisiana	597,768	376,231	950,329	1,326,560	1,924,328	830,474	43.1%	1,095,854	1,095,854
1	Maine	201,725	186,118	469,953	656,071	857,796	707,966	82.5%	149,830	149,830
2	Maryland	177,308	458,173	1,156,892	1,615,065	1,792,373	1,792,373	100.0%	0	0
1	Massachusetts	1,579,258	863,961	2,181,513	3,045,474	4,624,732	2,031,081	43.9%	2,593,651	2,593,651
5	Michigan	7,397,995	3,193,616	8,063,919	11,257,535	18,655,530	12,541,777	67.2%	6,113,753	6,113,753
5	Minnesota	0	853,371	2,154,772	3,008,143	3,008,143	2,741,160	91.1%	266,983	266,983
3	Mississippi	217,190	578,470	1,460,644	2,039,114	2,256,304	(198,221)	-8.8%	2,454,525	2,454,525
5	Missouri	30,618	1,051,519	2,655,098	3,706,617	3,737,233	3,193,361	85.4%	543,872	543,872
4	Montana	247,004	71,485	180,499	251,984	498,988	287,783	57.7%	211,205	211,205
5	Nebraska	864,562	105,478	266,335	371,813	1,236,375	465,352	37.6%	771,023	771,023
5	Nevada	573,699	582,601	1,471,073	2,053,674	2,627,373	1,161,972	44.2%	1,465,401	1,463,396
1	New Hampshire	444,292	101,850	257,174	359,024	803,316	316,864	39.4%	486,452	486,452
1	New Jersey	1,675,527	1,331,409	3,361,824	4,693,233	6,368,760	3,234,206	50.8%	3,134,554	3,134,554
4	New Mexico	59,248	120,531	304,344	424,875	484,123	257,141	53.1%	226,982	226,982
1	New York	4,558,890	0	9,523,553	9,523,553	14,082,443	14,082,443	100.0%	0	0
3	North Carolina	2,732,372	1,868,214	4,505,763	6,373,977	9,106,349	6,664,363	73.2%	2,441,986	2,349,828
4	North Dakota	124,907	37,306	35,509	72,815	197,722	126,865	64.2%	70,857	70,857
5	Ohio	5,554,987	2,773,466	6,389,697	9,163,163	14,718,150	8,741,707	59.4%	5,976,443	5,976,443
4	Oklahoma	22,143	245,202	619,139	864,341	886,484	652,844	73.6%	233,640	233,640
6	Oregon	1,307,963	698,846	1,764,091	2,462,737	3,770,700	2,796,894	74.2%	973,806	973,806
2	Pennsylvania	866,672	1,729,352	4,366,635	6,095,987	6,962,659	5,660,314	81.3%	1,302,245	1,302,245
1	Puerto Rico	9,053,831	1,201,874	3,034,745	4,236,619	13,290,450	7,395,293	55.6%	5,895,157	5,895,157
1	Rhode Island	152,184	323,461	816,743	1,140,204	1,292,388	317,835	24.6%	974,553	974,553
3	South Carolina	0	1,005,690	2,539,380	3,545,070	3,545,070	1,774,848	50.1%	1,770,222	1,770,222
4	South Dakota	0	5,228	11,642	16,870	16,870	14,615	86.6%	2,255	2,255
3	Tennessee	491,106	1,154,974	2,916,323	4,071,297	4,562,403	2,556,993	56.0%	2,005,410	2,005,410
4	Texas	5,406,977	0	7,715,524	7,715,524	13,122,501	8,908,864	67.9%	4,213,637	4,213,637
4	Utah	464,712	142,524	363,533	506,057	970,769	509,712	52.5%	461,057	461,057
1	Vermont	289,549	71,202	179,784	250,986	540,535	188,289	34.8%	352,246	352,246
2	Virginia	309,406	574,508	1,450,897	2,025,493	2,334,899	2,265,790	97.0%	69,109	69,109
5	Washington	1,935,544	901,354	2,275,932	3,177,286	5,112,830	3,115,511	60.9%	1,997,319	1,997,319
2	West Virginia	244,380	145,718	367,940	513,658	758,038	581,249	76.7%	176,789	176,789
5	Wisconsin	590,881	653,752	1,650,732	2,304,484	2,895,365	2,784,592	96.2%	110,773	110,773
4	Wyoming	90,180	22,265	46,507	68,772	158,952	112,445	70.7%	46,507	46,507

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Note:
- Aberrations, such as negative obligation rates or those over 100%, usually include corrections of prior period errors which are reported in the current period.
- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 through 06/30/10
Statewide Rapid Response (Non-ARRA)

Reg	State	PY 2009 Availability: Unobligated Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: FY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	State Obligations: $ 7/1/09 - 06/30/10	State Obligations: as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
	Total	$69,237,315	$53,686,809	$150,277,546	$223,963,355	$293,200,670	$204,935,954	69.9%	$88,264,716	$87,985,414
3	Alabama	412,054	537,085	1,356,147	1,893,232	2,305,886	1,909,394	82.8%	396,492	396,492
6	Alaska	197,247	139,558	352,380	491,936	689,183	248,609	36.1%	440,574	440,574
6	Arizona	4,308	459,204	1,159,497	1,618,701	1,623,009	280,334	17.3%	1,342,675	1,342,675
4	Arkansas	1,646,558	0	0	0	1,646,558	820,262	49.8%	826,296	826,296
6	California	2,432,361	15,055,597	38,015,564	53,071,161	55,503,522	45,814,654	82.5%	9,688,868	9,688,868
4	Colorado	8,652	240,860	2,251,027	2,491,887	2,501,539	1,683,652	67.3%	817,887	817,887
1	Connecticut	0	1,009,832	2,549,837	3,559,669	3,559,669	1,674,092	47.0%	1,885,577	1,885,577
2	Delaware	129,131	15,000	0	15,000	150,131	78,648	52.4%	71,483	71,483
2	District of Col	1,122	63,446	300,000	363,446	364,568	343,541	94.2%	21,027	21,027
3	Florida	1,281,169	0	3,264,769	3,264,769	4,545,938	2,710,003	59.6%	1,835,935	1,835,935
3	Georgia	1,760,137	2,971,800	7,503,830	10,475,630	12,235,767	11,401,498	93.2%	834,269	827,385
6	Hawaii	0	12,600	32,400	45,000	45,000	33,249	73.9%	11,751	11,751
6	Idaho	194,395	128,364	324,121	452,485	646,880	590,668	91.3%	56,212	56,212
5	Illinois	2,858,050	2,789,859	7,044,430	9,834,289	12,692,339	8,447,170	66.6%	4,245,169	4,245,169
5	Indiana	1,075,646	1,778,488	4,490,703	6,269,191	7,344,837	6,017,172	81.9%	1,327,665	1,327,665
5	Iowa	4,798	212,727	537,137	749,864	754,662	618,436	81.9%	136,226	136,226
5	Kansas	680,673	353,065	891,495	1,244,560	1,925,233	594,253	30.9%	1,330,980	1,330,980
3	Kentucky	5,063,699	1,269,620	3,205,805	4,475,425	9,539,124	8,539,124	100.0%	0	0
4	Louisiana	1,204,965	628,159	1,586,107	2,214,266	3,419,231	2,519,715	73.7%	899,516	899,516
1	Maine	326,282	310,198	783,255	1,093,453	1,419,735	792,901	55.8%	626,834	626,834
2	Maryland	466,343	534,535	1,349,708	1,884,243	2,350,586	1,257,973	53.5%	1,092,613	1,092,613
1	Massachusetts	3,991,295	1,439,936	3,635,855	5,075,791	9,067,086	5,996,076	66.1%	3,071,010	3,071,010
5	Michigan	9,860,626	3,053,198	7,709,362	10,762,560	20,623,186	9,790,034	47.5%	10,833,152	10,833,152
5	Minnesota	0	853,371	2,154,772	3,008,143	3,008,143	2,768,793	92.0%	239,350	239,350
3	Mississippi	(189,113)	98,524	0	98,524	(90,589)	(625,537)	690.5%	534,948	534,948
5	Missouri	769,401	1,752,531	4,425,163	6,177,694	6,947,095	6,831,823	98.5%	105,272	105,272
4	Montana	0	119,141	300,832	419,973	419,973	416,404	99.2%	3,569	3,569
5	Nebraska	300,287	76,319	177,557	247,876	548,163	54,207	9.9%	493,956	493,956
6	Nevada	118,568	375,000	1,125,005	1,500,005	1,618,573	721,277	44.6%	897,296	897,296
1	New Hampshire	102,886	85,000	141,000	226,000	328,886	146,411	44.5%	182,475	182,475
1	New Jersey	2,307,097	2,219,015	4,403,037	6,622,052	8,929,149	4,952,083	55.5%	3,977,066	3,977,066
4	New Mexico	643,825	80,354	202,896	283,250	927,075	179,067	19.3%	748,008	748,008
1	New York	5,612,526	4,502,847	11,369,742	15,872,589	21,485,115	12,988,721	60.5%	8,496,394	8,496,394
3	North Carolina	4,412,020	3,013,691	7,609,605	10,623,296	15,035,316	6,684,458	44.5%	8,350,858	8,180,809
4	North Dakota	43,501	31,250	51,750	83,000	126,501	112,540	89.0%	13,961	13,961
5	Ohio	0	3,969,782	10,023,746	13,993,528	13,993,528	10,233,277	73.1%	3,760,251	3,760,251
4	Oklahoma	682,254	408,671	1,031,898	1,440,569	2,122,823	1,063,700	50.1%	1,059,123	1,059,123
6	Oregon	436,569	652,070	1,646,485	2,298,555	2,735,124	1,684,961	61.6%	1,050,163	1,050,163
2	Pennsylvania	2,746,466	2,882,254	7,277,726	10,159,980	12,906,446	6,950,151	53.9%	5,956,295	5,854,867
1	Puerto Rico	5,928,138	2,003,123	5,057,908	7,061,031	12,989,169	11,864,152	91.3%	1,125,017	1,124,078
1	Rhode Island	559,339	539,102	361,239	900,341	1,459,680	562,494	38.5%	897,186	897,186
3	South Carolina	2,035,503	1,005,691	2,539,380	3,545,071	5,580,574	4,467,538	80.1%	1,113,036	1,113,036
4	South Dakota	128,703	2,500	7,500	10,000	138,703	138,703	100.0%	0	0
3	Tennessee	2,854,400	1,539,965	3,888,431	5,428,396	8,282,796	5,866,704	70.8%	2,416,092	2,416,092
4	Texas	842,992	835,045	2,216,487	3,051,532	3,894,524	3,863,688	99.2%	30,836	30,836
4	Utah	176	53,605	99,290	152,995	153,171	153,171	100.0%	0	0
1	Vermont	0	2,727	26,469	29,196	29,196	29,196	100.0%	0	0
2	Virginia	2,046,749	957,677	2,418,145	3,375,822	5,422,571	2,417,309	44.6%	3,005,262	3,005,262
6	Washington	1,724,858	1,295,474	0	1,295,474	3,020,332	2,356,670	78.0%	663,662	663,662
2	West Virginia	434,056	242,864	613,233	856,097	1,290,153	774,653	60.0%	515,500	515,500
5	Wisconsin	1,098,803	1,089,587	2,751,221	3,840,808	4,939,611	4,113,396	83.3%	826,215	826,215
4	Wyoming	0	1,500	13,500	15,000	15,000	4,286	28.6%	10,714	10,714

Note:
- Aberrations, such as negative obligation rates or those over 100%, usually include corrections of prior period errors which are reported in the current period.
- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

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U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 through 06/30/10
Local Adult (Non-ARRA)

		PY 2009 Availability					State Obligations			
		Unobligated Carry-In	New PY 2009 Funds				$	as % of	Unobligated Balance	Unobligated Carry-Out
Reg	State	To PY 2009	PY 2009	FY 2010	Total	Total Available	7/1/09 - 06/30/10	Total Available	06/30/10	To PY 2010
	Total	$91,482,158	$155,790,863	$617,404,996	$773,195,879	$864,678,037	$770,878,677	89.2%	$93,799,360	$93,799,360
3	Alabama	2,652,418	1,893,882	6,278,661	8,172,543	10,824,961	7,493,386	69.2%	3,331,575	3,331,575
6	Alaska	205,001	431,260	2,053,348	2,484,608	2,689,609	2,430,390	90.4%	259,219	259,219
6	Arizona	2,019,242	1,975,585	8,277,365	10,252,950	12,272,192	8,423,861	68.6%	3,848,331	3,848,331
4	Arkansas	44,104	1,302,656	6,202,297	7,504,953	7,549,057	6,697,183	88.7%	851,874	851,874
6	California	11,037,829	21,174,183	102,161,292	123,335,475	134,373,303	123,369,326	91.8%	11,003,977	11,003,977
4	Colorado	2,212,574	2,235,054	7,064,154	9,299,208	11,612,782	11,612,782	100.0%	0	0
1	Connecticut	0	1,126,044	5,361,397	6,487,441	6,487,441	6,487,441	100.0%	0	0
2	Delaware	216,395	316,978	1,509,218	1,826,196	2,042,591	1,783,957	87.3%	258,634	258,634
2	District of Col	(1,091,784)	396,206	1,886,438	2,282,644	1,190,860	789,206	66.3%	401,574	401,574
3	Florida	326,566	22,414,082	23,777,639	46,191,721	46,518,287	34,174,908	73.5%	12,343,379	12,343,379
3	Georgia	2,407,468	3,485,003	16,355,129	19,840,132	22,247,600	18,379,512	82.6%	3,868,088	3,868,088
6	Hawaii	800,821	316,978	1,509,218	1,826,196	2,627,017	1,955,168	74.4%	671,849	671,849
6	Idaho	152,744	316,978	1,509,218	1,826,196	1,978,940	1,621,299	81.9%	357,641	357,641
5	Illinois	1,838,354	8,074,781	31,532,279	39,607,060	41,445,414	38,129,478	92.0%	3,315,936	3,315,936
5	Indiana	(2,183,800)	2,412,108	11,484,695	13,896,803	11,712,994	11,586,655	98.9%	126,339	126,339
5	Iowa	(178,372)	399,259	1,776,983	2,176,242	1,996,870	1,443,946	72.3%	552,724	552,724
5	Kansas	(12,422)	643,877	3,484,744	4,128,621	4,116,199	3,981,115	96.7%	135,084	135,084
3	Kentucky	4,100,777	2,896,484	10,862,096	13,757,580	17,858,357	16,263,790	91.1%	1,594,567	1,594,567
4	Louisiana	4,875,653	3,425,618	11,004,357	14,429,975	19,305,628	17,271,887	89.5%	2,033,741	2,033,741
1	Maine	354,378	464,290	2,210,614	2,674,904	3,029,282	2,471,035	81.3%	558,247	558,247
2	Maryland	1,447,789	1,260,756	5,760,858	7,021,614	8,469,403	7,733,444	91.3%	735,959	735,959
1	Massachusetts	(39,953)	2,967,992	12,316,331	15,284,319	15,244,353	12,823,947	84.1%	2,420,406	2,420,406
5	Michigan	3,793,869	8,454,043	42,948,872	51,402,915	55,196,784	55,196,784	100.0%	0	0
5	Minnesota	0	1,785,187	8,499,754	10,284,941	10,284,941	10,284,941	100.0%	0	0
3	Mississippi	8,935,113	3,019,135	9,503,226	12,522,361	21,457,474	21,015,268	97.9%	442,206	442,206
5	Missouri	1,141,129	2,691,840	12,815,617	15,507,257	16,648,386	15,515,487	93.2%	1,132,899	1,132,899
4	Montana	163,889	316,978	1,509,218	1,826,196	1,990,084	1,896,902	95.3%	93,182	93,182
5	Nebraska	1,605,706	316,978	1,531,853	1,848,831	3,454,537	2,359,540	68.3%	1,094,997	1,094,997
6	Nevada	(263,648)	1,212,238	4,147,368	5,359,606	5,095,958	5,046,707	98.9%	57,251	57,251
1	New Hampshire	320,000	228,225	1,072,971	1,301,196	1,621,196	1,621,196	100.0%	0	0
1	New Jersey	1,746,678	2,410,303	11,246,100	13,656,403	15,403,081	13,497,795	87.6%	1,905,286	1,905,286
4	New Mexico	205,731	623,252	2,865,781	3,489,033	3,694,764	3,694,764	100.0%	0	0
1	New York	8,698,561	9,521,049	37,215,447	46,737,496	55,436,057	48,006,480	86.6%	4,429,577	4,429,577
3	North Carolina	3,204,362	2,654,438	12,630,489	15,282,927	18,487,289	15,597,773	84.4%	2,889,516	2,889,516
4	North Dakota	0	316,978	1,509,218	1,826,196	1,826,196	1,826,196	100.0%	0	0
5	Ohio	5,482,649	5,971,665	29,034,540	35,006,213	40,488,861	30,046,805	74.2%	10,442,056	10,442,056
4	Oklahoma	469,472	937,312	4,482,794	5,420,106	5,889,578	5,889,578	100.0%	0	0
6	Oregon	2,067,378	1,790,948	9,045,406	9,836,354	11,903,732	10,005,074	84.0%	1,898,658	1,898,658
2	Pennsylvania	1,879,685	4,248,713	20,229,261	24,477,974	26,357,659	23,707,093	89.9%	2,650,566	2,650,566
1	Puerto Rico	7,193,230	5,168,768	24,609,887	29,778,655	36,971,885	30,281,697	81.9%	6,690,188	6,690,188
1	Rhode Island	736,520	581,295	2,575,513	3,156,808	3,895,328	2,213,505	56.8%	1,681,823	1,681,823
3	South Carolina	4,412,068	2,674,595	17,101,404	19,776,399	24,188,467	24,188,467	100.0%	0	0
4	South Dakota	112,930	316,978	1,180,440	1,497,418	1,610,348	1,147,563	71.3%	462,785	462,785
3	Tennessee	2,422,011	3,327,250	14,518,876	17,846,126	20,268,137	17,087,144	84.3%	3,180,993	3,180,993
4	Texas	2,622,971	10,375,590	40,076,460	50,452,050	52,975,021	50,262,118	94.9%	2,712,903	2,712,903
4	Utah	0	475,273	2,252,349	2,727,622	2,727,622	2,727,622	100.0%	0	0
1	Vermont	(1,075)	316,980	1,775,550	2,092,530	2,091,455	1,884,775	90.1%	206,680	206,680
2	Virginia	2,790,233	1,386,035	6,829,043	8,215,078	11,005,311	10,346,950	94.0%	658,361	658,361
6	Washington	1,275,285	2,489,351	11,852,467	14,341,818	15,617,103	14,275,368	91.4%	1,341,735	1,341,735
2	West Virginia	620,007	534,789	2,946,667	3,481,456	4,101,463	3,906,158	95.2%	195,305	195,305
5	Wisconsin	549,948	1,331,141	6,487,345	7,818,486	8,368,434	7,415,185	88.6%	953,249	953,249
4	Wyoming	1,069,693	384,312	1,543,741	1,928,053	3,017,946	3,017,946	100.0%	0	0

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFAS/ 11 0322

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 through 06/30/10
Local Youth (Non-ARRA)

Reg	State	PY 2009 Availability: Unobligated Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: FY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	State Obligations: $ 4/1/09 - 06/30/10	State Obligations: as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
	Total	$76,746,519	$770,707,449	$0	$770,707,449	$847,453,968	$766,531,313	90.5%	$80,922,655	$80,907,593
3	Alabama	875,454	7,700,803	0	7,700,803	8,576,257	6,751,361	78.7%	1,824,896	1,824,896
6	Alaska	537,103	2,602,340	0	2,602,340	3,139,443	2,723,946	86.8%	415,497	415,497
6	Arizona	5,114,971	10,970,457	0	10,970,457	16,085,428	10,436,777	64.9%	5,648,651	5,648,651
4	Arkansas	517,093	7,977,269	0	7,977,269	8,494,362	7,772,000	91.5%	722,362	722,362
6	California	8,013,415	123,387,114	0	123,387,114	131,400,529	120,798,243	91.9%	10,602,286	10,602,286
4	Colorado	1,561,195	7,851,260	0	7,851,260	9,412,455	9,412,455	100.0%	0	0
1	Connecticut	0	7,295,723	0	7,295,723	7,295,723	7,295,723	100.0%	0	0
2	Delaware	149,828	1,929,283	0	1,929,283	2,079,111	1,990,288	95.7%	88,823	88,823
2	District of Col	1,296,367	2,624,689	0	2,624,689	3,921,056	2,411,551	61.5%	1,509,505	1,509,505
3	Florida	572,949	28,346,109	0	28,346,109	28,919,058	25,507,137	88.2%	3,411,921	3,411,921
3	Georgia	2,392,079	20,735,095	0	20,735,095	23,127,174	18,683,744	80.8%	4,443,430	4,443,430
6	Hawaii	808,008	1,929,283	0	1,929,283	2,737,291	2,235,405	81.7%	501,886	501,886
6	Idaho	163,032	1,929,283	0	1,929,283	2,092,315	1,696,997	81.1%	395,318	395,318
5	Illinois	31,111	41,126,430	0	41,126,430	41,157,541	36,972,822	89.8%	4,184,719	4,184,719
5	Indiana	702,993	15,654,675	0	15,654,675	16,357,668	15,323,148	93.7%	1,034,520	1,034,520
5	Iowa	5	3,419,644	0	3,419,644	3,419,649	2,780,679	81.3%	638,970	638,970
5	Kansas	745,451	4,708,651	0	4,708,651	5,454,102	4,549,635	83.4%	904,467	904,467
3	Kentucky	1,527,436	11,709,033	0	11,709,033	13,236,469	12,044,082	91.0%	1,192,387	1,192,387
4	Louisiana	6,421,862	13,231,324	0	13,231,324	19,653,186	15,279,766	77.7%	4,383,420	4,383,420
1	Maine	358,403	2,838,834	0	2,838,834	3,197,237	2,485,911	77.8%	711,326	711,326
2	Maryland	1,593,524	7,659,948	0	7,659,948	9,253,472	8,278,061	89.5%	975,411	975,411
1	Massachusetts	1,682,679	16,421,929	0	16,421,929	18,104,608	15,744,552	87.0%	2,360,056	2,360,056
5	Michigan	0	48,892,481	0	48,892,481	48,892,481	48,892,480	100.0%	1	0
5	Minnesota	15	11,761,497	0	11,761,497	11,761,512	11,761,512	100.0%	0	0
3	Mississippi	(1)	12,355,121	0	12,355,121	12,355,120	11,113,369	89.9%	1,241,751	1,241,751
5	Missouri	1,410,719	16,793,527	0	16,793,527	18,204,246	16,893,464	92.8%	1,310,782	1,310,782
4	Montana	51,728	1,929,282	0	1,929,282	1,981,010	1,960,556	99.0%	20,454	20,454
5	Nebraska	849,387	1,946,864	0	1,946,864	2,796,251	1,917,177	68.6%	879,074	879,074
6	Nevada	729,215	5,005,125	0	5,005,125	5,734,340	5,199,305	90.7%	535,035	535,035
1	New Hampshire	0	1,929,282	0	1,929,282	1,929,282	1,715,328	88.9%	213,954	213,954
1	New Jersey	1,319,729	13,774,685	0	13,774,685	15,094,414	14,017,552	92.9%	1,076,862	1,076,862
4	New Mexico	0	3,607,756	0	3,607,756	3,607,756	3,607,756	100.0%	0	0
1	New York	2,823,014	47,290,403	0	47,290,403	50,113,417	48,097,758	96.0%	2,015,659	2,015,659
3	North Carolina	6,406,634	16,575,755	0	16,575,755	22,982,389	19,607,540	85.3%	3,374,849	3,359,788
4	North Dakota	0	1,929,283	0	1,929,283	1,929,283	1,929,283	100.0%	0	0
5	Ohio	6,867,043	37,129,788	0	37,129,788	43,996,831	40,301,941	91.6%	3,694,890	3,694,890
4	Oklahoma	(1,640)	5,757,410	0	5,757,410	5,755,770	5,755,770	100.0%	0	0
6	Oregon	1,346,523	10,196,830	0	10,196,830	11,543,353	10,292,874	89.2%	1,250,479	1,250,479
2	Pennsylvania	1,486,651	26,874,706	0	26,874,706	28,361,357	26,598,251	93.8%	1,763,106	1,763,106
1	Puerto Rico	6,555,248	28,070,883	0	28,070,883	34,626,131	30,416,266	87.8%	4,209,865	4,208,865
1	Rhode Island	89,544	3,709,837	0	3,709,837	3,799,381	2,970,320	78.2%	829,061	829,061
3	South Carolina	0	16,338,792	0	16,338,792	16,338,792	16,270,818	99.6%	67,974	67,974
4	South Dakota	589,764	1,929,283	0	1,929,283	2,519,047	2,007,567	79.7%	511,480	511,480
3	Tennessee	5,040,389	16,594,544	0	16,594,544	21,634,933	17,178,787	79.4%	4,456,146	4,456,146
4	Texas	3,519,431	54,215,627	0	54,215,627	57,735,058	54,426,703	94.3%	3,308,355	3,308,355
4	Utah	0	3,340,642	0	3,340,642	3,340,642	3,340,642	100.0%	0	0
1	Vermont	200,343	1,929,283	0	1,929,283	2,129,626	2,129,626	100.0%	0	0
2	Virginia	688,570	8,583,590	0	8,583,590	9,272,160	8,154,583	87.9%	1,117,577	1,117,577
6	Washington	488,194	15,604,084	0	15,604,084	16,092,278	15,166,947	94.2%	925,331	925,331
2	West Virginia	126,470	3,532,790	0	3,532,790	3,659,260	3,399,940	92.9%	259,320	259,320
5	Wisconsin	682,018	9,129,841	0	9,129,841	9,811,859	7,901,060	80.5%	1,910,799	1,910,799
4	Wyoming	402,583	1,929,282	0	1,929,282	2,331,865	2,331,865	100.0%	0	0

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFASI11 0302

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Obligations for Program Year 2009 through 06/30/10
Local Dislocated Workers (Non-ARRA)

		PY 2009 Availability					State Obligations			
			New PY 2009 Funds							
Reg	State	Unobligated Carry-In To PY 2009	PY 2009	FY 2010	Total	Total Available	$ 7/1/09 - 06/30/10	as % of Total Available	Unobligated Balance 06/30/10	Unobligated Carry-Out To PY 2010
	Total	$73,174,831	$199,671,549	$537,260,995	$737,132,544	$810,307,375	$699,879,874	86.4%	$110,427,501	$110,075,313
3	Alabama	2,352,244	1,922,906	6,289,129	8,212,035	10,564,279	7,149,793	67.7%	3,414,486	3,414,486
6	Alaska	1,129,401	678,931	1,713,298	2,391,829	3,521,230	2,667,272	75.7%	853,958	853,958
6	Arizona	1,535,339	3,279,189	8,626,502	11,905,701	13,441,040	7,247,439	53.9%	6,193,601	6,193,601
4	Arkansas	2,679,919	1,734,349	4,379,251	6,113,600	8,793,519	6,977,083	79.3%	1,816,436	1,816,436
5	California	4,250,546	35,532,410	87,030,376	122,562,786	126,813,332	111,189,692	87.7%	15,623,640	15,623,640
4	Colorado	819,528	2,091,436	4,969,388	7,060,824	7,880,352	7,880,352	100.0%	0	0
1	Connecticut	0	2,423,586	6,119,607	8,543,203	8,543,203	8,543,202	100.0%	1	1
2	Delaware	323,957	455,428	1,247,355	1,702,783	2,026,740	1,765,968	87.1%	260,772	260,772
2	District of Col	2,009,760	811,475	1,909,186	2,720,661	4,730,421	3,996,971	84.5%	733,450	733,450
3	Florida	175,609	1,181,448	43,633,886	44,815,334	44,991,143	43,918,199	97.6%	1,072,944	1,072,944
3	Georgia	1,404,712	7,016,094	17,693,714	24,709,808	26,114,520	22,911,666	87.7%	3,202,854	3,202,854
6	Hawaii	202,645	485,940	1,226,418	1,712,358	1,915,003	1,081,912	56.5%	833,791	833,791
6	Idaho	15,003	525,105	1,325,895	1,851,000	1,866,003	1,749,028	93.7%	116,975	116,975
5	Illinois	853,774	11,567,229	32,874,001	44,441,230	45,295,004	40,294,985	89.0%	5,000,019	5,000,019
5	Indiana	5,385,629	4,268,371	10,777,689	15,046,060	20,431,689	20,063,852	98.2%	367,837	367,837
5	Iowa	179,567	992,724	2,630,642	3,623,366	3,802,933	3,112,953	81.9%	689,980	689,980
5	Kansas	302,864	897,358	1,958,666	2,856,024	3,158,888	1,311,602	41.5%	1,847,286	1,847,286
3	Kentucky	944,224	2,255,218	6,847,707	9,102,925	9,947,149	9,180,736	92.3%	766,413	766,413
4	Louisiana	1,704,210	324,006	3,436,006	3,760,012	5,464,222	4,592,083	84.0%	872,139	872,139
1	Maine	219,661	744,479	1,879,814	2,624,293	2,843,954	2,303,259	81.0%	540,695	540,695
2	Maryland	1,627,113	2,061,779	5,447,956	7,509,735	9,136,848	7,838,460	85.9%	1,198,388	1,198,388
1	Massachusetts	1,259,532	3,074,639	8,726,052	11,800,691	13,060,223	11,325,189	86.7%	1,735,034	1,735,034
5	Michigan	4,903,281	14,513,735	32,764,719	47,278,454	52,181,735	46,624,973	89.4%	5,546,762	5,546,760
5	Minnesota	18	3,982,398	10,055,602	14,038,000	14,038,018	14,038,018	100.0%	0	0
3	Mississippi	(2,485,113)	2,156,284	8,276,984	10,433,268	7,948,155	5,584,567	70.3%	2,363,588	2,363,588
5	Missouri	436,663	4,206,076	10,620,392	14,826,468	15,263,131	14,213,410	93.1%	1,049,721	1,049,721
4	Montana	22,950	285,938	721,997	1,007,935	1,030,885	989,102	95.9%	41,783	41,783
5	Nebraska	1,099,898	527,394	1,309,040	1,836,434	2,936,332	2,351,083	80.1%	585,249	585,249
6	Nevada	2,023,892	2,585,226	7,211,073	9,796,299	11,820,191	10,028,996	84.8%	1,791,195	1,791,195
1	New Hampshire	(320,001)	580,905	1,752,564	2,333,470	2,013,469	2,013,469	100.0%	0	0
1	New Jersey	1,519,232	5,325,636	14,877,294	20,202,930	21,722,162	19,511,152	89.8%	2,211,010	2,211,010
4	New Mexico	535,054	548,457	1,433,674	1,982,131	2,517,185	2,517,185	100.0%	0	0
1	New York	1,199,780	13,508,541	24,473,494	37,982,035	39,181,818	34,479,143	88.0%	4,702,675	4,702,675
3	North Carolina	8,957,496	7,232,857	18,263,051	25,495,908	34,453,404	21,018,349	61.0%	13,435,055	13,082,871
4	North Dakota	0	180,156	540,742	720,898	720,898	720,898	100.0%	0	0
5	Ohio	5,990,384	9,084,625	23,146,775	32,231,400	38,221,784	30,487,623	79.8%	7,734,161	7,734,161
4	Oklahoma	(544,283)	980,810	2,476,556	3,457,366	2,913,083	2,896,703	99.4%	16,380	16,380
6	Oregon	1,615,493	3,179,062	9,223,000	11,402,062	13,017,555	10,745,277	82.5%	2,272,278	2,272,278
2	Pennsylvania	1,080,978	6,917,410	17,466,541	24,383,951	25,464,929	23,701,498	93.1%	1,763,431	1,763,431
1	Puerto Rico	14,890,075	4,807,494	12,138,979	16,946,473	31,836,548	23,658,255	74.3%	8,178,293	8,178,293
1	Rhode Island	265,027	1,253,480	4,266,973	5,520,453	5,785,480	3,536,509	61.1%	2,249,971	2,249,971
3	South Carolina	(4,386,511)	4,693,221	7,485,404	12,178,625	7,792,114	7,739,193	99.3%	52,921	52,921
4	South Dakota	619,225	251,129	963,254	1,214,383	1,833,608	1,833,608	100.0%	0	0
3	Tennessee	2,745,401	4,480,136	11,366,734	15,826,869	18,572,270	14,841,880	79.9%	3,730,390	3,730,390
4	Texas	4,023,314	13,756,913	27,270,877	41,027,790	45,051,104	42,736,250	94.9%	2,314,854	2,314,854
4	Utah	(178)	732,912	1,906,756	2,639,668	2,639,492	2,639,492	100.0%	0	0
1	Vermont	220,484	400,752	992,321	1,393,073	1,613,537	1,444,531	89.5%	169,006	169,006
2	Virginia	(1,672,497)	2,254,771	5,365,947	7,620,718	5,948,221	5,424,857	91.2%	523,364	523,362
6	Washington	992,930	3,912,200	12,796,937	16,709,137	17,702,067	15,841,565	89.5%	1,860,502	1,860,502
2	West Virginia	(129,641)	666,966	1,471,760	2,138,726	2,009,085	1,895,475	94.3%	113,610	113,610
5	Wisconsin	423,260	2,616,011	6,453,504	9,068,515	9,491,775	9,181,361	96.7%	310,414	310,414
4	Wyoming	(127,202)	67,334	305,513	372,847	245,645	(25,344)	-10.3%	270,989	270,989

OFAS/11 0322

Note:
- Alternations, such as negative obligation rates or those over 100%, usually include corrections of prior period errors which are reported in the current period.
- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

Workforce Investment Act
Formula Spending
Program Year 2009
(July 1, 2009 – June 30, 2010)

U. S. Department of Labor
Employment and Training Administration

State WIA Formula Spending for Program Year 2009 through 06/30/10
State Level Spending (Non-ARRA)

Reg	State	Unexpended Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	Expenditures: $ 7/1/09 - 6/30/2010	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	$426,049,682	$264,801,240	$402,131,463	$666,932,703	$1,092,982,385	$591,858,639	54.2%	$501,123,746	$498,936,341
3	Alabama	2,758,895	2,664,379	3,813,311	6,477,690	9,236,585	6,802,996	73.7%	2,433,589	2,433,589
6	Alaska	2,580,534	819,265	1,079,267	1,898,532	4,479,066	1,849,896	41.3%	2,629,170	2,629,170
6	Arizona	4,040,084	3,593,893	5,028,471	8,622,364	12,662,448	4,484,744	35.4%	8,177,704	8,177,704
4	Arkansas	6,940,988	1,945,655	1,867,332	3,811,027	10,752,015	4,321,571	40.2%	6,430,444	6,430,444
6	California	57,315,780	49,493,709	78,110,957	127,604,666	184,920,446	83,830,105	45.3%	101,090,341	101,090,341
4	Colorado	3,426,336	2,432,379	4,771,834	7,204,213	10,630,549	4,665,070	43.9%	5,965,479	5,965,479
1	Connecticut	201,966	3,101,926	3,025,868	6,127,794	6,329,660	3,115,894	49.4%	3,213,766	3,210,764
2	Delaware	512,933	494,414	416,430	910,844	1,423,777	1,019,034	71.6%	404,743	404,743
2	District of Columbia	1,152,631	750,942	1,022,757	1,773,699	2,926,330	1,065,399	36.4%	1,860,931	1,860,931
5	Florida	18,292,929	9,162,642	15,740,585	24,903,227	43,196,156	17,502,189	40.5%	25,693,967	25,693,967
3	Georgia	10,975,061	9,008,504	14,836,655	23,845,159	34,820,220	21,485,225	61.7%	13,334,995	13,328,110
5	Hawaii	36,414	496,976	520,877	1,017,852	1,054,266	949,653	90.1%	104,613	104,613
6	Idaho	729,999	640,080	881,632	1,521,712	2,251,711	1,471,938	65.4%	779,773	779,773
5	Illinois	15,744,907	14,006,029	19,653,378	33,659,407	49,404,314	30,723,089	62.2%	18,681,225	18,681,225
5	Indiana	17,374,245	6,033,838	9,211,837	15,245,675	32,619,920	21,598,058	66.2%	11,021,862	11,021,862
5	Iowa	2,044,219	1,099,377	1,409,742	2,509,119	4,553,338	2,621,014	57.6%	1,932,324	1,932,324
5	Kansas	1,726,758	1,518,225	2,009,307	3,527,532	5,254,290	2,794,071	53.2%	2,460,219	2,460,219
3	Kentucky	14,908,481	4,468,918	6,896,795	11,365,713	26,274,194	15,310,258	58.3%	10,963,936	10,963,936
4	Louisiana	4,362,131	3,727,221	4,422,739	8,149,960	12,512,091	6,044,860	48.3%	6,467,214	6,467,214
1	Maine	1,080,055	1,079,219	1,643,316	2,722,535	3,802,590	2,545,739	66.9%	1,256,851	1,256,851
2	Maryland	2,574,859	2,566,949	3,565,917	6,132,866	8,707,725	6,548,791	75.2%	2,158,934	2,158,934
1	Massachusetts	11,392,695	5,658,375	7,990,838	13,649,213	25,042,108	15,456,121	61.7%	9,585,987	9,585,987
5	Michigan	30,596,204	16,273,220	22,431,059	38,704,279	69,299,483	40,672,907	58.7%	28,626,576	28,626,576
5	Minnesota	1,956,503	4,097,334	5,809,500	9,906,834	11,863,337	8,233,967	69.4%	3,631,370	3,631,370
3	Mississippi	8,742,587	3,209,534	3,137,684	6,347,218	15,089,575	4,984,043	33.0%	10,105,532	10,105,532
5	Missouri	837,431	6,242,609	9,341,840	15,584,449	16,421,880	12,216,108	74.4%	4,205,772	4,205,772
4	Montana	807,099	587,025	747,664	1,334,689	2,141,788	1,230,683	57.5%	911,105	911,105
5	Nebraska	2,345,360	525,256	710,224	1,285,622	3,630,882	1,120,126	30.8%	2,510,756	2,510,756
6	Nevada	1,624,965	1,994,576	3,327,966	5,322,542	6,947,507	3,199,003	46.0%	3,748,504	3,734,109
1	New Hampshire	1,124,994	583,249	664,507	1,247,756	2,372,750	1,154,833	48.7%	1,217,917	1,217,917
1	New Jersey	8,888,401	6,406,590	9,790,066	16,196,655	21,783,056	9,556,872	43.9%	12,226,184	12,226,184
4	New Mexico	1,381,543	1,048,963	1,081,110	2,130,073	3,511,616	1,851,106	52.7%	1,660,510	1,660,510
1	New York	26,778,671	12,848,312	29,121,292	41,969,604	68,748,175	41,988,462	61.1%	26,759,713	26,759,713
3	North Carolina	8,607,156	8,218,468	14,405,690	22,621,158	31,228,314	18,833,761	60.3%	12,394,553	12,130,345
4	North Dakota	804,031	484,954	333,591	818,545	1,622,576	920,628	56.7%	701,948	701,948
5	Ohio	22,403,624	14,440,199	21,552,240	35,992,439	58,396,063	35,178,215	60.2%	23,217,848	23,217,848
4	Oklahoma	1,657,264	1,835,294	2,438,589	4,273,883	5,931,147	3,628,853	61.2%	2,302,294	2,302,294
6	Oregon	5,231,454	3,122,885	4,593,780	7,716,665	12,948,119	8,114,005	62.7%	4,834,114	4,834,114
2	Pennsylvania	14,984,884	10,103,974	15,214,231	25,318,205	40,303,089	20,381,154	50.6%	19,921,935	19,753,433
1	Puerto Rico	32,506,397	9,070,816	12,435,574	21,506,390	54,014,787	27,933,107	51.7%	26,081,680	26,080,741
1	Rhode Island	893,661	1,612,697	1,632,488	3,245,102	4,138,843	1,599,945	38.6%	2,539,898	2,539,898
3	South Carolina	14,307,516	5,366,755	7,326,355	12,693,110	27,000,626	18,097,127	67.0%	8,903,499	8,903,499
4	South Dakota	687,101	404,126	285,474	689,600	1,376,701	1,055,955	76.7%	320,746	320,746
3	Tennessee	8,732,980	6,114,416	9,142,673	15,257,089	23,990,062	15,134,539	63.1%	8,855,543	8,868,543
4	Texas	29,713,809	12,402,509	16,898,494	29,301,003	59,014,812	26,845,819	45.5%	32,168,993	30,456,521
4	Utah	1,442,712	865,796	850,888	1,716,684	3,159,396	2,020,060	63.9%	1,139,336	1,139,336
1	Vermont	837,061	470,325	206,253	676,578	1,513,639	733,343	48.4%	780,296	780,296
2	Virginia	4,225,498	3,293,925	4,996,934	8,290,859	12,516,357	4,850,516	38.9%	7,645,841	7,645,841
6	Washington	9,116,030	5,266,739	4,367,544	9,636,283	18,752,313	9,686,108	51.7%	9,066,205	9,066,205
2	West Virginia	1,342,190	1,121,231	1,801,173	2,922,404	3,964,594	2,066,696	52.6%	1,877,898	1,877,898
5	Wisconsin	6,091,434	3,589,394	5,520,408	9,109,802	15,201,236	9,497,960	62.5%	5,703,276	5,703,276
4	Wyoming	667,344	426,164	326,340	748,504	1,253,848	838,013	66.8%	415,835	415,835

* Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFA3/11/2007

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Local Level Spending (Non-ARRA)

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	New PY 2009 Funds: PY 2009	New PY 2009 Funds: FY 2010	New PY 2009 Funds: Total	Total Available	Expenditures: $ 3/1/09 - 06/30/10	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	**$918,946,259**	**$1,126,369,881**	**$1,154,665,991**	**$2,281,035,872**	**$2,799,982,130**	**$2,199,967,264**	**78.6%**	**$600,014,866**	**$999,847,610**
3	Alabama	6,336,744	11,517,591	12,567,790	24,085,381	30,421,625	21,781,372	71.6%	8,640,253	8,640,253
6	Alaska	2,660,636	3,712,131	3,766,646	7,478,777	10,139,413	7,968,504	78.6%	2,170,909	2,170,909
6	Arizona	12,394,879	16,226,241	16,903,867	33,129,108	45,523,987	29,032,501	63.8%	16,491,486	16,491,486
4	Arkansas	7,426,380	11,014,274	10,581,548	21,595,822	29,022,202	21,799,508	75.1%	7,222,694	7,222,694
6	California	65,494,598	180,033,707	189,191,668	369,285,375	434,779,973	334,266,768	76.9%	100,513,205	100,513,205
4	Colorado	5,470,591	12,177,760	12,033,542	24,211,292	29,681,883	22,538,915	75.9%	7,142,968	7,142,968
1	Connecticut	2,168,480	10,845,363	11,481,004	22,326,367	24,494,847	19,062,262	77.8%	5,432,585	5,432,585
2	Delaware	1,427,395	2,701,689	2,756,573	5,458,262	6,885,647	5,335,747	77.5%	1,549,900	1,549,900
2	District of Columbia	4,210,767	3,832,370	3,795,624	7,627,994	11,838,761	8,283,734	70.0%	3,555,027	3,555,027
3	Florida	12,926,129	51,921,639	67,431,525	119,353,164	132,279,293	97,203,032	73.5%	35,076,261	35,076,261
3	Georgia	15,909,915	31,236,192	34,048,843	65,285,035	81,194,950	52,289,358	64.3%	28,905,592	28,905,592
6	Hawaii	2,199,769	2,732,201	2,735,636	5,467,837	7,667,606	4,895,281	63.8%	2,772,325	2,772,325
6	Idaho	300,779	2,771,366	2,835,113	5,606,479	5,907,258	5,067,324	85.3%	869,934	869,934
5	Illinois	19,196,774	60,768,440	64,406,280	125,174,720	144,371,494	108,465,242	75.1%	35,906,252	35,906,252
5	Indiana	12,655,146	22,335,154	22,262,384	44,597,538	57,252,684	49,220,817	86.0%	8,031,867	8,031,867
5	Iowa	2,625,125	4,811,627	4,407,625	9,219,252	11,844,377	9,537,873	80.5%	2,306,504	2,306,504
5	Kansas	1,517,983	6,249,886	5,443,410	11,693,296	13,211,279	10,017,554	75.8%	3,193,725	3,193,725
3	Kentucky	13,447,935	16,859,735	17,709,803	34,569,538	48,017,473	35,563,200	74.1%	12,454,273	12,454,273
4	Louisiana	13,011,726	16,980,948	14,440,363	31,421,311	44,433,036	32,829,984	73.9%	11,603,052	11,603,052
1	Maine	1,023,986	4,047,683	4,090,428	8,138,031	9,161,319	7,312,893	79.8%	1,848,426	1,848,426
2	Maryland	6,515,399	10,992,483	11,208,814	22,191,297	28,706,696	23,294,626	81.1%	5,412,070	5,412,070
1	Massachusetts	5,536,571	22,464,550	21,042,383	43,506,933	49,043,504	38,990,619	79.5%	10,052,885	10,052,885
5	Michigan	34,332,700	71,860,259	75,713,591	147,573,850	181,906,550	161,624,559	88.9%	20,281,991	20,281,991
5	Minnesota	3,002,720	17,529,082	18,555,356	36,084,438	39,087,158	32,893,779	84.2%	6,193,379	6,193,379
3	Mississippi	18,162,471	17,530,540	17,780,210	35,310,750	53,473,221	39,675,404	74.2%	13,797,817	13,797,817
5	Missouri	5,028,464	23,691,243	23,436,009	47,127,252	52,155,716	46,152,071	88.5%	6,003,645	6,003,645
4	Montana	324,112	2,532,198	2,231,215	4,763,413	5,087,525	4,725,857	92.9%	361,668	361,668
5	Nebraska	3,662,173	2,791,236	2,840,893	5,632,129	9,294,302	6,734,982	72.5%	2,559,320	2,559,320
6	Nevada	2,755,854	8,802,589	11,358,441	20,161,030	22,916,884	13,905,680	60.7%	9,011,204	9,011,204
1	New Hampshire	872,905	2,738,413	2,825,535	5,563,948	6,436,853	5,104,332	79.3%	1,332,521	1,332,521
1	New Jersey	11,962,054	21,510,624	26,123,394	47,634,018	59,596,072	44,050,988	73.9%	15,545,084	15,545,084
4	New Mexico	1,986,239	4,779,465	4,298,455	9,078,920	11,065,158	8,727,942	78.9%	2,337,216	2,337,216
1	New York	28,196,655	76,319,993	61,689,941	132,009,934	160,206,589	138,350,263	86.4%	21,855,326	21,855,326
3	North Carolina	18,568,492	26,463,050	30,901,540	57,364,590	75,933,082	56,230,662	74.1%	19,699,420	19,332,175
4	North Dakota	1,231,275	2,426,417	2,049,960	4,476,377	5,707,652	4,263,381	75.1%	1,444,271	1,444,271
5	Ohio	44,071,613	52,186,078	52,181,323	104,367,401	148,439,014	105,217,235	70.9%	43,221,779	43,221,779
4	Oklahoma	5,846,213	7,675,532	6,939,350	14,614,882	20,461,095	15,490,303	75.7%	4,970,792	4,970,792
6	Oregon	7,228,350	15,166,840	16,268,406	31,435,246	38,663,596	30,944,452	80.0%	7,719,144	7,719,144
3	Pennsylvania	9,270,760	38,048,829	37,695,802	75,736,631	85,007,391	72,192,575	84.9%	12,814,816	12,814,816
1	Puerto Rico	32,089,679	38,047,145	36,748,866	74,796,011	106,885,690	85,777,927	80.3%	21,107,763	21,107,763
1	Rhode Island	2,949,115	5,544,612	6,842,486	12,387,098	15,336,213	9,807,827	64.0%	5,528,386	5,528,386
3	South Carolina	13,965,317	23,707,008	24,586,808	48,293,816	62,259,133	52,718,415	84.7%	9,540,718	9,540,718
4	South Dakota	1,793,221	2,497,390	2,143,694	4,641,084	6,434,305	5,127,420	79.7%	1,306,885	1,306,885
3	Tennessee	11,962,897	24,381,929	25,865,610	50,247,539	62,210,436	49,188,196	79.1%	13,032,340	13,032,340
4	Texas	22,262,430	78,348,130	67,347,337	145,695,467	167,957,897	146,596,982	87.3%	21,358,915	21,358,915
4	Utah	2,960,190	4,548,827	4,159,105	8,707,932	11,668,122	7,720,618	66.2%	3,945,504	3,945,504
1	Vermont	466,921	2,647,015	2,767,871	5,414,886	5,881,707	5,387,537	91.6%	494,170	494,170
2	Virginia	3,269,976	12,224,396	12,194,990	24,419,386	27,689,361	21,601,568	78.0%	6,087,793	6,087,791
6	Washington	7,078,276	21,905,635	24,749,404	46,655,039	53,733,265	44,725,200	83.2%	9,008,065	9,008,065
2	West Virginia	2,582,951	4,734,545	4,418,427	9,152,972	11,735,923	9,794,119	83.5%	1,941,804	1,941,804
5	Wisconsin	5,121,495	13,075,993	12,940,849	26,016,842	31,138,337	25,391,524	81.5%	5,746,813	5,746,813
4	Wyoming	1,365,274	2,380,909	1,849,254	4,230,162	5,595,436	5,031,332	89.9%	564,124	564,124

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

ETA9130 1/13/2011

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Adult Statewide 15% (Non-ARRA)

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: FY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	Expenditures: $ 7/1/09 - 06/30/10	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	$96,834,644	$19,129,946	$109,604,465	$129,034,411	$225,869,055	$106,491,908	47.1%	$119,377,147	$119,306,286
3	Alabama	730,667	231,254	1,101,017	1,332,261	2,062,928	1,378,024	66.8%	684,904	684,904
6	Alaska	509,946	76,105	362,355	438,460	948,406	397,031	41.9%	551,375	551,375
6	Arizona	1,204,073	344,852	2,080,154	2,425,006	3,629,079	1,409,872	38.8%	2,219,207	2,219,207
4	Arkansas	1,563,759	229,881	1,094,523	1,324,404	2,888,163	1,255,702	43.5%	1,632,461	1,632,461
6	California	19,459,533	3,630,557	17,286,055	20,916,612	40,376,145	12,952,483	32.1%	27,423,662	27,423,662
4	Colorado	927,204	217,166	1,033,989	1,251,155	2,178,359	951,992	43.7%	1,226,367	1,226,367
1	Connecticut	173,593	196,714	946,129	1,144,843	1,318,436	758,124	57.5%	560,312	557,368
2	Delaware	81,259	55,937	266,332	322,269	403,528	308,815	76.5%	94,713	94,713
2	District of Col	246,594	69,918	332,901	402,819	649,413	122,416	18.9%	526,997	526,997
3	Florida	5,045,004	881,290	4,196,053	5,077,343	10,122,347	1,736,271	17.2%	8,386,076	8,386,076
3	Georgia	2,560,683	594,490	2,830,527	3,425,017	5,985,700	1,997,443	33.4%	3,988,257	3,980,256
6	Hawaii	23,245	55,937	266,332	322,269	345,514	294,883	85.3%	50,631	50,631
6	Idaho	228,861	55,937	266,332	322,269	551,130	333,046	60.4%	218,084	218,084
5	Illinois	5,088,246	1,168,705	5,564,520	6,733,225	11,821,471	5,587,595	47.3%	6,233,876	6,233,876
5	Indiana	3,232,156	425,667	2,026,711	2,452,378	5,684,534	4,096,228	72.1%	1,588,306	1,588,306
5	Iowa	292,012	70,458	335,467	405,925	697,937	463,696	66.4%	234,241	234,241
5	Kansas	293,342	122,448	582,965	705,413	998,755	578,366	57.9%	420,389	420,389
5	Kentucky	2,656,072	371,226	1,767,507	2,138,733	4,794,805	2,300,335	48.0%	2,494,470	2,494,470
4	Louisiana	1,104,144	388,893	1,883,303	2,272,196	3,376,340	1,086,849	32.2%	2,290,491	2,290,491
1	Maine	184,651	81,935	390,108	472,043	656,694	493,624	75.2%	163,070	163,070
2	Maryland	446,383	222,486	1,059,317	1,281,803	1,728,186	1,338,875	77.5%	389,311	389,311
1	Massachusetts	2,099,422	456,490	2,173,470	2,629,960	4,729,382	3,130,180	66.2%	1,599,202	1,599,202
5	Michigan	5,223,126	1,398,321	6,657,778	8,056,099	13,279,225	7,556,210	56.9%	5,723,015	5,723,015
5	Minnesota	277,013	315,033	1,499,956	1,814,989	2,092,002	1,488,975	71.2%	603,027	603,027
3	Mississippi	1,737,038	352,225	1,677,040	2,029,265	3,766,303	1,475,477	39.2%	2,290,826	2,290,826
5	Missouri	47,414	474,995	2,261,579	2,736,574	2,783,988	2,088,088	75.0%	695,900	695,900
4	Montana	331,340	55,937	266,333	322,270	653,610	257,415	39.4%	396,195	396,195
5	Nebraska	585,481	55,937	266,332	322,269	907,750	292,541	32.2%	615,209	615,209
6	Nevada	439,699	153,718	731,888	885,606	1,325,305	629,482	47.5%	695,823	687,636
1	New Hampshire	307,005	55,937	266,333	322,270	629,278	325,339	51.7%	303,936	303,936
1	New Jersey	1,106,139	425,348	2,025,195	2,450,543	3,556,682	846,410	23.8%	2,710,272	2,710,272
4	New Mexico	181,268	120,529	573,870	694,399	845,666	426,429	50.4%	419,237	419,237
1	New York	9,080,469	0	8,227,997	8,227,997	17,308,466	9,872,024	57.0%	7,436,442	7,436,442
3	North Carolina	16,643	468,430	2,230,322	2,698,752	2,715,395	1,856,174	68.4%	859,221	859,221
4	North Dakota	285,700	55,937	266,332	322,269	607,969	324,479	53.4%	283,490	283,490
5	Ohio	4,637,110	1,144,636	5,138,797	6,283,433	10,920,543	6,273,247	57.4%	4,647,296	4,647,296
4	Oklahoma	334,483	165,426	787,534	952,960	1,287,453	983,239	76.4%	304,214	304,214
6	Oregon	891,033	248,806	1,183,204	1,431,710	2,322,743	1,036,905	44.6%	1,285,838	1,285,838
2	Pennsylvania	3,775,889	749,773	3,569,870	4,319,643	8,095,528	4,395,483	54.3%	3,700,045	3,640,376
1	Puerto Rico	2,635,091	912,135	4,342,921	5,255,056	7,890,147	1,719,501	21.8%	6,170,646	6,170,646
1	Rhode Island	26,281	95,468	454,503	549,961	576,242	264,171	45.8%	312,071	312,071
3	South Carolina	2,389,840	472,058	2,247,595	2,719,653	5,109,493	4,003,940	78.4%	1,105,553	1,105,553
4	South Dakota	256,812	68,937	266,332	322,269	579,081	460,601	79.5%	118,480	118,480
3	Tennessee	2,312,245	491,028	2,337,919	2,828,947	5,141,192	4,016,700	78.1%	1,124,492	1,124,492
4	Texas	5,995,916	0	8,966,483	8,966,483	14,962,399	6,327,223	42.3%	8,635,176	8,635,176
6	Utah	520,120	80,143	387,965	468,108	988,228	779,757	78.9%	208,471	208,471
1	Vermont	320,528	55,935	0	55,935	376,463	265,697	70.6%	110,766	110,766
2	Virginia	624,893	236,891	1,127,902	1,364,793	1,989,686	1,444,410	72.6%	545,276	545,276
6	Washington	2,775,344	439,297	2,091,612	2,530,909	5,306,253	2,019,163	38.1%	3,287,090	3,287,090
2	West Virginia	456,520	109,215	520,000	629,215	1,085,735	569,673	52.5%	516,062	516,062
5	Wisconsin	949,447	234,907	1,118,455	1,353,362	2,302,809	1,195,386	51.9%	1,107,423	1,107,423
4	Wyoming	193,902	55,937	266,333	322,270	516,172	326,919	63.3%	189,253	189,253

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

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U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Youth Statewide 15% (Non-ARRA)

		PY 2009 Availability					Expenditures			
		Unexpended Carry-In To PY 2009	New PY 2009 Funds			Total Available	$ 4/1/09 - 06/30/10	as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
Reg	State		PY 2009	FY 2010	Total					
	Total	$72,452,382	$135,846,611	$0	$135,846,611	$208,298,993	$125,410,289	60.2%	$82,888,704	$82,860,732
3	Alabama	772,020	1,358,965	0	1,358,965	2,130,985	1,630,449	76.5%	500,536	500,536
6	Alaska	703,089	459,236	0	459,236	1,162,325	412,974	35.5%	749,351	749,351
6	Arizona	1,110,419	2,081,396	0	2,081,396	3,191,815	1,846,458	57.8%	1,345,357	1,345,357
4	Arkansas	937,606	1,407,753	0	1,407,753	2,345,359	984,043	42.0%	1,361,316	1,361,316
6	California	13,302,828	21,774,196	0	21,774,196	35,077,024	12,470,739	35.6%	22,606,285	22,606,285
4	Colorado	1,233,764	1,385,517	0	1,385,517	2,619,281	1,316,826	50.3%	1,302,455	1,302,455
1	Connecticut	28,275	1,287,481	0	1,287,481	1,315,756	1,257,314	95.6%	58,442	58,442
2	Delaware	163,214	340,461	0	340,461	503,675	400,992	79.6%	102,683	102,683
2	District of Col	407,950	463,180	0	463,180	871,130	87,589	10.1%	783,541	783,541
3	Florida	2,423,318	5,002,254	0	5,002,254	7,425,572	7,187,745	96.8%	237,827	237,827
3	Georgia	2,959,039	3,659,134	0	3,659,134	6,618,173	4,936,901	74.6%	1,681,272	1,681,272
6	Hawaii	0	340,461	0	340,461	340,461	340,461	100.0%	0	0
6	Idaho	109,033	340,461	0	340,461	449,494	219,099	48.7%	230,395	230,395
5	Illinois	1,829,166	7,257,605	0	7,257,605	9,086,771	9,086,771	100.0%	0	0
5	Indiana	3,757,835	2,762,590	0	2,762,590	6,520,425	4,245,686	65.1%	2,274,739	2,274,739
5	Iowa	410,176	603,465	0	603,465	1,013,641	701,599	69.2%	312,042	312,042
5	Kansas	148,666	830,873	0	830,873	979,539	871,742	89.0%	107,797	107,797
3	Kentucky	1,327,319	2,066,300	0	2,066,300	3,393,619	2,739,269	80.7%	654,350	654,350
4	Louisiana	1,029,850	2,334,938	0	2,334,938	3,364,788	2,259,868	67.2%	1,104,920	1,104,920
1	Maine	193,930	500,968	0	500,968	694,898	521,835	75.1%	173,063	173,063
2	Maryland	445,944	1,351,755	0	1,351,755	1,797,699	1,728,337	96.1%	69,362	69,362
1	Massachusetts	2,073,296	2,897,988	0	2,897,988	4,971,284	3,113,458	62.6%	1,857,826	1,857,826
5	Michigan	1,820,095	8,628,085	0	8,628,085	10,448,180	10,397,114	99.5%	51,066	51,066
5	Minnesota	439,906	2,075,559	0	2,075,559	2,515,465	1,775,017	70.6%	740,448	740,448
3	Mississippi	876,146	2,180,315	0	2,180,315	3,056,461	(507,810)	-16.6%	3,564,271	3,564,271
5	Missouri	0	2,963,564	0	2,963,564	2,963,564	2,963,564	100.0%	0	0
4	Montana	226,975	340,462	0	340,462	567,437	340,462	60.0%	226,975	226,975
5	Nebraska	554,909	343,564	0	343,564	898,473	300,548	33.5%	597,925	597,925
6	Nevada	492,999	883,257	0	883,257	1,376,256	686,272	49.9%	689,984	685,782
1	New Hampshire	226,974	340,462	0	340,462	567,436	322,382	56.8%	245,054	245,054
1	New Jersey	0	2,430,827	0	2,430,827	2,430,827	1,535,866	63.2%	894,961	894,961
4	New Mexico	320,275	727,550	0	727,550	1,047,825	924,823	88.3%	123,002	123,002
1	New York	4,744,574	8,345,365	0	8,345,365	13,089,939	7,706,759	58.9%	5,383,180	5,383,180
3	North Carolina	1,446,121	2,925,133	0	2,925,133	4,371,254	3,628,766	83.0%	742,488	742,488
4	North Dakota	341,955	340,461	0	340,461	682,416	354,670	52.0%	327,746	327,746
5	Ohio	2,772,272	6,552,315	0	6,552,315	9,324,587	7,140,482	76.6%	2,184,105	2,184,105
4	Oklahoma	32,841	1,016,013	0	1,016,013	1,048,854	1,023,774	97.6%	25,080	25,080
6	Oregon	560,875	1,523,663	0	1,523,663	2,084,538	1,599,921	76.8%	484,617	484,617
2	Pennsylvania	2,811,763	4,742,595	0	4,742,595	7,554,358	2,505,661	33.2%	5,048,697	5,048,697
1	Puerto Rico	4,460,228	4,953,684	0	4,953,684	9,413,912	2,941,790	31.2%	6,472,122	6,472,122
1	Rhode Island	155,857	654,676	0	654,676	810,533	454,445	56.1%	356,088	356,088
3	South Carolina	2,640,689	2,883,316	0	2,883,316	5,524,005	2,611,744	47.3%	2,912,261	2,912,261
4	South Dakota	269,487	340,461	0	340,461	609,948	413,277	67.8%	196,671	196,671
3	Tennessee	0	2,928,449	0	2,928,449	2,928,449	2,640,289	90.2%	288,160	288,160
4	Texas	8,925,556	9,567,464	0	9,567,464	18,493,020	9,303,051	50.3%	9,189,969	8,966,199
4	Utah	457,704	589,524	0	589,524	1,047,228	577,420	55.1%	469,808	469,808
1	Vermont	226,974	340,461	0	340,461	567,435	250,161	44.1%	317,274	317,274
2	Virginia	158,876	1,514,751	0	1,514,751	1,673,627	966,718	57.8%	706,909	706,909
6	Washington	468,440	2,632,614	0	2,632,614	3,101,054	1,921,582	62.0%	1,179,472	1,179,472
2	West Virginia	38,376	623,434	0	623,434	661,810	443,880	67.1%	217,930	217,930
5	Wisconsin	1,391,516	1,611,148	0	1,611,148	3,002,664	1,433,143	47.7%	1,569,521	1,569,521
		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	169,361	169,361

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Dislocated Workers Statewide 15% (Non-ARRA)

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	Expenditures: $ 7/1/09 - 06/30/10	Expenditures: % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	**$129,211,950**	**$45,838,874**	**$132,249,452**	**$178,088,326**	**$306,300,276**	**$156,964,474**	**51.2%**	**$149,335,802**	**$147,725,532**
3	Alabama	581,706	537,085	1,356,147	1,893,232	2,474,938	1,998,169	80.7%	476,769	476,769
6	Alaska	978,614	144,568	364,532	508,900	1,487,714	639,962	43.0%	847,752	847,752
6	Arizona	1,431,830	708,441	1,788,820	2,497,261	3,929,091	682,262	17.4%	3,246,829	3,246,829
4	Arkansas	2,383,532	306,061	772,809	1,078,870	3,462,402	854,513	24.7%	2,607,889	2,607,889
6	California	8,565,258	9,033,359	22,809,338	31,842,697	40,407,955	17,956,897	44.4%	22,451,058	22,451,058
4	Colorado	989,354	588,836	1,486,819	2,075,654	3,065,008	1,743,240	56.9%	1,321,768	1,321,768
1	Connecticut	0	605,899	1,529,902	2,135,801	2,135,801	1,426,364	66.8%	709,437	709,437
2	Delaware	133,329	83,016	150,098	233,114	366,443	230,579	62.9%	135,864	135,864
2	District of Col	496,965	154,398	389,856	544,254	1,041,219	511,853	49.2%	529,366	529,366
3	Florida	7,677,242	3,279,098	8,279,763	11,558,861	19,436,103	4,229,033	21.8%	15,207,070	15,207,070
3	Georgia	3,409,059	1,783,080	4,502,298	6,285,378	9,694,437	3,771,096	38.9%	5,923,341	5,923,341
6	Hawaii	13,189	87,977	222,145	310,122	323,291	281,060	86.9%	42,231	42,231
6	Idaho	197,710	116,318	291,179	406,497	604,207	329,125	54.5%	275,082	275,082
5	Illinois	5,608,274	2,769,880	7,044,426	9,834,268	15,442,542	7,824,743	50.7%	7,617,819	7,617,819
5	Indiana	4,773,440	1,067,093	2,694,423	3,761,516	8,534,956	6,752,222	79.1%	1,782,734	1,782,734
5	Iowa	779,980	212,727	537,138	749,865	1,529,845	948,026	62.0%	581,819	581,819
5	Kansas	340,434	211,839	534,847	746,686	1,087,120	685,907	63.1%	401,213	401,213
3	Kentucky	3,366,519	761,722	1,923,483	2,685,255	6,051,774	2,074,261	34.3%	3,977,513	3,977,513
4	Louisiana	697,768	375,231	953,329	1,328,560	1,926,328	830,474	43.1%	1,095,854	1,095,854
1	Maine	296,794	189,118	469,953	659,071	952,865	726,221	76.2%	226,644	226,644
2	Maryland	764,502	458,173	1,156,892	1,615,065	2,379,567	1,929,168	81.1%	450,399	450,399
1	Massachusetts	2,850,931	993,961	2,181,513	3,045,474	5,896,405	3,127,901	53.0%	2,768,504	2,768,504
5	Michigan	11,483,013	3,193,616	8,063,919	11,257,535	22,740,548	13,965,866	61.4%	8,774,682	8,774,682
5	Minnesota	35,810	853,371	2,154,772	3,008,143	3,043,953	2,228,983	73.2%	814,970	814,970
3	Mississippi	5,275,438	578,470	1,460,644	2,039,114	7,314,552	3,599,065	49.2%	3,715,487	3,715,487
5	Missouri	30,616	1,051,519	2,655,098	3,706,617	3,737,233	2,847,688	76.2%	889,545	889,545
4	Montana	247,004	71,465	180,499	251,964	498,968	214,622	43.0%	284,366	284,366
5	Nebraska	904,683	105,478	266,335	371,813	1,276,496	472,830	37.0%	803,666	803,666
6	Nevada	573,699	582,601	1,471,073	2,053,674	2,627,373	1,161,972	44.2%	1,465,401	1,463,395
1	New Hampshire	488,129	101,850	257,174	359,024	847,153	360,701	42.6%	486,452	486,452
1	New Jersey	1,693,233	1,331,409	3,361,824	4,693,233	6,386,466	2,101,583	32.9%	4,284,883	4,284,883
4	New Mexico	66,175	120,531	304,344	424,875	491,050	256,341	52.2%	234,709	234,709
1	New York	5,793,090	0	9,523,553	9,523,553	15,316,643	11,134,054	72.7%	4,182,589	4,182,589
3	North Carolina	2,732,372	1,808,214	4,565,763	6,373,977	9,106,349	6,664,353	73.2%	2,441,996	2,340,828
4	North Dakota	132,875	37,306	35,509	72,815	205,690	128,939	62.7%	76,751	76,751
5	Ohio	7,503,946	2,773,466	6,389,697	9,163,163	16,667,109	9,993,347	60.0%	6,673,762	6,673,762
4	Oklahoma	156,199	248,202	619,139	864,341	1,020,540	506,994	49.7%	513,546	513,546
6	Oregon	2,231,921	698,646	1,764,091	2,462,737	4,694,658	3,013,978	64.2%	1,681,160	1,681,160
2	Pennsylvania	3,489,143	1,729,292	4,366,635	6,095,927	9,585,130	5,581,403	58.2%	4,003,727	3,996,322
1	Puerto Rico	10,534,939	1,201,874	3,034,745	4,236,619	14,771,558	4,797,601	32.5%	9,973,957	9,973,957
1	Rhode Island	152,184	323,461	816,743	1,140,204	1,292,388	317,835	24.6%	974,553	974,553
3	South Carolina	4,612,483	1,005,690	2,539,380	3,545,070	8,157,553	5,983,625	73.4%	2,173,928	2,173,928
4	South Dakota	32,099	8,228	11,642	19,870	48,969	43,374	88.6%	5,595	5,595
3	Tennessee	2,153,656	1,154,974	2,916,323	4,071,297	6,224,953	3,495,820	56.2%	2,729,133	2,729,133
4	Texas	13,942,865	0	7,715,524	7,715,524	21,658,389	9,814,184	45.3%	11,844,205	10,335,504
4	Utah	464,712	142,524	363,533	506,057	970,769	509,712	52.5%	461,057	461,057
1	Vermont	289,549	71,202	179,784	250,986	540,535	188,289	34.8%	352,246	352,246
2	Virginia	797,591	574,606	1,450,887	2,025,493	2,823,084	1,929,979	68.4%	893,105	893,105
6	Washington	3,436,465	901,354	2,276,932	3,177,286	6,613,751	3,115,348	47.1%	3,498,403	3,498,403
2	West Virginia	335,463	145,718	367,940	513,658	849,121	453,413	53.4%	395,708	395,709
5	Wisconsin	2,090,228	653,752	1,650,732	2,304,484	4,400,712	2,417,944	54.9%	1,982,768	1,982,768
4	Wyoming	90,180	22,265	46,507	68,772	158,952	112,445	70.7%	46,507	46,507

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

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U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Statewide Rapid Response

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: FY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	Expenditures: $ 7/1/09 - 06/30/10	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	$128,550,706	$83,685,809	$160,277,546	$223,963,355	$352,514,061	$202,991,968	57.6%	$149,522,093	$149,242,791
3	Alabama	674,522	537,085	1,356,147	1,893,232	2,567,754	1,796,354	70.0%	771,380	771,380
6	Alaska	388,685	138,556	352,360	491,936	880,621	399,929	45.4%	480,692	480,692
6	Arizona	293,762	459,204	1,159,497	1,618,701	1,912,463	546,152	28.6%	1,366,311	1,366,311
4	Arkansas	2,056,091	0	0	0	2,056,091	1,227,313	59.7%	828,778	828,778
6	California	15,988,161	15,055,597	38,015,564	53,071,161	69,059,322	40,449,986	58.6%	28,609,336	29,609,336
4	Colorado	276,014	240,860	2,251,027	2,491,887	2,767,901	653,012	23.6%	2,114,889	2,114,889
1	Connecticut	0	1,009,832	2,549,837	3,559,669	3,559,669	1,674,092	47.0%	1,885,577	1,885,577
2	Delaware	135,131	15,000	0	15,000	150,131	78,648	52.4%	71,483	71,483
2	District of Col	1,122	63,446	300,000	363,446	364,568	343,541	94.2%	21,027	21,027
3	Florida	2,947,365	0	3,264,769	3,264,769	6,212,134	4,349,140	70.0%	1,862,994	1,862,994
3	Georgia	2,046,280	2,971,600	7,503,630	10,475,630	12,521,910	10,779,785	86.1%	1,742,125	1,735,241
6	Hawaii	0	12,600	32,400	45,000	45,000	33,249	73.9%	11,751	11,751
6	Idaho	194,395	128,364	324,121	452,485	646,880	590,668	91.3%	56,212	56,212
5	Illinois	3,219,221	2,789,959	7,044,430	9,834,389	13,053,610	8,223,580	63.0%	4,829,530	4,829,530
5	Indiana	5,612,814	1,778,488	4,490,703	6,269,191	11,880,005	6,503,922	54.7%	5,376,083	5,276,083
5	Iowa	552,061	212,727	537,137	749,864	1,301,915	507,693	38.7%	804,222	804,222
5	Kansas	944,316	353,065	891,495	1,244,560	2,188,876	658,056	30.1%	1,530,820	1,530,820
3	Kentucky	7,558,571	1,269,620	3,206,805	4,475,425	12,033,996	8,196,393	68.1%	3,837,603	3,837,603
4	Louisiana	1,630,372	628,159	1,586,107	2,214,266	3,844,638	1,868,689	48.6%	1,975,949	1,975,949
1	Maine	404,680	310,198	783,255	1,093,453	1,498,133	804,059	53.7%	694,074	694,074
2	Maryland	918,030	534,535	1,349,708	1,884,243	2,802,273	1,552,411	55.4%	1,249,862	1,249,862
1	Massachusetts	4,369,246	1,439,936	3,635,855	5,075,791	9,445,037	6,084,582	64.4%	3,360,455	3,360,455
5	Michigan	12,068,970	3,053,198	7,709,362	10,762,560	22,831,530	8,753,717	38.3%	14,077,813	14,077,813
5	Minnesota	1,205,774	853,371	2,154,772	3,008,143	4,213,917	2,740,992	65.0%	1,472,925	1,472,925
3	Mississippi	853,735	98,524	0	98,524	952,259	417,311	43.8%	534,948	534,948
5	Missouri	769,401	1,752,531	4,425,163	6,177,694	6,947,095	4,316,768	62.2%	2,620,327	2,620,327
4	Montana	1,760	119,141	300,632	419,773	421,753	418,184	99.2%	3,569	3,569
5	Nebraska	300,287	70,319	177,557	247,876	548,163	54,207	9.9%	493,956	493,956
6	Nevada	118,569	375,000	1,125,005	1,500,005	1,618,573	721,277	44.6%	897,296	897,296
1	New Hampshire	102,886	85,000	141,000	226,000	328,886	146,411	44.5%	182,475	182,475
1	New Jersey	2,787,029	2,219,015	4,403,037	6,622,052	9,409,081	5,073,013	53.9%	4,336,068	4,336,068
4	New Mexico	843,825	80,354	202,896	283,250	1,127,075	243,513	21.6%	883,562	883,562
1	New York	7,160,538	4,502,847	11,369,742	15,872,589	23,033,127	13,275,625	57.6%	9,757,502	9,757,502
3	North Carolina	4,412,020	3,013,691	7,609,605	10,623,296	15,035,316	6,884,458	44.8%	8,150,858	8,150,858
4	North Dakota	43,501	31,250	51,750	83,000	126,501	112,540	89.0%	13,961	13,961
5	Ohio	7,490,296	3,969,782	10,023,746	13,993,529	21,483,824	11,771,139	54.8%	9,712,685	9,712,685
4	Oklahoma	1,133,731	408,671	1,031,898	1,440,569	2,574,300	1,114,846	43.3%	1,459,454	1,459,454
5	Oregon	1,548,045	852,070	1,846,485	2,298,555	3,846,600	2,464,101	64.1%	1,382,499	1,382,499
2	Pennsylvania	4,908,092	2,882,254	7,277,726	10,159,980	15,068,073	7,898,607	52.4%	7,169,466	7,068,038
1	Puerto Rico	14,878,139	2,003,123	5,057,908	7,061,031	21,939,170	18,474,215	84.2%	3,464,955	3,464,916
1	Rhode Island	559,339	539,102	361,239	900,341	1,459,680	562,494	38.5%	897,186	897,186
3	South Carolina	4,864,504	1,005,691	2,539,380	3,545,071	8,209,575	5,497,818	67.0%	2,711,757	2,711,757
4	South Dakota	128,703	2,500	7,500	10,000	138,703	138,703	100.0%	0	0
3	Tennessee	4,267,092	1,539,965	3,888,431	5,428,396	9,695,488	4,981,730	51.4%	4,713,758	4,713,758
4	Texas	849,472	835,045	2,216,487	3,051,532	3,901,004	1,401,361	35.9%	2,499,643	2,499,642
4	Utah	176	53,605	99,390	152,995	153,171	153,171	100.0%	0	0
1	Vermont	0	2,727	26,469	29,196	29,196	29,196	100.0%	0	0
2	Virginia	2,644,138	957,677	2,418,145	3,375,822	6,019,960	519,409	8.6%	5,500,551	5,500,551
6	Washington	2,435,781	1,295,474	0	1,295,474	3,731,255	2,630,015	70.5%	1,101,240	1,101,240
2	West Virginia	511,831	242,864	613,233	856,097	1,367,928	619,730	45.3%	748,198	748,198
5	Wisconsin	1,654,243	1,089,587	2,751,221	3,840,808	5,495,051	4,451,477	81.0%	1,043,574	1,043,574
4	Wyoming	0	1,500	13,500	15,000	15,000	4,286	28.6%	10,714	10,714

- Data come from WIA 9130 financial reports for the 6/30/10 and 9/30/09 reporting periods accessed from E-Grants on 1/13/11.

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U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Local Adult (Non-ARRA)

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	New PY 2009 Funds: PY 2009	New PY 2009 Funds: FY 2010	New PY 2009 Funds: Total	Total Available	Expenditures: $ 7/1/09 - 06/30/10	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	$171,327,496	$155,790,883	$617,404,996	$773,195,879	$944,523,375	$758,658,859	80.3%	$185,864,516	$185,864,516
3	Alabama	3,072,049	1,893,882	6,278,661	8,172,543	11,244,592	7,889,929	70.2%	3,354,663	3,354,663
6	Alaska	378,175	431,260	2,053,348	2,484,608	2,862,783	2,505,372	87.6%	357,411	357,411
6	Arizona	3,906,889	1,975,585	8,277,365	10,252,950	14,159,839	10,125,191	71.5%	4,034,648	4,034,648
4	Arkansas	1,500,696	1,302,656	6,202,297	7,504,953	9,005,649	6,678,059	74.2%	2,327,590	2,327,590
6	California	23,463,464	21,174,182	102,161,292	123,335,475	146,798,939	114,612,950	78.1%	32,185,989	32,185,989
4	Colorado	2,572,614	2,235,054	7,064,154	9,299,208	11,871,822	10,390,849	87.5%	1,480,973	1,480,973
1	Connecticut	779,875	1,126,044	5,361,397	6,487,441	7,267,316	5,617,716	77.3%	1,649,600	1,649,600
2	Delaware	434,700	316,978	1,509,218	1,826,196	2,260,896	1,748,889	77.4%	512,007	512,007
2	District of Col	(356,451)	396,206	1,886,438	2,282,644	1,926,193	1,386,798	72.0%	539,395	539,395
3	Florida	5,532,196	22,414,082	23,777,639	46,191,721	51,723,917	39,380,538	76.1%	12,343,379	12,343,379
3	Georgia	6,165,568	3,485,003	16,355,129	19,840,132	26,005,700	16,209,159	62.3%	9,796,541	9,796,541
6	Hawaii	937,703	316,978	1,509,218	1,826,196	2,763,899	1,764,980	63.9%	998,919	998,919
6	Idaho	152,744	316,978	1,509,218	1,826,196	1,978,940	1,621,299	81.9%	357,641	357,641
5	Illinois	6,571,844	8,074,781	31,532,279	39,607,060	46,178,904	35,055,324	75.9%	11,123,580	11,123,580
5	Indiana	(2,096,306)	2,412,108	11,484,695	13,896,803	11,800,497	10,416,008	88.3%	1,384,489	1,384,489
5	Iowa	326,983	399,259	1,776,983	2,176,242	2,502,225	1,790,428	71.6%	711,797	711,797
5	Kansas	(12,422)	643,877	3,484,744	4,128,621	4,116,199	3,948,711	95.9%	167,488	167,488
3	Kentucky	7,241,199	2,895,454	10,862,096	13,757,550	20,998,749	15,675,235	74.6%	5,323,514	5,323,514
4	Louisiana	4,875,653	3,425,618	11,004,357	14,429,975	19,305,628	15,609,346	80.9%	3,696,282	3,696,282
1	Maine	392,179	464,290	2,210,614	2,674,904	3,067,083	2,495,336	81.4%	571,747	571,747
2	Maryland	2,087,273	1,260,756	5,760,858	7,021,614	9,108,887	7,652,765	84.0%	1,456,122	1,456,122
1	Massachusetts	318,380	2,967,982	12,316,331	15,284,313	15,602,693	12,543,105	80.4%	3,059,588	3,059,588
5	Michigan	9,394,856	8,454,043	42,948,872	51,402,915	60,797,770	56,338,237	92.7%	4,459,533	4,459,533
5	Minnesota	707,906	1,785,187	8,499,754	10,284,941	10,992,847	8,506,675	77.4%	2,486,172	2,486,172
3	Mississippi	11,178,278	3,019,135	9,503,226	12,522,361	23,700,639	21,101,612	89.0%	2,599,027	2,599,027
5	Missouri	1,653,961	2,691,640	12,816,617	15,507,257	17,161,218	15,400,530	89.7%	1,760,688	1,760,688
4	Montana	247,648	316,978	1,509,218	1,826,196	2,073,844	1,874,269	90.4%	199,575	199,575
5	Nebraska	1,605,706	316,978	1,531,853	1,848,831	3,454,537	2,369,540	68.3%	1,084,997	1,084,997
6	Nevada	(187,338)	1,212,238	4,147,368	5,359,606	5,172,268	4,387,570	84.8%	784,698	784,698
1	New Hampshire	671,592	228,225	1,072,971	1,301,196	1,972,788	1,428,815	72.4%	543,973	543,973
1	New Jersey	4,583,682	2,410,303	11,248,100	13,658,403	18,240,085	13,167,911	72.2%	5,072,174	5,072,174
4	New Mexico	719,610	623,252	2,865,781	3,489,033	4,208,643	3,340,663	79.4%	867,980	867,980
1	New York	10,406,413	9,621,049	37,216,447	46,737,496	57,143,909	51,415,551	90.0%	5,728,358	5,728,358
3	North Carolina	3,204,362	2,654,428	12,638,489	15,292,927	18,497,289	15,607,773	84.4%	2,889,516	2,889,516
4	North Dakota	481,507	316,978	1,509,218	1,826,196	2,307,703	1,686,147	73.1%	621,556	621,556
5	Ohio	11,595,225	5,971,665	29,034,548	35,006,213	46,601,438	31,296,869	67.2%	15,304,569	15,304,569
4	Oklahoma	2,644,037	937,312	4,462,794	5,400,106	8,044,143	5,990,782	74.5%	2,053,361	2,053,361
6	Oregon	2,912,347	1,790,948	8,045,406	9,836,354	12,748,701	9,956,453	78.1%	2,692,248	2,692,248
2	Pennsylvania	3,533,619	4,248,713	20,229,261	24,477,974	28,011,593	23,259,024	83.0%	4,752,769	4,752,769
1	Puerto Rico	8,526,710	5,168,766	24,609,887	29,778,655	38,305,365	30,948,234	80.8%	7,357,131	7,357,131
1	Rhode Island	885,674	581,295	2,575,513	3,156,808	4,042,482	2,360,659	58.4%	1,681,823	1,681,823
3	South Carolina	7,166,354	2,674,985	17,101,404	19,776,389	26,942,743	23,575,910	87.5%	3,366,843	3,366,843
4	South Dakota	267,737	316,978	1,180,440	1,497,418	1,765,155	1,159,965	65.7%	605,190	605,190
3	Tennessee	2,928,485	3,327,250	14,518,876	17,846,126	20,824,611	17,291,076	83.0%	3,533,535	3,533,535
4	Texas	7,036,330	10,375,590	40,076,460	50,452,050	57,488,380	48,703,145	84.7%	8,785,235	8,785,235
4	Utah	489,514	475,273	2,252,349	2,727,622	3,217,136	2,014,529	62.6%	1,202,607	1,202,607
1	Vermont	26,367	316,980	1,775,550	2,092,530	2,118,897	1,867,663	88.1%	251,234	251,234
2	Virginia	3,474,422	1,386,035	6,829,043	8,215,078	11,689,500	9,647,109	82.5%	2,042,391	2,042,391
6	Washington	2,779,819	2,489,351	11,852,467	14,341,818	17,121,637	14,359,005	83.9%	2,762,632	2,762,632
2	West Virginia	1,554,613	534,789	2,946,667	3,481,456	5,036,069	4,114,225	81.7%	921,844	921,844
5	Wisconsin	1,555,963	1,331,141	6,487,345	7,818,486	9,374,449	7,609,988	81.2%	1,764,461	1,764,461
4	Wyoming	1,089,893	384,312	1,543,741	1,928,053	3,017,946	2,770,913	91.8%	247,033	247,033

* Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OR ASY 11 0302

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Local Youth (Non-ARRA)

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	New PY 2009 Funds: PY 2009	New PY 2009 Funds: FY 2010	New PY 2009 Funds: Total	Total Available	Expenditures: $ 4/1/09 - 06/30/10	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	$186,917,979	$770,707,449	$0	$770,707,449	$957,625,428	$770,957,790	80.5%	$186,667,638	$186,652,636
3	Alabama	895,892	7,700,803	0	7,700,803	8,596,695	6,754,338	78.6%	1,842,357	1,842,357
6	Alaska	864,038	2,602,340	0	2,602,340	3,466,378	2,983,112	86.0%	483,866	483,866
6	Arizona	5,975,588	10,970,457	0	10,970,457	16,946,045	11,109,148	65.6%	5,836,897	5,836,897
4	Arkansas	1,583,212	7,977,269	0	7,977,269	9,560,481	7,991,489	83.6%	1,568,992	1,568,992
6	California	23,156,429	123,387,114	0	123,387,114	146,543,543	114,879,965	78.4%	31,663,578	31,663,578
4	Colorado	1,840,630	7,851,260	0	7,851,260	9,691,890	7,877,494	81.3%	1,814,396	1,814,396
1	Connecticut	601,011	7,295,723	0	7,295,723	7,896,734	6,421,688	81.3%	1,475,046	1,475,046
2	Delaware	476,319	1,929,283	0	1,929,283	2,405,602	1,974,271	82.1%	431,331	431,331
2	District of Col	2,163,278	2,624,689	0	2,624,689	4,787,967	2,949,917	61.6%	1,838,050	1,838,050
3	Florida	3,981,953	28,346,109	0	28,346,109	32,328,062	25,790,838	79.8%	6,537,224	6,537,224
3	Georgia	4,831,428	20,735,095	0	20,735,095	25,566,523	17,621,172	68.9%	7,945,351	7,945,351
6	Hawaii	978,096	1,929,283	0	1,929,283	2,907,379	2,214,776	76.2%	692,603	692,603
6	Idaho	163,032	1,929,283	0	1,929,283	2,092,315	1,696,997	81.1%	395,318	395,318
5	Illinois	7,349,955	41,126,430	0	41,126,430	48,476,385	37,229,350	76.8%	11,247,035	11,247,035
5	Indiana	6,959,575	15,654,675	0	15,654,675	22,614,250	18,328,409	81.0%	4,285,841	4,285,841
5	Iowa	983,842	3,419,844	0	3,419,844	4,403,486	3,640,759	82.7%	762,727	762,727
5	Kansas	1,010,849	4,708,651	0	4,708,651	5,719,500	4,671,571	81.7%	1,047,929	1,047,929
3	Kentucky	3,656,208	11,709,033	0	11,709,033	15,365,241	11,795,527	76.8%	3,569,714	3,569,714
4	Louisiana	6,431,862	13,231,324	0	13,231,324	19,663,186	13,221,354	67.2%	6,441,832	6,441,832
1	Maine	291,200	2,938,834	0	2,938,834	3,230,164	2,499,422	77.4%	730,742	730,742
2	Maryland	2,421,043	7,659,948	0	7,659,948	10,080,991	8,244,928	81.8%	1,836,063	1,836,063
1	Massachusetts	3,397,215	16,421,929	0	16,421,929	19,819,145	15,039,321	75.9%	4,779,824	4,779,824
5	Michigan	9,146,481	49,892,481	0	49,892,481	58,038,962	53,325,899	91.9%	4,713,063	4,713,062
5	Minnesota	783,119	11,761,497	0	11,761,497	12,544,615	11,034,752	88.0%	1,509,863	1,509,863
3	Mississippi	4,621,431	12,355,121	0	12,355,121	16,976,552	13,071,309	77.0%	3,905,243	3,905,243
5	Missouri	2,406,745	16,793,527	0	16,793,527	19,200,272	16,500,350	85.9%	2,699,922	2,699,922
4	Montana	53,514	1,929,282	0	1,929,282	1,982,796	1,907,340	96.2%	75,456	75,456
5	Nebraska	958,569	1,946,864	0	1,946,864	2,905,433	2,024,359	69.7%	879,074	879,074
6	Nevada	878,414	5,005,125	0	5,005,125	5,881,539	3,723,908	63.3%	2,157,631	2,157,631
1	New Hampshire	164,838	1,929,282	0	1,929,282	2,094,120	1,880,166	89.8%	213,954	213,954
1	New Jersey	3,595,929	13,774,685	0	13,774,685	17,370,614	12,167,546	75.8%	4,203,068	4,203,068
4	New Mexico	545,936	3,607,756	0	3,607,756	4,153,692	3,558,462	85.7%	595,230	595,230
1	New York	13,853,067	47,290,403	0	47,290,403	61,143,470	50,364,391	82.4%	10,779,079	10,779,079
3	North Carolina	6,426,634	16,575,755	0	16,575,755	22,982,389	19,607,540	85.3%	3,374,849	3,359,788
4	North Dakota	657,040	1,929,283	0	1,929,283	2,586,323	1,930,946	74.7%	655,377	655,377
5	Ohio	17,792,526	37,129,788	0	37,129,788	54,922,314	41,948,605	76.4%	12,973,709	12,973,709
4	Oklahoma	2,098,168	5,757,410	0	5,757,410	7,855,578	6,063,262	77.2%	1,792,314	1,792,314
6	Oregon	2,122,964	10,196,830	0	10,196,830	12,319,794	10,435,467	84.7%	1,884,327	1,884,327
2	Pennsylvania	3,789,784	26,874,706	0	26,874,706	30,664,490	26,549,327	86.6%	4,115,163	4,115,163
1	Puerto Rico	7,519,562	28,070,883	0	28,070,883	35,590,445	30,906,393	86.8%	4,684,052	4,684,052
1	Rhode Island	1,449,414	3,709,837	0	3,709,837	5,159,251	3,561,659	69.0%	1,597,592	1,597,592
3	South Carolina	4,371,430	16,338,792	0	16,338,792	20,710,222	17,413,646	84.1%	3,296,576	3,296,576
4	South Dakota	763,601	1,929,283	0	1,929,283	2,692,884	1,991,189	73.9%	701,695	701,695
3	Tennessee	5,806,069	16,594,544	0	16,594,544	22,400,613	17,110,070	76.4%	5,290,543	5,290,543
4	Texas	8,883,675	54,215,627	0	54,215,627	63,099,302	55,966,006	88.7%	7,133,296	7,133,296
4	Utah	2,204,161	3,340,642	0	3,340,642	5,544,803	3,581,990	64.6%	1,962,813	1,962,813
1	Vermont	200,343	1,929,283	0	1,929,283	2,129,626	2,116,765	99.4%	12,861	12,861
2	Virginia	1,126,235	8,583,590	0	8,583,590	9,709,825	7,058,362	72.7%	2,651,463	2,651,463
6	Washington	1,878,071	15,604,084	0	15,604,084	17,282,155	15,413,039	89.2%	1,869,116	1,869,116
2	West Virginia	701,136	3,532,790	0	3,532,790	4,233,926	3,510,980	82.9%	722,946	722,946
5	Wisconsin	1,827,157	9,129,841	0	9,129,841	10,956,998	8,012,393	73.1%	2,944,605	2,944,605
4	Wyoming	402,583	1,929,282	0	1,929,282	2,331,865	2,285,763	98.0%	46,102	46,102

- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

OFASI 11-0332

U. S. Department of Labor
Employment and Training Administration
State WIA Formula Spending for Program Year 2009 through 06/30/10
Local Dislocated Workers (Non-ARRA)

Reg	State	PY 2009 Availability: Unexpended Carry-In To PY 2009	PY 2009 Availability: New PY 2009 Funds: PY 2009	PY 2009 Availability: New PY 2009 Funds: FY 2010	PY 2009 Availability: New PY 2009 Funds: Total	Total Available	Expenditures: $ 7/1/09 - 06/30/10	Expenditures: as % of Total Available	Unexpended Balance 06/30/10	Unexpended Carry-Out To PY 2010
	Total	$160,700,783	$199,871,549	$537,260,995	$737,132,544	$897,833,327	$670,350,675	74.7%	$227,482,652	$227,130,464
3	Alabama	2,368,303	1,922,906	6,289,129	8,212,035	10,580,338	7,137,105	67.5%	3,443,233	3,443,233
6	Alaska	1,419,623	678,531	1,712,298	2,391,829	3,811,452	2,480,020	65.1%	1,331,632	1,331,632
6	Arizona	2,612,402	3,279,199	8,626,502	11,905,701	14,418,103	7,798,162	54.1%	6,619,941	6,619,941
4	Arkansas	4,542,472	1,734,349	4,379,251	6,113,600	10,456,072	7,129,960	68.2%	3,326,112	3,326,112
6	California	18,874,705	35,532,410	87,030,376	122,562,786	141,437,491	104,773,853	74.1%	36,663,638	36,663,638
4	Colorado	1,057,347	2,091,426	4,969,398	7,060,824	8,118,171	4,270,572	52.6%	3,847,599	3,847,599
1	Connecticut	787,594	2,423,596	6,119,607	8,543,203	9,330,797	7,022,858	75.3%	2,307,939	2,307,939
2	Delaware	516,366	455,428	1,247,355	1,702,783	2,219,149	1,612,587	72.7%	606,562	606,562
2	District of Col	2,403,940	811,475	1,909,186	2,720,661	5,124,601	3,947,019	77.0%	1,177,582	1,177,582
3	Florida	3,411,990	1,161,448	43,653,886	44,815,334	48,227,314	32,031,656	66.4%	16,195,658	16,195,658
3	Georgia	4,612,919	7,016,094	17,693,714	24,709,808	29,622,727	18,409,027	62.1%	11,213,700	11,213,700
6	Hawaii	283,970	485,910	1,226,418	1,712,358	1,996,328	915,525	45.9%	1,080,803	1,080,803
6	Idaho	15,003	525,105	1,325,895	1,851,000	1,866,003	1,749,028	93.7%	116,975	116,975
5	Illinois	5,274,975	11,567,229	32,874,001	44,441,230	49,716,205	36,180,568	72.8%	13,535,637	13,535,637
5	Indiana	7,791,877	4,268,371	10,777,689	15,046,060	22,837,937	20,476,400	89.7%	2,361,537	2,361,537
5	Iowa	1,315,300	992,724	2,630,642	3,623,366	4,938,666	4,106,666	83.2%	831,960	831,960
5	Kansas	519,556	897,368	1,958,666	2,856,024	3,375,580	1,397,272	41.4%	1,978,308	1,978,308
3	Kentucky	2,550,528	2,255,218	6,847,707	9,102,925	11,653,453	8,092,408	69.4%	3,561,045	3,561,045
4	Louisiana	1,704,210	324,006	3,436,006	3,760,012	5,464,222	3,999,284	73.2%	1,464,938	1,464,938
1	Maine	239,779	744,479	1,879,814	2,624,293	2,864,072	2,318,135	80.9%	545,937	545,937
2	Maryland	2,007,083	2,061,779	5,447,956	7,509,735	9,516,818	7,396,933	77.7%	2,119,885	2,119,885
1	Massachusetts	1,820,975	3,074,639	8,726,052	11,800,691	13,621,666	11,408,193	83.8%	2,213,473	2,213,473
5	Michigan	16,791,364	14,513,735	32,764,719	47,278,454	63,069,818	51,960,423	82.4%	11,109,395	11,109,393
5	Minnesota	1,511,696	3,982,398	10,056,602	14,038,000	15,549,696	13,352,352	85.9%	2,197,344	2,197,344
3	Mississippi	2,262,762	2,156,284	8,276,984	10,433,268	12,696,030	5,502,483	43.0%	7,293,547	7,293,547
5	Missouri	967,758	4,206,076	10,620,392	14,826,468	15,794,226	14,251,191	90.2%	1,543,035	1,543,035
4	Montana	22,950	285,938	721,997	1,007,935	1,030,885	944,248	91.6%	86,637	86,637
5	Nebraska	1,099,898	527,394	1,309,040	1,836,434	2,936,332	2,351,083	80.1%	585,249	585,249
6	Nevada	2,066,778	2,585,226	7,211,073	9,796,299	11,863,077	5,794,202	48.8%	6,068,875	6,068,875
1	New Hampshire	36,495	580,906	1,752,564	2,333,470	2,369,965	1,795,371	75.8%	574,594	574,594
1	New Jersey	3,782,443	5,325,836	14,877,294	20,203,130	23,985,573	17,715,531	73.9%	6,269,842	6,269,842
4	New Mexico	720,692	548,457	1,433,674	1,982,131	2,702,823	1,828,817	67.7%	874,006	874,006
1	New York	3,936,176	13,508,541	24,473,494	37,982,035	41,918,210	36,570,321	87.2%	5,347,889	5,347,889
3	North Carolina	8,957,496	7,232,857	18,263,051	25,495,908	34,453,404	21,018,349	61.0%	13,435,055	13,082,871
4	North Dakota	192,728	180,156	540,742	720,898	913,626	746,288	81.7%	167,338	167,338
5	Ohio	14,683,862	9,064,625	23,146,775	32,291,400	46,975,262	31,971,761	68.1%	14,943,501	14,943,501
4	Oklahoma	1,104,010	980,810	2,476,556	3,457,366	4,561,376	3,436,259	75.3%	1,125,117	1,125,117
6	Oregon	2,293,039	3,179,062	8,223,000	11,402,062	13,695,101	10,552,532	77.1%	3,142,569	3,142,569
2	Pennsylvania	1,947,157	6,917,410	17,466,541	24,383,951	26,331,108	22,384,224	85.0%	3,946,884	3,946,884
1	Puerto Rico	16,043,407	4,807,494	12,138,979	16,946,473	32,989,880	23,923,300	72.5%	9,066,580	9,066,580
1	Rhode Island	614,027	1,263,480	4,266,973	5,530,453	6,134,480	3,885,509	63.3%	2,248,971	2,248,971
3	South Carolina	2,427,533	4,693,221	7,485,404	12,178,625	14,606,158	11,728,859	80.3%	2,877,299	2,877,299
4	South Dakota	761,883	251,129	963,254	1,214,383	1,976,266	1,976,266	100.0%	0	0
3	Tennessee	3,168,443	4,460,135	11,366,734	15,826,869	18,995,312	14,787,050	77.8%	4,208,262	4,208,262
4	Texas	6,342,425	13,756,913	27,270,877	41,027,790	47,370,215	41,929,831	88.5%	5,440,384	5,440,384
4	Utah	266,515	732,912	1,906,756	2,639,668	2,906,183	2,126,099	73.2%	780,084	780,084
1	Vermont	240,111	400,752	992,321	1,393,073	1,633,184	1,403,109	85.9%	230,075	230,075
2	Virginia	(1,330,682)	2,254,771	5,565,847	7,820,718	6,290,036	4,896,097	77.8%	1,393,939	1,393,937
6	Washington	2,620,336	3,812,200	12,896,937	16,709,137	19,329,473	14,953,156	77.4%	4,376,317	4,376,317
2	West Virginia	327,202	666,968	1,471,760	2,138,728	2,465,928	2,168,914	88.0%	297,014	297,014
5	Wisconsin	1,726,375	2,615,011	6,453,604	9,068,615	10,806,890	9,769,143	90.4%	1,037,747	1,037,747
4	Wyoming	(127,202)	67,334	305,513	372,847	245,645	(25,344)	-10.3%	270,989	270,989

OASI 11-0302

Note:
- Abbreviations, such as negative expenditures, usually include corrections of prior period errors which are reported in the current period.
- Data come from WIA 9130 financial reports for the 6/30/10 and 6/30/09 reporting periods accessed from E-Grants on 1/13/11.

[Whereupon, at 12:20 p.m., the committee was adjourned.]

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