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SPECIAL MINIMUM WAGE PROGRAM

Centers Offer Employment and Support Services to Workers With Disabilities, But Labor Should Improve Oversight

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Abbreviations

FLSA Fair Labor Standards Act
GAO General Accounting Office
WHD Wage and Hour Division

G A O
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

September 4, 2001

The Honorable Major R. Owens
Ranking Minority Member
Subcommittee on Workforce Protections
Committee on Education and the Workforce
House of Representatives

The Honorable Cass Ballenger
House of Representatives

In order to prevent the curtailment of employment opportunities for individuals with disabilities, section 14(c) of the Fair Labor Standards Act (FLSA) allows employers to pay individuals less than the minimum wage if they have a physical or mental disability that impairs their earning or productive capacity. Currently, more than 5,600 employers pay special minimum wages to about 424,000 workers. The Department of Labor is responsible for the oversight of the provisions of section 14(c). Labor's Wage and Hour Division (WHD) of the Employment Standards Administration has responsibility for administering the special minimum wage program. Employers must obtain a certificate from WHD in order to pay workers with disabilities less than the federal minimum wage. WHD's responsibilities for administering the program include reviewing applications filed by employers for new 14(c) certificates and renewals, issuing the certificates, providing guidance and training to its own staff and employers, monitoring and enforcing compliance by employers, and ensuring that workers are paid the correct wages.

Some advocates for workers with disabilities believe that the special minimum wage provisions are necessary because they provide employment opportunities for many of these individuals. However, others have concerns about the appropriateness of paying these workers less than the minimum wage, including whether the provisions encourage individuals with disabilities to work indefinitely in settings primarily with other workers with disabilities rather than obtain jobs in the community.[1] In particular, legislative proposals have been made that would eliminate

[1]A job "in the community" refers to a job in which an individual works primarily with other workers who do not have disabilities, rather than in a setting in which most workers have disabilities.

the special minimum wage provisions of the act for individuals with visual impairments. Although these proposals have drawn attention to the provisions of section 14(c), little is known about workers paid special minimum wages, their employers, or the Department of Labor's oversight of the provisions. To provide the Congress with information it can use to evaluate these proposals, you asked us to (1) describe the characteristics of employers that employ individuals with disabilities at less than the minimum wage under the provisions of section 14(c), (2) describe the characteristics of workers with disabilities who earn less than the minimum wage, and (3) assess Labor's management of the special minimum wage program.

To obtain this information, we surveyed a random sample of work centers[2] and businesses[3] nationwide that, according to Labor records, were authorized to employ workers with disabilities at special minimum wages during calendar year 2000 and visited eight work sites where workers with disabilities are paid special minimum wages: Georgia, Illinois, Texas, and Virginia (one site each); and California and New York (two sites each). The sites were selected on the basis of their geographic location, the predominant impairment of the facilities' workers, and the number of workers paid special minimum wages in order to obtain sites that were either typical of those in the program or to meet specific selection criteria, such as including one facility that employed primarily workers with visual impairments.[4] In addition, we talked with researchers, disability advocacy groups, employer groups, employers, 14(c) workers, and parents or guardians of 14(c) workers; interviewed Labor officials; and reviewed agency documents, databases, and individual case files.

We limited the scope of our study to work centers and businesses. Although schools, hospitals, and other facilities that provide residential care also employ workers with disabilities at special minimum wages,

[2]In this report, the term "work center" is defined as a facility established to provide employment opportunities for individuals with disabilities. These facilities, formerly known as "sheltered workshops," are also often referred to as "community rehabilitation programs."

[3]In this report, the term "business" is defined as a for-profit commercial business establishment—such as a fast food restaurant or a grocery store—or a nonprofit entity—such as a university or government agency—that employs mainly workers without disabilities. Most businesses that employ 14(c) workers are for-profit commercial business establishments.

[4]See app. I for additional information on the selection criteria for the sites.

these entities are not typical of 14(c) employers in general and represent a small proportion of all 14(c) employers (2 percent are schools and 5 percent are hospitals or other residential care facilities). (See app. I for a detailed description of our scope and methodology.) We conducted our work from August 2000 through July 2001 in accordance with generally accepted government auditing standards.

Results in Brief

There are more than 5,600 employers, nationwide, that pay special minimum wages to workers with disabilities; about 84 percent are work centers established to provide employment opportunities and support services to individuals with disabilities. Businesses comprise about 9 percent of these employers; the remaining 7 percent are hospitals or other residential care facilities and schools. On average, work centers employ a total of about 86 workers at special minimum wage rates. Work centers provide jobs most often in service-oriented work, such as grounds maintenance and light assembly work done primarily by hand and carried out under contracts with government agencies or private companies. In addition, almost all work centers provide a range of support services designed to enable 14(c) workers to obtain and perform their jobs, such as close supervision and transportation services. Many work centers also provide support services that may benefit 14(c) workers outside the workplace, such as speech therapy and psychological counseling. The types and levels of support services that work centers are able to provide to 14(c) workers, however, depend in part upon the funding available to them from state and county agencies that, together with production contracts, provide the major sources of funding for work centers. According to some of the work center managers who responded to our survey and managers at the sites we visited, without the provisions of section 14(c), work centers would have to obtain additional funds in order to continue their current level of operations. For all of the work centers we visited, we estimate that the increase in their payroll costs would be substantial if they were to employ all of their current 14(c) workers at the minimum wage.

On the basis of our survey, we estimate that 74 percent of the workers paid special minimum wages by work centers have mental retardation or another developmental disability as their primary impairment, and 46 percent have multiple disabilities. From the data reported by employers on the productivity of their 14(c) workers, we estimate that 70 percent of the

workers are less than half as productive as workers without disabilities performing the same jobs.[5] Because their productivity rates are so low, these workers receive a very low hourly wage rate; more than half of all 14(c) workers earns $2.50 an hour or less. Eighty-six percent of 14(c) workers work part-time. Last year, about 13 percent of all 14(c) workers in work centers left the center; about 5 percent of the workers left to take a job in the community earning either special minimum wages or at least the minimum wage. Another 4 percent of the workers remained at the work center but progressed from jobs in which they earned less than the minimum wage to work at or above the minimum wage. More than half of all 14(c) workers employed by work centers had worked there for 5 years or longer; some workers at the sites we visited had been employed there for over 20 years. Most 14(c) workers are from 25 to 54 years of age. Although we were not able to determine how many 14(c) workers nationwide receive federal disability benefits or the Medicare and Medicaid coverage associated with these benefits, we were told by work center managers that many 14(c) workers at the sites we visited receive some type of cash disability payments and are covered by Medicaid, Medicare, or both. In addition to their income from work, 14(c) workers receive nonmonetary benefits from being in a work environment, including training in how to manage their finances and perform other activities of daily living.

Labor has not effectively managed the special minimum wage program to ensure that 14(c) workers receive the correct wages because, according to WHD officials, the agency placed a low priority on the program in past years. Instead, Labor devoted attention to other enforcement programs such as child labor and the garment industry. In fiscal year 2000, Labor began assigning additional resources to the program, increasing its enforcement efforts, and providing more training and guidance to its own staff and 14(c) employers. However, Labor lacks the data it needs to manage the program and determine what resources are needed to ensure compliance by employers. The data Labor has on the number of 14(c) workers and their employers and on the results of its reviews of employers' 14(c) certificate applications and investigations of employers are not accurate. Labor does not compile data on the resources it devotes to the program or the extent to which employers are complying with the provisions of section 14(c), including whether 14(c) workers are

[5]Labor has not, in most cases, verified the accuracy of employers' assessments of 14(c) workers' productivity levels on which their special minimum wages are based.

underpaid. Labor also has not done all it can to ensure that employers comply with the law. It does not systematically conduct self-initiated investigations of employers, including verifying employers' assessments of 14(c) workers' productivity levels on which their wages are based. In addition, Labor has not followed up with employers who fail to reply to renewal notices for their 14(c) certificates. Moreover, Labor has provided little training to its staff on the requirements of the special minimum wage program to enable them to give employers accurate and consistent information and little guidance to employers on how to correctly compute special minimum wages.

To improve its management of the special minimum wage program, we are recommending that Labor collect and analyze the data it needs to properly manage the program and determine what resources to allocate to the program. To better ensure compliance with special minimum wage program requirements by employers, we are recommending that Labor systematically investigate 14(c) employers, follow up when employers do not respond to its notices that their 14(c) certificates are due for renewal, and train and provide guidance to Labor staff and 14(c) employers on program requirements. In its comments on a draft of this report, Labor generally agreed with our recommendations and provided details of actions it is taking to improve its management of the program and to ensure better compliance by employers.

Background

Although estimates of the employment rate for individuals with disabilities vary, researchers and advocates agree that it is much lower than the employment rate for the U.S. workforce as a whole, particularly for individuals whose impairments are severe enough to affect their ability to work. The purpose of the provisions of section 14(c) of FLSA, as stated in the legislation, is to prevent the curtailment of employment opportunities for individuals with disabilities.[6] An individual with a disability eligible to be paid special minimum wages is defined in the regulations as someone "whose earning or productive capacity is impaired by a physical or mental disability, including those relating to age or injury, for the work to be performed."[7] Determining the impact of the legislation on the employment opportunities of individuals with disabilities severe enough to be eligible to be paid special minimum wages, including whether the purpose of the

[6]29 U.S.C. 201, section 14(c).

[7]29 C.F.R. 525.3(d).

legislation to not curtail employment opportunities for these individuals is achieved, however, is difficult.

Most individuals with disabilities who are employed are not paid special minimum wages under the provisions of section 14(c) of FLSA. Many workers with disabilities cannot be paid special minimum wages because their impairments are not severe enough to affect their ability to perform their jobs; others receive accommodations and special support services that allow them to earn at least the minimum wage. Individuals with disabilities work in many different types of employment settings, including jobs in businesses where they work mainly with individuals who do not have disabilities and in work centers where they often work primarily with other individuals with disabilities. Some individuals with disabilities work in jobs with no special support services. In such cases, they generally are not paid special minimum wages under the provisions of section 14(c) because they are able to perform the work at a fully productive level. Individuals with impairments severe enough to affect their ability to perform the work, however, often require support services such as job coaches or special on-site supervision in order to obtain and retain their jobs and many are paid at special minimum wage rates.

Many of the work centers that employ individuals with disabilities are nonprofit organizations established to provide support services and training as well as employment opportunities for these individuals. Many of these work centers were established by groups of parents of individuals with disabilities and by vocational rehabilitation specialists. Work centers receive much of their funding through state and county agencies from funds provided for support services and vocational training for individuals with disabilities. State and county agencies usually provide funds to work centers in the form of grants or reimbursements for services.

To carry out Labor's oversight of the provisions of section 14(c) of FLSA, the Secretary issued regulations that define the requirements of the law and delegated authority to WHD for the administration of the special minimum wage program. WHD staff review and approve employers' applications for new 14(c) certificates and renewals that allow them to pay individuals with disabilities less than the federal minimum wage, which is currently $5.15 an hour. Work centers and hospitals are required to renew their 14(c) certificates every 2 years; businesses and schools must renew their 14(c) certificates annually. Because most 14(c) employers are work centers that have employed 14(c) workers for many years, most of the 14(c) certificate applications that WHD staff review are applications for renewal. In states that have a higher minimum wage rate than the federal

minimum wage, the state rate takes precedence.[8] Employers are required to establish the special minimum wage rate(s) for each worker they employ under the act and to show how they established these rates in the certificate application packages they submit to Labor.[9]

The process of establishing special minimum wage rates is complex. First, employers must identify the prevailing wage in their geographic area for experienced workers who do not have disabilities that affect their ability to perform the work and who perform the same or similar work. They must then measure the actual productivity of the workers for each job they perform as compared to the productivity of experienced workers who do not have disabilities. Finally, employers must calculate the special minimum wage rate by applying the worker's productivity rate to the prevailing wage for the job and factoring in the quality of the work performed. For example, if a 14(c) worker's productivity for a specific job is 50 percent of that of experienced workers who do not have disabilities that affect their work, and the prevailing wage paid to experienced workers for that job is $6.00 an hour, the special minimum wage rate for the 14(c) worker in performing that job would be $3.00 an hour.[10] Workers are paid either hourly rates of pay or piece rates for the number of pieces they produce. Most service jobs are paid at an hourly rate, while most assembly work is paid at a piece rate.

Employers are also required to obtain a 14(c) certificate in order to pay workers with disabilities less than the hourly wage for contracts covered under the Service Contract Act and the Walsh-Healey Public Contracts Act.[11] These rates are often higher than the federal minimum wage, particularly for work performed under the Service Contract Act. Therefore, 14(c) workers employed under these contracts may earn more

[8]Ten states and the District of Columbia have minimum wage rates that are higher than the federal minimum wage.

[9]Because 14(c) workers are assigned a special minimum wage for each job they perform, each worker may have more than one special minimum wage rate.

[10]This rate could also be decreased to compensate for the quality of the work if the worker was not capable of performing the work at a 100-percent quality level.

[11]Many contracts covered under the Service Contract Act, 41 U.S.C. 351-358, and the Walsh-Healey Public Contracts Act, 41 U.S.C. 35-45, are part of the Javits-Wagner-O'Day program, which provides employment opportunities for individuals who are blind or have severe disabilities through preferential contracts with federal government agencies to provide products and services.

than the federal minimum wage. For example, a worker who has a disability might work under a contract covered by the Service Contract Act for which the contract rate is $15.00 an hour.[12] If a 14(c) worker is only able to perform the work at 50 percent of the productivity level of workers who do not have disabilities that affect their ability to perform the work, he or she would be paid $7.50 an hour.[13]

Labor monitors and enforces employer compliance by reviewing employers' 14(c) certificate application packages and by conducting investigations of employers. The 14(c) certification team in WHD's Midwest Regional Office verifies that employers have correctly computed the special minimum wages of their workers by reviewing the documentation in their 14(c) certificate application packages. WHD selects employers for 14(c) investigations either through complaints filed on behalf of workers (by the workers themselves or by their parents or guardians) or by conducting self-initiated investigations of employers selected through criteria developed by WHD officials.[14] The WHD Regional Administrators, with guidance from WHD's national office, set the priorities for investigations of employers. Labor's WHD investigators are responsible for enforcing compliance with all aspects of FLSA, including the provisions of section 14(c). When Labor determines through a review of an employer's certificate renewal application package or an investigation that an employer has underpaid its 14(c) workers, it requires the employer to compute the amount of back wages owed to these workers for a period of 2 years prior to the date of Labor's review.[15]

In addition to monitoring and enforcing compliance through its reviews of employer's 14(c) certificate renewal applications and investigations of employers, Labor ensures employer compliance through its training and outreach efforts for its own staff and 14(c) employers. Because the process of establishing special minimum wage rates is complex, Labor

[12]Labor sets the rates for contracts covered under the Service Contract Act.

[13]Individuals whose work is covered under the Service Contract Act receive full health and welfare benefits; i.e., their benefits are not adjusted to reflect their lower productivity rates.

[14]Labor refers to these investigations as "directed" investigations. We use the term "self-initiated" investigations in this report.

[15]According to Labor officials, Labor may calculate the back wages owed to the workers but usually asks the employer to compute the back wages owed based on its guidance and then verifies the employer's calculations. Labor also requires the employer to provide proof of payment of the wages owed.

considers these efforts to be an important aspect of its oversight responsibilities for the special minimum wage program.

Most Employers Are Work Centers That Provide Employment and Support Services to Individuals With Disabilities

The majority of 14(c) employers are nonprofit work centers established to provide support services and employment to individuals with disabilities. The centers provide jobs for 14(c) workers most often in light assembly work done by hand or in service-oriented jobs such as grounds maintenance or janitorial work. Most of these jobs are carried out under contracts with government agencies and private companies. The major sources of funds for work centers are state and county agencies and contracts. While virtually all work centers offer one or more support services designed to help 14(c) workers perform their jobs, the range of services they are able to provide depends on the availability of funding and the eligibility criteria established by the funding agencies.

The Majority of 14(c) Employers Are Work Centers

About 5,600 employers were paying workers with disabilities special minimum wages under certificates issued under the provisions of section 14(c) at the time of our survey in 2001 (see table 1).[16] About 4,700 (84 percent) of these employers were work centers. Work centers employed about 95 percent of all 14(c) workers.[17] More than 80 percent of the work centers were private, nonprofit entities; 13 percent of the work centers were state or local government organizations. Businesses accounted for 9 percent of the employers, hospitals or other residential care facilities accounted for 5 percent, and less than 2 percent were schools.

[16]Of the total number of employers (6,100) authorized to pay workers special minimum wages under a 14(c) certificate, only about 5,600 (92 percent) employed workers at special minimum wages. About 8 percent of the employers with a 14(c) certificate had no 14(c) workers. Their reasons for not having 14(c) workers varied; some of the work centers expected to employ 14(c) workers, but did not, while others noted that they needed this authority to qualify for preferential state contracts.

[17]Although we surveyed both work centers and businesses, we only included the results of the survey on work centers in this report because businesses employed such a small proportion of 14(c) workers (less than 1 percent). See app. IV for a comparison of the characteristics of work centers and businesses.

Table 1: Number and Percentage of 14(c) Employers by Type of Employer

Type of employer	Number	Percentage
Work centers	4,724[a]	84.2
Businesses	506	9.0
Hospitals or other residential care facilities	294	5.2
Schools	88	1.6
Total	**5,612**	**100**

[a]The number of employers for work centers represents 14(c) certificates issued to work centers and their branch locations rather than the actual number of work centers. Labor could not provide the number of 14(c) certificates issued only to work centers' primary places of business. See page 28 and app. I for additional information.

Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses and GAO's analysis of information on 14(c) employers in Labor's databases.

The work centers primarily employed workers who have disabilities, 90 percent of whom were 14(c) workers. On average, each work center employed 86 workers at special minimum wages. The work centers mainly employed workers with mental retardation or other developmental disabilities. Some work centers focused on employing workers who were blind or had other visual impairments, although they comprised a relatively small number (50 work centers).[18]

Most Work Centers Provide Assembly or Service Jobs Through Contracts With Government Agencies and Private Companies

Work centers offer individuals with disabilities a variety of work, most of which involves assembly or is service-related. (See table 2.) Assembly jobs generally involve uncomplicated one- or two-step processes that are mainly performed by hand. For example, 14(c) workers at a work center in Illinois that we visited assembled small plastic automobile parts, while 14(c) workers at a New York work center snapped together plastic pieces to assemble a lint remover. The service-related jobs involved basic tasks, such as mopping floors and picking up trash. For example, 14(c) workers from a California work center maintained restrooms at public beaches under contracts with local city governments.

[18]See app. III for a comparison of the characteristics of work centers that employed primarily individuals with visual impairments and all other work centers.

Table 2: Percentage of Work Centers That Provide Work to 14(c) Workers by Type of Job

Type of job	Percentage of work centers that provide the type of job
Light assembly work	77
Grounds maintenance or janitorial work	67
Production of a product	43
Office work	34
Food service	22
Laundry	15
Other	29

Source: Information reported by work center managers in GAO's survey of 14(c) work centers and businesses.

Work center managers balanced their understanding of what work was feasible for their 14(c) workers with their knowledge of the work available in the area. Work center managers also considered where jobs were located. Most jobs in assembly, production, sorting, and collating could be easily performed in the work center. However, jobs such as grounds maintenance and janitorial work had to be performed off-site.[19] If a work center was not located within a reasonable commuting distance, work center managers might decide that these jobs were not feasible for their 14(c) workers. For example, managers at a work center in Illinois did not pursue jobs in neighboring communities that posed a difficult commute for their workers.

Most work centers provided jobs through contracts with government agencies and private companies. Work center managers at some of the sites we visited told us that they were most likely to contact local companies to find jobs that could be done by their 14(c) workers. According to the director of a work center in Virginia, contracts with private companies, particularly for products, were often for tasks in a production process that would not have been cost-effective for the company to automate. In addition, a manager at a California work center said that several of their contracts came from small companies that were marketing new products and did not yet have enough data to know how

[19]Our survey showed that 83 percent of the jobs took place at the work center, while 12 percent were performed away from the work centers in settings in which most of the workers did not have disabilities. A small proportion of 14(c) jobs (5 percent) was performed away from the work center in environments in which most of the workers had disabilities.

much their production costs would be. These companies found that work center contracts could be used to do test runs of a new product at a relatively low cost. Overall, we found that 22 percent of the work centers had preferential contracts with state or local governments, and 17 percent of the work centers had contracts with federal agencies. The photos in figure 1 depict examples of the types of jobs performed by 14(c) workers and the types of products they assemble.

Figure 1: Examples of Jobs and Products at the Work Centers Visited

(A) Lint remover assembled by 14(c) workers for the military under the Javits-Wagner-O' Day program. Workers snap plastic pieces together to assemble the lint remover.

(B) A worker packages colored markers.

The insert shows the finished product.

(C) Cardboard glasses used by health care professionals to assess visual impairments are folded and packaged by 14(c) workers.

(D) 14(c) worker packs promotional items into backpacks for display in stores.

(E) 14(c) worker assembles U.S. Postal Service mailing trays.

Work Centers Provide a Range of Support Services to 14(c) Workers

In addition to providing employment opportunities, work centers also offer a number of support services for 14(c) workers designed to enable them to obtain and perform their jobs. Depending on the type of support services needed by the 14(c) workers, work center staff either provide the services themselves or help to obtain these services from other sources. Essentially all (99 percent) of the work centers provided or helped obtain one or more of a wide range of support services that enabled 14(c) workers to obtain or perform their jobs. (See table 3.) For example, some workers with mental retardation could not drive and were unable to use public transportation without assistance. We found that almost all (97 percent) of the work centers provided or helped obtain transportation for their workers. They also provided support services such as psychological counseling and speech therapy to help 14(c) workers function more effectively both on and off the job.

Table 3: Percentage of Work Centers That Provide Support Services to Their 14(c) Workers

	Percentage of work centers		
Type of support service	Directly provided support service	Helped obtain support service	Did not provide or help obtain support service
Assistive devices[a] and technology	64	31	5
Behavior modification	87	9	4
Case management	77	18	5
Daily living skills training	82	12	6
Health care	42	38	20
Health insurance	13	40	47
Housing	43	32	25
Increased supervision	94	5	1
Job coaching	89	9	2
Job station adaptation	92	6	2
Occupational therapy	32	51	17
Personal care assistance	47	33	20
Psychological counseling	30	58	12
Speech therapy	25	60	15
Task adaptation	92	6	2
Transportation	78	19	3

[a]An "assistive device" is an item that helps a worker perform his job, such as a lever that helps a worker with limited hand strength perform assembly work.

Source: Information reported by work center managers in GAO's survey of 14(c) work centers and businesses.

Most work centers also provided one or more accommodations consistent with the definition of reasonable accommodation in the Americans with Disabilities Act of 1990.[20] Our survey showed that 95 percent of the work centers provided work schedule modifications, 85 percent provided job restructuring, and 72 percent provided specialized equipment not required by workers without disabilities. In many cases, work centers accomplished these accommodations through the support services they provided to their 14(c) workers. For example, job restructuring, an example of a reasonable accommodation, could be accomplished using task adaptation, such as breaking a complex task into several small tasks performed by more than one worker, or job station adaptation, such as lowering the height of a table to accommodate someone in a wheelchair.

From our site visits, we found that the state and county agencies that provided funds to the work centers to pay for support services had different levels of funding available and different eligibility criteria for these services. State policies and criteria for reimbursements and grants varied across the states we visited. According to work center managers, the availability of state grants or reimbursements for services, and the centers' or their workers' ability to meet state eligibility criteria for these funds dictated the type and level of support services their centers provided. For example, for one program at the work center in California we visited, the state required workers to work at least 20 hours a week, have an attendance rate of 85 percent, and have a productivity level of at least 10 percent. Another program at the work center designed to prepare workers to move from the work center to jobs in the community was limited to 30 slots because of state funding limits.

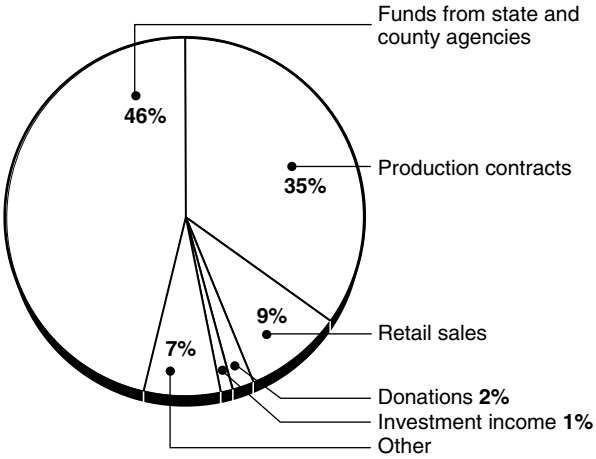
Work Centers Obtain Most of Their Funds From State and County Agencies and Production Contracts

To pay for their operating costs, including the provision of support services, work centers obtain funds from two primary sources, government agencies and contracts. From the survey, we found that, on average, nearly half (46 percent) of the funds received by work centers were grants and reimbursements from third parties—mostly state and county government agencies—primarily for the provision of support

[20] 42 U.S.C. 12111.

services.[21] The other major source of funding for work centers was contracts for the production of goods and services, which accounted for about 35 percent of their funding. Figure 2 shows the sources of the funding for all work centers.

Figure 2: Sources of Funding for Work Centers



Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses.

Each site we visited had several sources of funding; the proportion of funds from each source varied for each location. (See table 4.) For example, while the Virginia work center received most of its funds from its production contracts, the center in Georgia received almost all of its funds from state and county agencies.

[21]Information on funding sources was from the most recent fiscal year for which work centers had complete financial data. Most of the funds work centers receive from third parties are from state and county agencies for support services provided to their workers and other individuals served by the centers. They also receive funds from state and county agencies for vocational rehabilitation training and from local governments for services such as transportation.

Table 4: Percentage of Funding From Each Source for the Work Centers Visited

Dollars in millions

Funding source	California work center ($3.9)	Georgia work center[a] ($3.0)	Illinois work center ($2.6)	1st New York work center ($0.7)	2nd New York work center ($0.7)	Texas work center[a] ($13.3)	Virginia work center[a] ($19)
Production contracts	18.1	0.4	15.6	6.3	38.0	21.2	74.4
Retail sales	0	0	0	13.4	0	61.0	0
State and county agencies	63.0	97.2	81.1	69.4	35.8	3.7	20.7
Investment income	0.1	0.1	0.1	0	0	10.8	3.3
Donations	1.4	0	3.2	0	26.2	3.2	0
Other	17.4	2.2	0	10.9	0	0	1.7

[a]Percentages do not add to 100 percent because of rounding.

Source: GAO's analysis of data provided by the work centers.

Without Section 14(c), Work Centers Would Have to Find Additional Funds to Maintain Their Current Operations

According to some of the work center managers who responded to our survey and managers at the sites we visited, without the provisions of section 14(c), work centers would need to obtain additional funds to continue to operate at their current levels. Work centers' payroll expenses would increase, significantly in some cases, if they were required to pay their 14(c) workers the federal minimum wage of $5.15 an hour. For example, at one of the work centers we visited in New York, the total wages of the 14(c) workers would increase from about $77,000 to about $289,000 if the work center paid all of its current 14(c) workers at the federal minimum wage rate. (See table 5.)

Table 5: Annual Payroll for 14(c) Workers at the Work Centers Visited

Site	Annual payroll for 14(c) workers	Projected annual payroll if 14(c) workers were paid at the minimum wage[a]
California work center	$436,831	$826,046
Georgia work center	$9,787	$93,127
Illinois work center	$115,196	$398,960
1st New York work center	$93,392	$214,240
2nd New York work center	$76,765	$289,224
Texas work center	$151,545	$353,784
Virginia work center	$1,563,315	$2,458,234

[a]We projected each work center's annual payroll for their 14(c) workers using the actual number of hours worked if the workers were paid at the federal minimum wage rate. We used $5.15 per hour for all of the sites except the California work center, for which $6.25 per hour (the state minimum wage rate at the time of our visit) was used.

Source: GAO's analysis of data provided by the work centers.

We also found from our site visits that the work centers' funding from production of products and services did not cover all costs associated with production. For example, one of the New York work centers obtained about $275,000 from its production contracts. This amount did not cover its costs which, in addition to the wages of its 14(c) workers, included additional direct expenses of about $690,000 for the salaries of its supervisors and support staff and other expenses, such as the cost of materials.

Most 14(c) Workers Have Mental Retardation and Earn Very Low Wages

From the survey, we estimate that most 14(c) workers have mental retardation or another developmental disability as their primary impairment and earn very low wages. For more than half of the 14(c) workers, low productivity results in an hourly wage rate that is less than half the federal minimum wage. In addition, the majority of 14(c) workers work less than full-time. The 14(c) workers are primarily from 25 to 54 years of age and have been employed in the work centers for several years. At the sites we visited, we found that many 14(c) workers received federal cash disability benefits in addition to their earnings. We also found that the workers at the sites received nonmonetary benefits from being in a work environment, such as training designed to help them become more independent in their interactions with individuals in the community.

Characteristics of 14(c) Workers

Based on our survey and data obtained from Labor, we estimate that currently about 424,000 workers with disabilities earn special minimum wages.[22] Over 400,000 of these 14(c) workers are employed by work centers. The remainder are employed by businesses, hospitals or other residential care facilities, or schools.

Table 6: Number and Percentage of 14(c) Workers by Type of Employer

Type of employer	Number of 14(c) Workers	Percentage
Work centers	400,440	94.5
Businesses	1,549	0.4
Hospital or other residential care facilities[a]	19,307	4.6
Schools[a]	2,290	0.5
Total	**423,586**	**100**

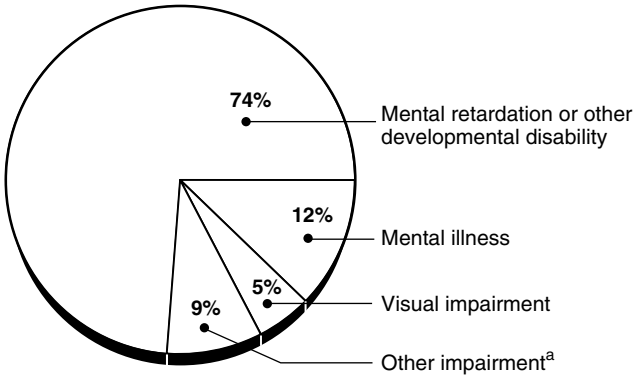
[a]Because hospitals and schools were not included in our survey of 14(c) employers, the number of workers for hospitals and schools are from Labor's database. Labor obtained the number of workers from employers' 14(c) certificate applications.

Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses and GAO's analysis of information on 14(c) employers in Labor's databases.

[22]Information on the number of 14(c) workers employed by work centers and businesses is as of the date of our survey. The number of 14(c) workers employed by hospitals or other residential care facilities and through schools was obtained from our analysis of Labor's database, which contained information on employers authorized to employ 14(c) workers in 2000.

Workers paid special minimum wages by work centers have a wide range of physical and mental conditions that impair their ability to be fully productive at their jobs. (See figure 3.) From the survey, we estimate that the primary impairment of nearly three-quarters of all 14(c) workers employed by work centers was mental retardation or some other developmental disability.[23] About 46 percent of the workers had more than one disability.

Figure 3: Primary Impairments of 14(c) Workers Employed by Work Centers



[a]"Other impairment" includes physical impairments other than visual—such as hearing or neuromuscular impairments—and impairments not specified by the work center managers in the survey.

Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses.

These impairments can affect a 14(c) worker's productivity in several ways. Some workers with mental retardation, for example, need additional

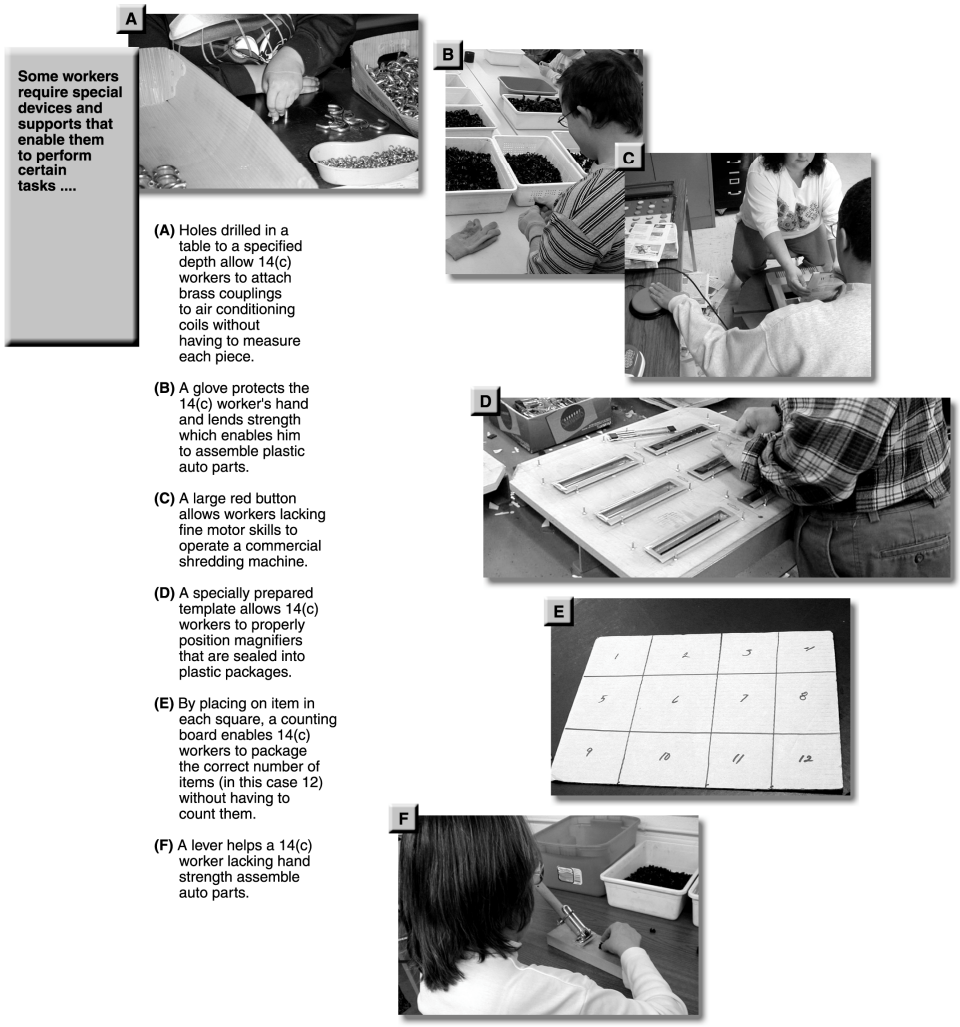
[23]Work center managers could not readily provide specific information on the number of 14(c) workers with various demographic or employment characteristics. Therefore, we developed this estimate on the basis of work center managers' responses to a survey question that asked them approximately what portion of their 14(c) workers fell within each of several ranges. For each range listed, we asked the work center director to indicate the portion of the center's 14(c) workers— "None (0%)," "Few (1-19%)," "Some (20-39%)," "About half (40-59%)," "Most (60-79%)," or "All or nearly all (80-100%)" that fell within the range. For example, for the hourly wage rate of $2.50 to $5.15 an hour, we asked them to indicate the portion of their workers paid at an hourly rate within that range. Although the estimates were developed in what we consider to be the only feasible manner, because of the degree of imprecision inherent in the data from which they were developed, they should not be viewed as being as precise as estimates based on more fully documented information. Further details on the method by which we arrived at the estimates are contained in app. I.

supervision to complete their tasks, something that, according to our survey, virtually all work centers provided. The level of supervision needed by workers with mental retardation, however, varies depending on the needs of the individuals. For example, the supervisor-to-worker ratio for most 14(c) workers at the California work center we visited was 1 to 15. However, this work center also had a special unit that provided an even higher level of supervision to those who needed it—1 supervisor to every 4 workers.

Some 14(c) workers with mental retardation also require special devices that enable them to perform tasks involving measuring and counting—activities that may be difficult for those with mental retardation to perform. The work center we visited in Texas, for example, devised a wooden jig with holes drilled to a specific depth so that 14(c) workers could automatically attach brass couplings to refrigerator coils at the correct position without having to measure them. The California work center devised a counting board for some of its 14(c) workers who packaged materials. The board was divided into 12 squares so that, by placing one item in each square and putting all of the items in a package after filling up the board, 14(c) workers would know the correct number of items to put in each package without having to count them.

Certain physical impairments, such as reduced visual acuity or cerebral palsy, also restrict 14(c) workers' ability to perform tasks involved in performing their jobs. Workers with these types of impairments also receive special supports that enable them to work. For example, because some workers at an Illinois work center found it difficult to clip plastic automobile parts together using only their hands, supervisors built a lever that helped workers with less strength, or reduced manipulative ability, complete the task. At a work center that employed primarily the blind in New York, workers with limited or no vision used a wooden block as a form for folding visual testing equipment at the proper locations. The photos in figure 4 depict some of the special devices and support services that enable 14(c) workers to perform their jobs.

Figure 4: Examples of Special Devices and Support Services That Enable 14(c) Workers to Perform Their Jobs



The wages of 14(c) workers employed by work centers nationwide were very low. From the survey, we found that more than half of the 14(c) workers (54 percent) earned less than $2.50 an hour because the productivity levels of the workers, as reported by the work centers, were so low.

Table 7: Percentage of 14(c) Workers Employed by Work Centers by Wage Level

Hourly wage	Percentage of workers
< $1.00 an hour	23
$1.00 to < $2.50 an hour	31
$2.50 to < $5.15 an hour	28
$5.15 to < $7.00 an hour	13
$7.00 to < $10.00 an hour	4
$10.00 or more	1

Source: Information reported by work center managers in GAO's survey.

In the survey, work center managers also reported that most of their 14(c) workers (70 percent) had a productivity level of less than half of that of workers without disabilities performing the same jobs. (See table 8.)

Table 8: Percentage of 14(c) Workers Employed by Work Centers by Productivity Level

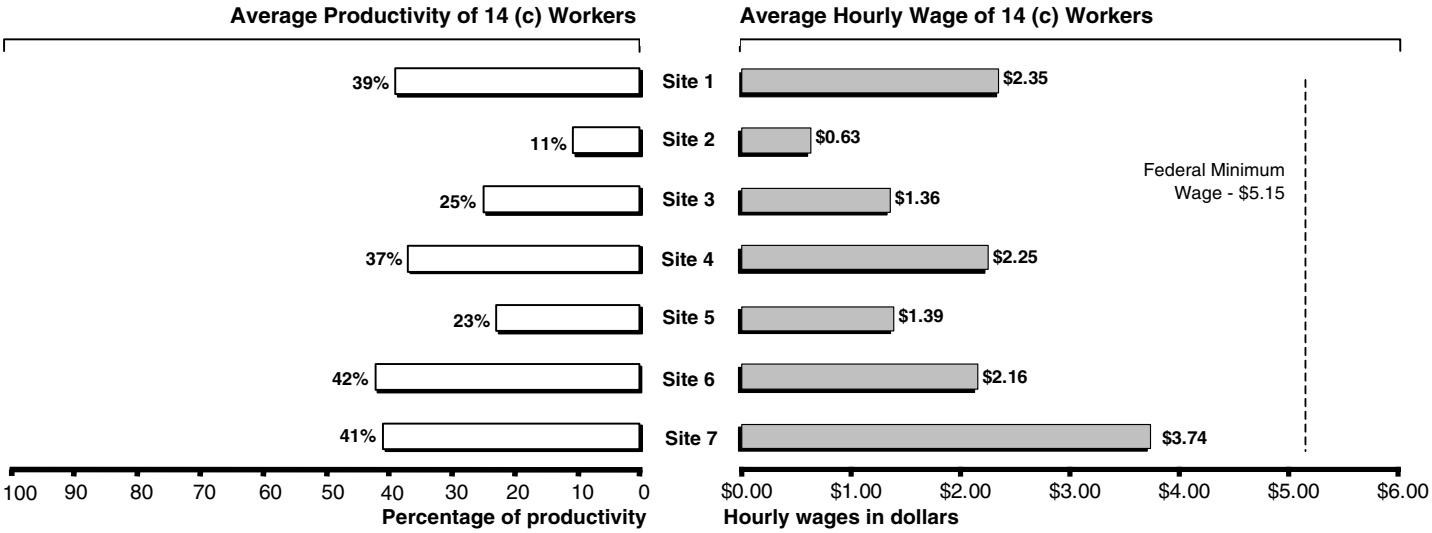
Productivity level	Percentage of workers
< 25 percent	41
25 to < 50 percent	29
50 to < 75 percent	19
75 percent or more	11

Source: Information reported by work center managers in GAO's survey.

The low productivity levels of 14(c) workers result in the low hourly wages they are paid. For example, the average productivity level of 14(c) workers at the sites we visited ranged from a low of 11 percent at the work center in Georgia to a high of 42 percent at the work center in Texas. The average hourly wage rates for 14(c) workers at these sites, which were as low as $0.63 per hour to as high of $3.74 per hour,[24] mirrored the productivity levels at the sites. (See figure 5.)

[24]The average hourly wage at the Virginia work center we visited was relatively high—$3.74 an hour—because many of the 14(c) jobs were performed under contracts covered by the Service Contract Act. The prevailing wage for these contracts was much higher than the federal minimum wage.

Figure 5: Average Productivity and Hourly Wages of 14(c) Workers at the Work Centers Visited



Legend

Site 1- California Work Center
Site 2- Georgia Work Center
Site 3- Illinois Work Center
Site 4- First New York Work Center
Site 5- Second New York Work Center
Site 6- Texas Work Center
Site 7- Virginia Work Center

Source: GAO's analysis of data provided by the work centers.

Most 14(c) workers (86 percent) worked part-time (less than 32 hours a week). Nearly half of these individuals worked less than 20 hours per week. (See table 9.)

Table 9: Percentage of 14(c) Workers Employed by Work Centers by Range of Hours Worked Per Week

Hours worked per week	Percentage of 14(c) workers
< 10 hours	17
10 to < 20 hours	28
20 to < 32 hours	41
32 hours or more	14

Source: Information reported by work center managers in GAO's survey.

Three-fourths of the 14(c) workers employed by work centers (75 percent) as of the date of our survey were from 25 to 54 years of age. The remaining one-fourth of the workers was evenly divided between those younger than 25 and those 55 or older. A slightly higher percentage of the workers were male (55 percent) than female (45 percent).

From the survey, we estimate that more than half of 14(c) workers (55 percent) employed by work centers had worked there for 5 years or more, while we found that some 14(c) workers at the sites we visited had worked there for more than 20 years. From employers' responses to our survey, we also estimate that 13 percent of the 14(c) workers employed by work centers left the center during calendar year 2000.[25] About 5 percent of the workers who left the center moved into jobs in the community.[26] We do not, however, know whether these jobs were at special minimum wages or at or above the minimum wage. An additional 4 percent of the 14(c) workers remained at the work centers but moved from jobs that paid them special minimum wages to jobs that paid them the federal minimum wage or more.

Some 14(c) Workers Receive Cash Disability Benefits That Exceed Their Average Monthly Earnings

At six of the work centers we visited, at least half of their 14(c) workers received federal cash disability benefits.[27] Depending on the site, anywhere from about half to almost all of their 14(c) workers received Social Security Disability Insurance benefits or Supplemental Security Income benefits for severe impairments that affected their ability to work. At all of these sites, the average monthly earnings of their 14(c) workers were lower than the average monthly Social Security Disability Insurance benefit amount of $787[28] and, at all but one site, lower than the average monthly Supplemental Security Income benefit of $412.[29] In addition, although federal disability benefits are reduced or eliminated when beneficiaries earn more than certain amounts, most of the 14(c) workers' earnings at each of the sites we visited were too low to significantly reduce their disability benefits. Most of these workers also qualified for

[25]The sampling errors for our estimate of 14(c) workers who left the work center in 2000 do not exceed plus or minus 7.4 percent.

[26]The other 8 percent of all 14(c) workers who left the work centers last year went to another work center, left the workforce entirely, or their employment situation was unknown. The sampling errors for our estimate of 14(c) workers who left the work center in 2000 do not exceed plus or minus 9.7 percent.

[27]We determined from our pre-tests of the survey that it was not practical for employers to provide information on the receipt of federal and state disability benefits for their 14(c) workers. Six of the seven work centers we visited, however, provided this information.

[28]Average monthly Social Security Disability Insurance payment, as of December 2000.

[29]Average federally-administered Supplemental Security Income payment to beneficiaries aged 18 through 64, as of February 2001.

health insurance (Medicaid or Medicare) linked to their disability benefits. Some 14(c) workers also received food stamps and housing subsidies.

Many 14(c) Workers Receive More Than Monetary Benefits From Being in a Work Environment

According to the work center managers and our discussions with a few 14(c) workers and parents or guardians of 14(c) workers at the sites we visited, the workers benefit from opportunities to develop self-esteem, exercise self-determination, and develop socialization skills that being in a work environment can provide. Many of the support services provided by the work centers give workers the opportunity to develop more than their vocational skills.

At each of the work centers we visited, staff worked with the 14(c) workers to develop formal plans with both employment and nonwork goals. Employment-related goals usually involved strategies to improve productivity on the current job and included plans to achieve the next step in a career path, such as transition from the work center to work in the community. Nonwork goals involved a variety of activities. For example, the work centers in California and Texas offered classroom training in personal and social adjustment. Training focused on basic topics such as appropriate communication and social behaviors and continued through more advanced topics such as management of finances.

Several of the work centers we visited also offered training designed to help 14(c) workers become more independent in their interactions with individuals in the community. For example, the work center in New York that primarily employed the blind offered training to its workers on the development of new skills and behaviors, such as problem-solving and assertiveness skills designed to help them, especially those who also had mental retardation, interact more effectively in the community. In addition, the center offered training to workers on how to shop, use banks, and eat in restaurants.

The work centers we visited also focused on enabling 14(c) workers to make their own decisions about their lives, that is, to exercise self-determination. For example, the California work center competed with at least two other training and employment providers for every new client. In most cases, the potential 14(c) worker made the final choice of provider, often with the help of family members. At the California work center, the 14(c) worker was an active participant in the development of his or her individualized plan and participated in all meetings to decide the next step in the plan. The decisions about whether to move from a job at the work center to work in the community or whether to work at all were also left

to many of the 14(c) workers at the work centers we visited. For example, at the work center in Georgia, staff helped 14(c) workers plan alternative activities when they no longer desired to work. In addition, the work center in California offered a variety of social activities to 14(c) workers who had retired.

Labor Does Not Effectively Manage the Special Minimum Wage Program

Labor's management of the special minimum wage program is ineffective. Until recently, Labor gave the program low priority, including providing little training or guidance to its own staff or employers and conducting few self-initiated investigations of employers. Although Labor began to place more attention on the program in fiscal year 2000, the agency does not have the data it needs to manage the program and does not adequately ensure employer compliance with the requirements of the program. Labor does not have accurate data on the number of 14(c) employers and workers needed to assess the appropriate level of resources it should devote to the program, does not track the resources it devotes to overseeing the program, and does not compile information on the results of its efforts to ensure employer compliance. Labor also does not adequately ensure employer compliance with the program's requirements because it does not systematically conduct self-initiated investigations of 14(c) employers and does not follow up when employers do not renew their 14(c) certificates. Finally, Labor does not ensure employer compliance by routinely providing guidance and training on the requirements of the special minimum wage program to its staff and 14(c) employers.

Until Recently, Labor Placed a Low Priority on the Program

Labor officials told us that they have given low priority to the special minimum wage program in past years because WHD's resources were focused on other enforcement responsibilities, such as detecting violations of child labor laws and protecting low-wage workers in the garment industry. Enforcement was primarily limited to WHD's reviews of employers' 14(c) certificate applications. Although WHD reviewed all complaints about employers filed on behalf of 14(c) workers, the agency conducted few self-initiated investigations and there was no mandate from WHD headquarters to conduct self-initiated 14(c) investigations. In fiscal year 2000, according to WHD headquarters and regional officials, Labor began to place renewed emphasis on the program, including reinstating the 14(c) specialist positions in its regional offices, increasing training of its own staff and employers, updating the written guidance provided to its investigators, and selecting employers for self-initiated 14(c) investigations. However, despite this renewed emphasis, Labor's

performance plan for fiscal year 2000 contained no mention of the special minimum wage program, although the plan contains specific goals for other WHD special enforcement programs, such as child labor and agricultural workers. In addition, Labor has not systematically reviewed the results of its increased emphasis on the program, including obtaining the data it needs to effectively manage the program or reviewing the results of its increased enforcement efforts.

Labor Does Not Have the Information It Needs to Manage the Program

Labor cannot properly manage the program because it does not have accurate information on the number of employers or workers that participate in the special minimum wage program, the resources it devotes to overseeing the program, or the results of its oversight efforts, including its reviews of employers' 14(c) certificate applications and its investigations of employers.

Labor Does Not Have Accurate Data on the Number of 14(c) Employers and Workers

Labor is not able to provide accurate counts of the number of employers and workers participating in the special minimum wage program—the starting point for determining what resources it should allocate to the program. When asked to provide this information on employers, Labor gave us three different lists. The number of employers on these lists ranged from 4,795 to 8,493, and the number of workers ranged from 242,470 to 417,002. Although Labor officials were unable to explain these discrepancies, when we reviewed the information in its databases on 14(c) employers, we discovered that they contained out-of-date and duplicate information and that Labor overstated the number of 14(c) employers.[30] For example, the databases contained information on 261 employers whose 14(c) certificates had expired between January 1, 2000, and August 31, 2000, but the database contained no indication that these certificates had been renewed. We followed up with some of these employers and found that, according to the employers, some of their certificates had actually been renewed, but Labor had not updated the information in the database. A few of the employers, however, told us they no longer employed workers at special minimum wages although Labor still counted them as current 14(c) employers. We also found, through our attempts to

[30]Labor's counts of 14(c) employers are overstated, in part, because they are based on the number of 14(c) certificates issued, not the number of employers. Labor issues more than one 14(c) certificate to employers that have branch locations at which they employ workers at special minimum wages because a separate 14(c) certificate is issued to each branch. We attempted to separate the number of branches from the total number of employers but could not, because WHD's certificate numbering system does not distinguish, in many cases, between 14(c) certificates issued to employers' primary places of business and their branch locations.

mail out our survey, that some employers had gone out of business and should have been deleted from Labor's list of current 14(c) employers. In addition, from the survey we found that about 8 percent of work centers and businesses with 14(c) certificates did not employ any workers at special minimum wages.[31] Nonetheless, Labor included these employers in its count of current 14(c) employers.

We also found that Labor's data on the number of 14(c) workers are inaccurate. When we compared the number of workers listed by employers on their 14(c) certificate applications to the number of workers on supplemental forms in their application packages, these numbers did not always match. These inconsistencies may have been caused by language in Labor's application form that may be confusing to employers, as we reported in a previous correspondence to Labor.[32] For example, the form requires employers to report the number of 14(c) workers they employ in two different places on the form. The instructions for both items, however, are confusing and, as a result, employers may report the wrong number of workers in one or both items on the form. WHD officials told us they are in the process of revising the 14(c) certificate application. They also indicated that, to improve the accuracy of the information in their database on 14(c) employers, they are in the process of verifying its accuracy by comparing the numbers of 14(c) employers and workers in the database to the numbers in employers' 14(c) certificate application packages (the paper files maintained by WHD's Midwest region). WHD officials told us they planned to complete this verification process in fiscal year 2001.

Labor Does Not Track Staff Resources Devoted to the Program

In addition to the lack of data on the size of the special minimum wage program, Labor officials told us they do not compile the number of staff hours devoted to it. As a result, Labor cannot determine whether it is devoting an adequate amount of staff resources to the program. During 2001, there were about 15 WHD headquarters and regional staff members assigned to the program, but about half of them worked on the program only part-time. Because WHD officials do not routinely obtain reports

[31]Employers noted on the survey a number of reasons why, at the time of the survey, they had a 14(c) certificate but did not employ any workers at special minimum wages. The primary reasons were (1) they intended to employ workers at special minimum wages but did not yet employ them and (2) they obtained the certificates to meet state contracting requirements.

[32]See *Suggested Changes to Form WH-226, "Application for Authority to Employ Workers With Disabilities at Special Minimum Wages"* (GAO-01-471R, Apr. 6, 2001).

from WHD's investigations database on the amount of time spent on 14(c) investigations, they were unable to tell us how much time WHD investigators responsible for conducting various types of investigations spend on 14(c) cases, even though the investigators enter the number of hours they spend on 14(c) investigations into the database.

Labor Does Not Have Accurate Information on Its Compliance Efforts and Does Not Use the Data It Collects to Manage Its Oversight of the Program

Labor does not have accurate data on the number, timeliness, or results of its reviews of employers' 14(c) certificate applications, its primary method of ensuring employer compliance with the requirements of the special minimum wage program. Employers submit applications to WHD's 14(c) certification team for new 14(c) certificates and to renew existing certificates. WHD's 14(c) certification team reviews the paperwork submitted by employers to make sure it is complete and checks for and corrects errors in employers' calculations of special minimum wage rates. If the 14(c) certification team detects errors in the computation of workers' special minimum wages in employers' renewal applications, it assesses back wages for a period of 2 years prior to the date of the application.[33]

WHD officials told us that they do not collect information on the number of reviews of 14(c) certificate applications performed by the 14(c) certification team, the number of 14(c) certificates issued, or the timeliness of the process. This is information Labor needs to properly manage the workload of the team and to ensure that all employers who are required to have a 14(c) certificate in order to pay workers special minimum wages have a current certificate. For example, during our site visits, we found that one work center had not received its new 14(c) certificate 3 months after it had applied for renewal and had not been contacted by a member of the 14(c) certification team. WHD does, however, record information on the results of its reviews of 14(c) employers' certificate renewal applications when employers are assessed back wages, although we found some problems with the accuracy of this information as noted below. WHD staff told us that many of its reviews of 14(c) certificate renewal applications were not recorded promptly and, in our reviews of WHD's databases, we found that information on some of these reviews had not been correctly entered into the system.

[33]WHD refers to these reviews as "self audits" because employers are required to compute the back wages owed to their 14(c) workers during the 2-year period and submit these computations, along with proof of payment of the back wages, to the WHD 14(c) certification team for verification.

Labor also does not compile information on the results of all of its reviews of employers' 14(c) certificate renewal applications. According to data recorded by WHD's 14(c) certification team on its reviews of employers' 14(c) certificate renewal applications from fiscal years 1997 through 2000, WHD identified 811 instances in which employers had miscalculated the special minimum wage rates and, as a result, owed back wages to their 14(c) workers. We could not determine, however, what proportion of its reviews of employers' certificate renewal applications that these 811 cases represented, because WHD does not track the total number of reviews performed by the certification team. In 42 instances, the 14(c) workers were underpaid by relatively large amounts: the back wages assessed for the 2-year period were over $200 per worker, on average. However, when we asked WHD officials for information from its investigative database on these reviews, data that they do not routinely compile, they provided us with information that indicated that many of these reviews were not recorded accurately in the database.

Labor does not have accurate data on investigations conducted of 14(c) employers, another method it uses to ensure employer compliance with the requirements of the special minimum wage program. We found that WHD's database on investigations contains inaccurate information on its investigations of 14(c) employers. For example, when asked for the number of investigations conducted from fiscal years 1997 through 2000, data that Labor does not routinely compile, WHD officials gave us reports that showed that investigators completed a total of 234 14(c) investigations in that time period. However, after comparing the reports to records of the reviews of employers' 14(c) certification renewal applications, we found that 93 of the investigations listed in the database were actually reviews of 14(c) certificate renewal applications.[34]

In addition to not having accurate information on its compliance efforts, Labor does not track the rate at which employers incorrectly calculate special minimum wage rates and consequently underpay 14(c) workers. Labor needs this information to properly assess the level of resources it should devote to its efforts to ensure employer compliance and to evaluate the effectiveness of its oversight of the special minimum wage program.

[34]Labor's Office of Inspector General (OIG) found similar inaccuracies in WHD's database during its recent review of the special minimum wage program. See *The Wage and Hour Division's Administration of Special Minimum Wages for Workers with Disabilities* (Labor OIG, 05-01-002-04-420, Mar. 2001).

Labor Does Not Effectively Ensure Employer Compliance

Labor does not effectively ensure employer compliance with the requirements of the special minimum wage program. Labor does not monitor employer compliance with program requirements by systemically conducting self-initiated investigations of 14(c) employers, and does not follow up with employers when they do not respond to its 14(c) certificate renewal notices. In addition, Labor provides little guidance and training to its staff and 14(c) employers on the requirements of the special minimum wage program.

Labor Conducted Few Self-Initiated Investigations of 14(c) Employers In the Past and Does Not Randomly Select Employers for Its Current Investigations

Despite the results of its reviews of employers' 14(c) certificate renewal applications that show that some 14(c) workers are underpaid because employers calculated their special minimum wage rates incorrectly, for several years WHD investigators only conducted 14(c) investigations when someone filed a complaint about an employer. WHD officials told us that, prior to 2000, they had not conducted self-initiated investigations of 14(c) employers for several years. In 2000, WHD began conducting self-initiated investigations as part of its renewed emphasis on the special minimum wage program.

Unlike WHD's reviews of employers' 14(c) certificate renewal applications, self-initiated investigations are conducted at the employer's work site. During these investigations, Labor reviews employers' records for their 14(c) workers and verifies their measurements of workers' productivity on which the special minimum wages are based. WHD officials told us they plan to conduct 70 self-initiated investigations of 14(c) employers in their Northeast Region during 2001 and use the results of these investigations to "discern compliance trends" in the special minimum wage program. According to these officials, they plan to investigate a nonrandom sample of five employers in each of the 14 districts in the region. In 2002, WHD plans to conduct 14(c) investigations in other regions, but it has developed no guidance for the regions on how to sample employers, how many to sample, how often these investigations will occur, or how to use the results of the investigations to calculate the employer compliance rate. Because Labor is not selecting employers for 14(c) investigations on a random basis, it will not be able to use the results of these investigations to estimate the rate of compliance for employers. In addition, because Labor currently has no plans to periodically measure employer compliance through self-initiated 14(c) investigations, it will not be able to examine trends in compliance over time.

Labor Does Not Follow Up When Employers Do Not Respond to Its 14(c) Certificate Renewal Notices

An indication that employers are not complying with the requirements of the special minimum wage program is their failure to renew their 14(c) certificates. WHD sends a renewal notice to employers about 2 months prior to the date their 14(c) certificates expire to remind them to submit an application for renewal. However, WHD does not follow up with employers when they do not respond to the renewal notices to make sure that they are not paying workers with disabilities special minimum wages without the authority to do so. WHD officials were not able to tell us how many employers fail to renew their 14(c) certificates because they do not track the number of employers that do not respond to the renewal notices. They told us they planned to develop this capability but had not done so at the time of our review.

Labor Provides Little Training and Guidance to Its Staff to Detect and Prevent Employer Noncompliance

Until recently, Labor provided no formal training or up-to-date written guidance to its staff to prepare them to detect and prevent noncompliance, such as that caused by employer errors in the calculation of special minimum wage rates. The 14(c) certification team members who review employers' application packages and issue the 14(c) certificates receive no formal training on the requirements of the special minimum wage program. Similarly, until fiscal year 2001, WHD investigators who conduct investigations of employer compliance with various provisions of FLSA received no formal training on 14(c) investigations. In addition, the 14(c) certification team and WHD investigators were working with guidance that had not been updated for many years. Until very recently, most of the sections of the *Field Operations Handbook* that described the requirements of the provisions of section 14(c) had not been revised since 1980, and portions of it were much older; the oldest section was last updated in 1963. Labor updated these sections of the handbook and officially issued the new version in June 2001.

To address the lack of training for investigators, WHD's regional staff recently began developing and scheduling training sessions on 14(c) investigations. For example, WHD's Northeast Regional Office developed a 1-day course on 14(c) investigations that it plans to use to train investigators and had begun conducting training sessions at the time of our review. In addition, WHD headquarters officials told us they were considering incorporating training on 14(c) investigations into the basic training curriculum for investigators, but they had not done so as of the date of our review.

Finally, several employers and consultants reported that employers had received inconsistent guidance from WHD staff on the provisions of section 14(c). For example, many employers received inconsistent

guidance on the allowance factor for "personal, fatigue and delay" time used in computing piece rates for 14(c) workers.[35] Although the employers had used one allowance factor for several years, many of them, starting in 2000, were told by WHD 14(c) certification team staff that the allowance factor they had been using was incorrect and, as a result, the employers owed back wages to their 14(c) workers. We asked staff in WHD's Midwest Regional Office whether this was a change in policy and were told that this was not a change in policy but that its staff had not been properly applying the policy in previous years.

Labor Provides Little Guidance or Outreach to Employers on the Requirements of the Special Minimum Wage Program

In addition to not providing training to its own staff on the requirements of the special minimum wage program, Labor has provided little written guidance or outreach to 14(c) employers, although Labor considers this an important part of its efforts to ensure employer compliance. Although some guidance is available on WHD's Web site—such as a fact sheet on the employment of workers with disabilities at special minimum wages—the guidance does not provide specific information, such as how to compute special minimum wages. Although WHD officials prepared a computer-based presentation for employers that contains specific guidance on how to compute special minimum wages and prepare 14(c) certificate application packages, only two of the employer groups that we contacted had received a copy of it. WHD officials also told us that they had stopped distributing copies of the computer presentation to employers because the presentation needs to be updated to match the information in the revised *Field Operations Handbook*.

The guidance on the special minimum wage program Labor provides to employers is not sufficient. Reviews of employers' 14(c) certificate application renewal packages by WHD's 14(c) certification team showed patterns of errors. These errors included incorrect piece rate calculations, use of entry-level wages to determine prevailing wages, rounding errors, and failure to consider the quality of the work in computing special minimum wages. In addition, in the survey, 55 percent of the work center managers reported that they either received no guidance from Labor or

[35]Employers, in computing piece rates, are required to include an allowance factor for personal, fatigue and delay time in computing each worker's level of productivity. Employers must include at least a 15% allowance factor (9 minutes) in calculating the amount of work a 14(c) worker can perform in 1 hour because the worker must be allowed time for normal fatigue, breaks, cleanup, and delays, such as those that occur while materials are being restocked.

considered the guidance they received on some requirements of the special wage program to be inadequate.[36]

Because Labor has provided little written guidance to 14(c) employers, several employer groups and consultants developed their own guidance on the requirements of the provisions of section 14(c). For example, we obtained copies of written guidance developed by NISH,[37] the National Industries for the Blind, Goodwill Industries, and two consultants, including handbooks for employers on how to prepare their 14(c) certificate application packages.

Recently, Labor developed plans to improve its written guidance to 14(c) employers. For example, WHD headquarters officials said that they plan to release the newly revised *Field Operations Handbook* to employers, possibly by posting it on WHD's Web site, although they had not done so as of the date of our review. The officials also said that they have several other initiatives to increase technical assistance to employers, such as establishing a Web site for the special minimum wage program.

In addition to providing little written guidance to employers, Labor has done little outreach to employers to inform them about the requirements of the special minimum wage program. For several years, Labor provided no outreach to 14(c) employers. Staff at one of the work centers we visited told us that the regional 14(c) specialist in Atlanta used to provide training at conferences for 14(c) employers on the requirements of the special minimum wage program. However, after WHD eliminated the regional 14(c) specialist positions in 1996, this outreach to 14(c) employers ended. WHD officials told us that they have recently improved their efforts to provide outreach to employers, including reinstating the regional 14(c) specialist positions in 2000. Some of the regional 14(c) specialists have recently begun making presentations to employer groups in their regions. Some employers we spoke with confirmed that Labor had contacted them recently to offer technical assistance.

[36]The sampling errors for our estimate of employers that received no guidance from Labor or that rated the guidance they received as "less than adequate" or "much less than adequate" did not exceed plus of minus 10.7 percent.

[37]"NISH" is the name of the organization that was established in 1974 as the National Industries for the Severely Handicapped. The organization changed its name to NISH in 1989.

Conclusions

Nationwide, the special minimum wage program provides employment opportunities to over 400,000 workers with disabilities who are not fully productive on the job. The vast majority of these workers are employed by work centers that also offer them a range of support services designed to help them perform their jobs and function more independently in the community. Virtually all work centers that employ 14(c) workers also are nonprofit. Consequently, if these centers were required to pay their 14(c) workers the federal minimum wage, it is likely that the funds they currently receive from contracts that generate jobs for these workers and from other sources would not cover the increase in their payroll costs.

Despite the benefits 14(c) workers may receive from the program, calculating special minimum wage rates for workers with disabilities is a complicated process that is prone to error. As a result, Labor's oversight of the special minimum wage program is important in ensuring that 14(c) workers are not underpaid. Labor is not doing all it can, however, to provide this oversight, and Labor officials acknowledge that the special minimum wage program was given low priority in the past. While the agency is beginning to increase the resources it devotes to the program, it is doing so without adequately monitoring the effectiveness of its efforts. Labor does not know the program's precise size, the resources currently devoted to it, the rate at which employers comply with program requirements, or the timeliness or results of its oversight activities. Without this information, Labor cannot be sure that it is giving the program the appropriate priority or gauge the effectiveness of its efforts to ensure employer compliance. Labor's oversight of the special minimum wage program has consisted primarily of reviewing employers' 14(c) certificate renewal applications and investigating complaints rather than systematically selecting employers for investigation. Labor also has done little to ensure that employers whose 14(c) certificates have expired do not continue to pay workers special minimum wages or to prevent errors in calculating special minimum wage rates by routinely providing training and guidance to its staff and 14(c) employers.

Recommendations for Executive Action

In order to obtain the data needed to properly manage the special minimum wage program, we recommend that the Secretary of Labor implement the following:

- Improve the accuracy of its data on the number of 14(c) employers and workers by (1) deleting out-of-date and duplicate records in its database, (2) continuing to verify the accuracy of its database by periodically comparing it to information in Labor's paper files and correcting any

discrepancies, (3) identifying employers that indicate on their 14(c) certificate applications that they do not intend to employ any workers at special minimum wages and counting them separately from employers that do, and (4) implementing the suggestions in our April 6, 2001, letter to the Director of the Office of Enforcement Policy, Wage and Hour Division for improving the 14(c) certificate application form.

- Track the number of staff hours WHD headquarters, 14(c) certification team members, 14(c) regional specialists, and investigators devote to managing the special minimum wage program, reviewing applications for new and 14(c) certificates and renewals, investigating complaints related to special minimum wages, conducting self-initiated investigations of 14(c) employers, and other tasks aimed at ensuring compliance with the requirements of the special minimum wage program and use this information to manage the program.

- Collect and compile data on the number, timeliness, and results of WHD's reviews of employers' 14(c) certificate applications and use this information to set performance standards for the timeliness of this process and to determine the appropriate level of resources to allocate to the special minimum wage program.

- Using the results of its reviews of 14(c) certificate applications and its investigations of 14(c) employers conducted in response to complaints, estimate the rate at which employers miscalculate 14(c) workers' special minimum wage rates and use this information to determine the appropriate level of resources to allocate to oversight of the special minimum wage program.

In order to ensure employer compliance with the requirements of the special minimum wage program, we recommend that the Secretary of Labor carry out the following actions:

- Conduct self-initiated investigations of a randomly selected sample of 14(c) employers in all regions and use the results to estimate the rate of employer compliance nationwide. After initially estimating the employer compliance rate, Labor should continue to systematically conduct self-initiated investigations of employers as indicated by the results of its compliance efforts, including its reviews of employers' 14(c) certificate applications and its investigations.

- Followup with employers that do not respond to 14(c) certificate renewal notices to ensure that they do not pay special minimum wages to their

workers with disabilities without authorization and use the information obtained from its follow-up efforts on employers who no longer have 14(c) certificates to update the database on 14(c) employers.

- Train staff in all of its regions on the requirements of the special minimum wage program contained in the newly revised *Field Operations Handbook* and incorporate this training into its standard curriculum for investigators.

- Post the revisions of the sections of the *Field Operations Handbook* that relate to the special minimum wage program on Labor's Web site so that they are available to employers.

- Regularly conduct outreach sessions for employers in each region on the requirements of the special minimum wage program, with special emphasis on correcting errors identified in WHD's reviews of employers' 14(c) certificate renewal applications and investigations of employers.

Agency Comments and Our Response

We provided a draft of this report to Labor for review and comment. Labor's comments are contained in appendix V. Labor acknowledged that, in the past, it may not have given sufficient priority to enforcing the provisions of section 14(c) of FLSA, and generally supported our recommendations, noting actions it is taking to implement them. While we commend Labor's decision to begin placing a higher priority on the special minimum wage program and its efforts to improve the management of the program and ensure compliance with the requirements of the provisions of section 14(c), some of its actions fall short of our recommendations.

Specifically, in its efforts to improve its information on 14(c) employers and workers, Labor stated that it intends to correct all database errors by September 30, 2001, and build safeguards into the system to maintain the accuracy and integrity of the data. The agency did not, however, specify what these safeguards would be, or whether it would periodically compare the information in its database to the paper files on 14(c) employers as we recommended. Labor also noted that it had revised the 14(c) certificate application form to include the suggestions contained in our letter dated April 6, 2001. Although Labor made some changes to the form in response to a draft of the letter that we provided to them in February 2001, none of the suggestions contained in the final letter have been made to the revised 14(c) certificate application form sent by Labor to the Office of Management and Budget for approval.

We understand Labor's concern that excluding some employers with 14(c) certificates from its count of employers that participate in the special minimum wage program ignores the fact that there are legitimate reasons why employers may not continuously employ workers at special minimum wages. Including all employers with 14(c) certificates, however, particularly those that do not intend to employ workers at special minimum wages, is misleading because it overstates the number of employers that participate in the program and the accompanying resources needed to ensure that employers are correctly computing special minimum wages for their workers. Therefore, we revised our recommendation to state that Labor should distinguish between employers that indicate on their 14(c) certificate applications that they do not intend to employ workers at special minimum wages from those that do, and count them separately.

In response to our recommendation that Labor track the number of hours that WHD staff devote to the special minimum wage program, Labor stated that it is instituting a process for reporting time spent on the program by non-investigative staff and noted that it records the number of staff hours spent by WHD investigators. However, as noted in the report, WHD's managers of the special minimum wage program do not use this information to manage the program. Therefore, we revised our recommendation to specify that, in addition to tracking the number of staff hours that WHD staff devote to the special minimum wage program, Labor should use this information to manage the program.

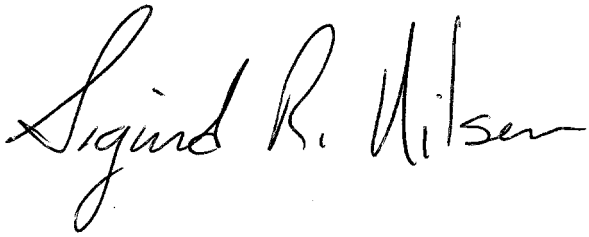
In response to our recommendation that Labor use the results of its reviews of 14(c) certificate applications and investigations of complaints about 14(c) employers to estimate the rate at which employers miscalculate special minimum wage rates, and consider this rate in making resource allocation decisions, Labor stated that the 14(c) certification team shares information regarding compliance determinations made during the certification process with regional and district staff. Labor gave no indication, however, that it plans to use the results of either its reviews of employers' certificate applications or its investigations of complaints about 14(c) employers to compute the rate at which employers miscalculate special minimum wages as we recommended.

Moreover, Labor's plan to use the results of its current self-initiated investigations of selected individual 14(c) employers to estimate the rate of employer compliance, rather than using a random sample of employers, as we recommended, is inadequate. Although Labor is conducting self-initiated investigations of 14(c) employers in one region and in each of

several district offices, the employers investigated are not selected at random and, as a result, cannot be considered representative of 14(c) employers, in general, in any of those areas, much less the nation, or provide a credible estimate of the extent of noncompliance.

We support the emphasis Labor has begun to place on preventing violations of special minimum wage program requirements through increased training of investigators and more concerted outreach efforts to employers. However, we urge Labor to implement our recommendation to incorporate formal training on the requirements of the special minimum wage program into WHD's standard training curriculum for investigators rather than simply "considering exposing Investigators to the Section 14(c) program during the Basic II Investigator Training Course" because it is unclear how this will provide investigators with the training needed to conduct investigations of 14(c) employers.

Copies of this report are being sent to the Chairman, Subcommittee on Workforce Protections, House Committee on Education and the Workforce; the Secretary of Labor; appropriate congressional committees; and other interested parties. The report is also available on GAO's home page at http://www.gao.gov. If you have any questions concerning this report, please call me on (202) 512-7215. Other contacts and staff acknowledgements are listed in appendix VI.



Sigurd R. Nilsen
Director, Education, Workforce, and
Income Security Issues

Appendix I: Scope and Methodology

After determining that information on 14(c) employers and workers needed to meet the objectives of our review was not readily available from Labor or any other source, we elected to survey employers nationwide and conduct site visits of a few employers.[1]

Employer Survey

To identify employers that employ workers with disabilities at special minimum wage rates under the provisions of section 14(c) of the Fair Labor Standards Act (FLSA), we asked Labor to provide us with information on all employers with current 14(c) certificates. Labor provided us with two databases that contained information on employers with 14(c) certificates. We used information from both databases because neither database contained all of the information we needed.[2]

We combined the two databases and eliminated records with duplicate certificate numbers and records with certificates that expired prior to January 1, 2000. We then verified the accuracy of this information by comparing the database records for employers in four states to the paper records maintained by the Midwest Regional Office of Labor's Wage and Hour Division (WHD). Our analysis showed that the combined databases provided information that was sufficiently accurate to allow us to select a statistically valid sample of employers with current 14(c) certificates to receive our survey.

We divided the combined data into four groups using the certificate number and another data element that identified the type of employer. These four groups represented the four types of employers: (1) work centers, (2) businesses, (3) hospitals and other residential care facilities, and (4) schools. We selected our samples only from the first two groups:

[1]Information on the average special minimum wage rates paid to many 14(c) workers was available from the employers' 14(c) certificate applications maintained by the Wage and Hour Division's Midwest Regional Office, but obtaining this information from the paper records would not have provided all of the data we required and would have been very time- consuming. In addition, because work centers only renew their 14(c) certificates every 2 years, some of the information would have been out of date.

[2]One of the databases was the old Alpha 4 database on 14(c) employers maintained by the Midwest Regional Office and the other was from the Certificate Processing System module of the new Wage and Hour Investigative Support and Reporting Database maintained by Labor's headquarters office. As of the date we requested information on 14(c) employers, Labor was in the process of merging these two databases, but the process had not been completed and records for employers with 14(c) certificates that had not yet expired from the old database had not been added to the new one.

work centers and businesses. We did not select any of the hospitals or schools because they employ only a small number of workers under the provisions of section14(c) and because they are not typical of most 14(c) employers.

There were a total of 5,351 work centers and 729 businesses. Because of the special interest of our congressional requesters in how the special minimum wage program applies to individuals with visual impairments, we divided the 5,351 work centers into two subgroups: one for work centers that primarily employed 14(c) workers who are blind (visually impaired) and one for all other work centers.[3] We selected work centers for the first subgroup by identifying work centers that either had the words "blind" or "visual" in the name of the work center or were listed in Labor's database as having mainly workers whose predominate impairment was a "visual impairment." We found 77 work centers that met these criteria. After deleting these work centers in the first subgroup, the second subgroup (all other work centers) contained 5,274 work centers.

We drew a random sample from the second subgroup of 5,274 work centers and from the entire group of 729 businesses.[4] Because there were so few work centers for the blind, we selected all 77 of them for our survey. Each sample represented the entire population of work centers and businesses with current 14(c) certificates in calendar year 2000 (all work centers and businesses authorized by Labor to employ workers with disabilities at special minimum wages).[5]

After selecting our sample, we found that Labor's databases contained several duplicate records that had not been identified previously, and we deleted these records from our counts for each group of employers and

[3]We use the terms "work centers for the blind" and "all other work centers" to distinguish the two subgroups.

[4]Our initial sample size for the subgroup of all other work centers was 553; for the businesses, the initial sample size was 425.

[5]Employers are required to obtain a separate 14(c) certificate for their primary place of business and for any branch locations at which they employ workers at special minimum wages; therefore, many work centers had more than one 14(c) certificate. Because WHD's numbering system for 14(c) certificates does not, in all cases, distinguish between certificates issued to work centers' primary places of business and those issued to branch locations, we included branches in the total number of work centers and drew our sample from this total.

from the sample.[6] For the subgroup of all other work centers, we found that Labor's databases contained 66 duplicate records (none that were included in the sample); for the subgroup of work centers for the blind, we found 1 duplicate record; and, for the businesses, we found 21 duplicates (12 of these records were included in the sample). Although we deleted the duplicate records, we did not redraw our sample because we determined that the adjusted totals did not affect the sample sizes.

In addition, we found from our survey results that some of the businesses and one of the work centers had gone out of business and that Labor had incorrectly categorized some of the employers. We found that nine of the businesses and one of the work centers from the subgroup of all other work centers had gone out of business. We also found that one of the businesses and two of the work centers, one of the work centers for the blind and one from the subgroup of all other work centers, had been incorrectly categorized by type of employer. These errors indicated that the size of the populations for both work centers and businesses were overstated. Therefore, we adjusted our numbers by making the assumption that, if we had contacted all work centers and businesses to which Labor had issued 14(c) certificates, we would have found additional instances in which the employers had gone out of business or in which Labor had incorrectly categorized them. We used the proportion of the initial number of work centers and businesses found to be out of business or incorrectly categorized to estimate the total number of work centers and businesses on Labor's list that were out of business or incorrectly categorized. We eliminated this estimated number from each group of employers.

We adjusted the total numbers for each group and our samples to delete the duplicate records, work centers and businesses that were no longer in business, and those that were incorrectly categorized. After making these adjustments, the total number of all other work centers was 5,189 and the sample size for this group was 551.[7] We received 443 responses for this

[6]These records were not identified earlier when we deleted duplicate records from Labor's databases because the records were not an exact match and required additional review to determine that they were duplicates. For example, one record had an address listed as "ST" and a similar record had an address but was listed as "Street."

[7]We deleted 66 duplicate records from the total for the subgroup of all other work centers. We also deleted a proportional estimate of the work centers that went out of business or were incorrectly categorized (as indicated by the responses to the survey)—19 work centers. We eliminated two work centers from our sample, one that was no longer in business and one that was incorrectly categorized.

group, a response rate of 80 percent. For the work centers for the blind, the adjusted total was 75 work centers.[8] We sent out surveys to all of these work centers and received 63 responses, a response rate of 84 percent. For the businesses, the adjusted total was 690 and the sample size was 403.[9] We received 284 responses from the businesses, a response rate of 71 percent.

In the survey, we asked work center and business managers for information about their facility and the workers they employed under their 14(c) certificates. We asked them to fill out the survey only for the certificate selected (the certificate number shown on the mailing label), not for any other facilities they managed, if any.

We mailed the survey to each work center and business selected to the address listed in Labor's databases. In some cases, the work center or business gave the survey to another organization, such as a parent organization or work center responsible for completing the employer's 14(c) certificate application package. See appendix II for a copy of the survey sent to the work centers.[10]

Estimates of the Number of 14(c) Workers with Various Characteristics

One of the objectives of our survey was to obtain a variety of information on the characteristics of 14(c) workers. During our pre-tests of the survey, however, we found that some work center managers had difficulty providing the specific information we requested, such as the number of 14(c) workers they employed at various wage levels. Work center managers told us that, while this information was available in each individual worker's record, extracting and summarizing it specifically for 14(c) workers would be very time-consuming and would discourage them from responding to the survey. As a result, rather than asking work center managers to provide the precise number of 14(c) workers with a specific characteristic, we asked them to estimate the percentage of their 14(c)

[8]We deleted one duplicate record from the total for the subgroup of work centers for the blind and one that had been incorrectly categorized.

[9]We deleted 21 duplicate records from the group of businesses and a proportional estimate of the businesses that went out of business or were incorrectly categorized—18 businesses. We eliminated 22 of the businesses from our sample, 12 that were duplicates, 9 that were no longer in business, and 1 that was incorrectly categorized.

[10]We modified the survey sent to businesses by eliminating questions in the work center survey about their sources of revenue and workers' transitions to other jobs. In the survey sent to work centers for the blind, we added two questions to obtain additional information about 14(c) workers' impairments.

workers with the characteristic. We asked them to provide their estimates by checking one of six boxes with the following labels: "None (0%)," "Few (1-19%)," "Some (20-39%)," "About half (40-59%)," "Most (60-79%)," or "All or nearly all (80-100%)."

To provide an estimate of the total number of 14(c) workers at each work center with a specific characteristic, it was necessary for us to convert each percentage range estimate provided by the work center manager into a single percentage. To do so, we began by assigning a value to each estimate in the midpoint of the range. For example, for an estimate of "Some (20-39%)," we assigned a value of 30 percent. Then, for each of the eight questions asked in this manner, we summed the midpoint percentage values to determine whether they totaled 100 percent, thus accounting for all 14(c) workers employed at the center. If the values totaled more than 100 percent, we reduced each of the individual midpoint percentage values by the percentage by which the total would have to have been reduced in order to total 100 percent. For example, if the midpoint percentage values we assigned totaled 130 percent, this means that the total would have to be reduced by 30 percentage points, or 23 percent (30 divided by 130), in order to reach 100 percent. In this case, we reduced each midpoint percentage value by 23 percent. Conversely, if the midpoint percentage values we assigned totaled less than 100 percent, we increased each value by the percentage by which the total would have to have been increased in order to reach 100 percent. Thus, using this method, we arrived at a single percentage estimate for each of the eight questions on workers' characteristics posed in this manner. For each question, we converted each percentage estimate into an estimate of the number of 14(c) workers with the specified characteristic by multiplying the percentage estimate by the total number of workers at the center.

Because of the manner in which we estimated the number of 14(c) workers with various employment and personal characteristics, the estimates should not be viewed as highly precise. They are much less precise than estimates based on accurate counts of 14(c) workers with the specified characteristics at each work center sampled. As stated previously, however, based on our experience during the pre-tests of the survey, we believed that it would not have been feasible to obtain such counts for the work centers. The businesses, however, were able to provide this information because they had so few 14(c) workers (three workers, on average) that they did not have difficulty providing this information. Thus, our estimates of the number of 14(c) workers employed by businesses with various employment and personal characteristics

should be considered much more precise than those related to 14(c) workers employed by work centers.

We also compared employers' responses to the survey by testing them to determine whether there were any significant differences. We compared the two subgroups of work centers—work centers for the blind and all other work centers—and compared all work centers and businesses.[11] We calculated the estimates included in this report and in appendixes III and IV using only the number of cases in which there was a usable response to a question; we did not include nonresponses in our calculations.

Statistical Precision of Estimates

Because the estimates we reported from the survey were based on samples of 14(c) certificates, a margin of imprecision surrounds them. This imprecision is usually expressed as a sampling error at a given confidence level. We calculated sampling errors for estimates based on our survey at the 95-percent confidence level. The sampling errors for percentage estimates cited in this report varied but did not exceed plus or minus 5 percentage points, unless otherwise noted. The sampling errors for our estimate of the number of work centers and businesses that employ 14(c) workers did not exceed plus or minus 138 and 27, respectively. The sampling errors for our estimate of 14(c) workers employed by work center and businesses did not exceed plus or minus 46,619 and 258, respectively.

Selection of the Employer Sites

We used the data on 14(c) employers from which the survey samples were drawn to select the eight sites visited. We selected one work center each in California, Georgia, Illinois, Texas, and Virginia; two work centers in New York; and one business in California. We selected the sites on the basis of their geographic location, the predominant impairment of the facilities' workers, and the number of workers paid special minimum wages. To ensure geographic diversity, we selected at least one site in each of Labor's five regions. In each of the regions, we selected sites that were representative of states with the largest number of 14(c) employers. We also took into consideration the costs associated with visiting each potential site.

[11]See app. III for the comparison of the two work center subgroups and app. IV for the comparison of all work centers and businesses.

Because our preliminary analysis of the data showed that the majority of 14(c) employers were work centers, we selected primarily work center sites. We visited seven work centers and one business.[12] Our analysis also showed that most work centers employed 14(c) workers whose primary impairment was mental retardation or other developmental disability. Accordingly, five of the seven work centers we selected primarily employed workers with mental retardation. In addition, because of the interest of our congressional requesters in the special minimum wage program as it relates to workers with visual impairments, we selected one work center that primarily employed workers with visual impairments. Finally, we selected one work center that primarily employed 14(c) workers with mental illness because this group was the second most frequently found in work centers.

Additional considerations for our site visit selection were the number of 14(c) workers and the type of work performed. From the information in Labor's databases on the number of 14(c) workers employed by each work center and business, we determined that the median number of 14(c) workers at each work center was approximately 65 workers.[13] We selected five of the seven work centers, in part, because the data showed that they employed about this number of 14(c) workers. The other two work centers employed a much larger number of workers. During our preliminary interviews, we learned that work centers provide jobs in both production and service-related work for their 14(c) workers. Therefore, we sought a mix of these types of jobs in selecting our sites. Because the

[12]Consistent with the employer survey, we did not select employers in two categories—schools or hospitals and other residential care facilities.

[13]Although we knew that the information in Labor's databases on the number of 14(c) workers was not accurate in some cases, we had no other basis for obtaining this information at the time of our site visit selection. We obtained information on the number of 14(c) workers employed by each work center and business from our survey, but we had not received this information at the time of our site selection.

Javits-Wagner-O'Day program is one of the sources of contracts for this work, we selected two sites that had contracts under this program, one site that produced products and one that provided service-related work.

Appendix II: Employer Survey Sent to Work Centers

U.S. General Accounting Office
Questionnaire to Section 14(c) Employers

INTRODUCTION

The U.S. Congress is reviewing the provisions of section 14(c) of the Fair Labor Standards Act. These provisions allow individuals with disabilities to be paid less than the prevailing wage for their work. To assist them with their review, the Congress has asked the U.S. General Accounting Office (GAO) for information about the number and characteristics of facilities and businesses that currently have section 14(c) certificates, and the individuals employed under these certificates. To obtain this information, GAO is conducting a survey of a sample of facilities and businesses on the Department of Labor's (DOL) list of current certificate holders. You have been selected at random from that list to participate in this survey.

This questionnaire asks for information about your facility and the workers you employ under section 14(c) certificates. We will report your responses to questionnaire items only in the aggregate with those of others, and will not use them to assess your compliance with policies or regulations.

It is very important that you complete this questionnaire. We can provide the Congress with information about certificate holders and their workers nationwide only if you, and others who receive this questionnaire, respond. The information you provide will help the Congress understand how the provisions of section 14(c) affect your ability to employ workers with disabilities and provide them with needed supports.

Although this questionnaire appears lengthy, employers who tested it found it easy and quick to complete. Employers who tested this questionnaire took from 45 to 60 minutes to complete it. That was much less time than they expected it to take.

INSTRUCTIONS

The label in the next column identifies the facility for which we would like you to answer these questions. It will be helpful for you to have your most recent section 14(c) certificate application package available while completing the questionnaire.

Please return your completed questionnaire in the enclosed self-addressed envelope within 14 days of receipt. If you have questions or comments, please contact
Ms. Ann Walker at (415) 904-2169 or walkera@gao.gov.

Please answer the questions in reference to this facility:

1. Please enter the name and telephone number of the person completing this questionnaire. (PLEASE PRINT.)

   _____
   Name

   _____
   (Area Code) Number

2. According to the Department of Labor, your facility currently has a section 14(c) certificate. Is that correct?

   1. ❑ Yes → (CONTINUE.)
   2. ❑ No → (GO TO QUESTION 6.)

3. Please look at the information on the label above. Is the section 14(c) information regarding the facility name, facility address, certificate number and expiration date correct?

   1. ❑ Yes
   2. ❑ No → Please provide the correct information below:

   _____
   _____
   _____
   _____
   _____

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4. Does your facility currently employ any workers under section 14(c) of the Fair Labor Standards Act?

   1. ❑ Yes → (GO TO QUESTION 8.)
   2. ❑ No → (CONTINUE.)

5. Which of the reasons listed below best describes why your facility has a section 14(c) certificate but does not employ any workers under it? (CHECK ONE.)

   1. ❑ We obtained the certificate to meet state contract requirements.
   2. ❑ We expected to employ workers under section 14(c) but we did not.
   3. ❑ Other (PLEASE SPECIFY.)

   _____

   _____

   _____

6. Did your facility **ever** employ any workers under section 14(c) of the Fair Labor Standards Act?

   1. ❑ Yes → (CONTINUE.)
   2. ❑ No → **(STOP! PLEASE RETURN THE QUESTIONNAIRE.)**

7. When did you last employ workers under a section 14(c) certificate? (ENTER MONTH AND YEAR.)

   _____month _____year

   (GO TO QUESTION 41.)

8. For about how many years has your facility been employing workers under section 14(c)? (CHECK ONE.)

   1. ❑ Less than 1 year
   2. ❑ 1 year to 5 years
   3. ❑ 6 years to 10 years
   4. ❑ More than 10 years

9. Is your facility a... (CHECK ONE.)

   1. ❑ Private non-profit organization?
   2. ❑ Private for-profit organization?
   3. ❑ State or local government organization?
   4. ❑ Other (PLEASE SPECIFY.)

   _____

Employment Environment

10. Is there is a large federal civilian agency or a large military installation located within what you would consider normal commuting distance from your facility?

    1. ❑ Yes
    2. ❑ No

11. Do most of the communities served by your facility have a public transportation system that workers with disabilities could use to travel to and from their jobs?

    1. ❑ Yes
    2. ❑ No

Most Recent Fiscal Year

12. When did your most recent fiscal year for which financial data are available end? (ENTER MONTH AND YEAR.)

    _____ month _____year

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13. During the most recent fiscal year for which information is available, about how much operating revenue did your facility receive from each of the sources listed below? (ENTER DOLLARS.)

    1. Production or contract services $ _____.00
    2. Retail Sales $ _____.00
    3. Grants $ _____.00
    4. Donations $ _____.00
    5. Third-party reimbursement (e.g., Medicaid, state vocational rehabilitation agency) $ _____.00
    6. Investment income $ _____.00
    7. Other $ _____.00
    8. Total $ _____.00

Current Employees

14. How many **employees, including staff**, are currently employed by your facility, either on-site or at another location? (ENTER NUMBER.)

    _____ employees

15. Not including staff, how many **workers** are currently employed by your facility, either on-site or at another location? (ENTER NUMBER.)

    _____ workers

16. Of those workers, how many **have disabilities**? (ENTER NUMBER.)

    _____workers with disabilities

17. Of the workers with disabilities, how many are **section 14(c) workers**? (ENTER NUMBER.)

    _____ section 14(c) workers

Employment Approaches

18. Of your facility's section 14(c) workers, how many… (ENTER NUMBER.)

    1. work on-site at your facility most of the time? _____
    2. work off-site most of the time in a setting in which most workers are **not** disabled? _____
    3. work off-site most of the time in a setting in which most workers **are disabled**? _____

Government Contracts

19. Does your facility currently have a PCA (Public Contract Act) contract and/or an SCA (Service Contract Act) contract from the federal government for goods or services? (CHECK ONE.)

    1. ❑ Yes, PCA contract(s) only
    2. ❑ Yes, SCA contract(s) only
    3. ❑ Yes, at least one PCA contract and at least one SCA contract
    4. ❑ No → (GO TO QUESTION 21.)

20. Currently, about how many of your facility's section 14(c) workers… (ENTER NUMBER.)

    1. work under a PCA contract? _____
    2. work under an SCA contract? _____

21. Does your facility currently have any other government (e.g. state, county) set-aside contracts?

    1. ❑ Yes
    2. ❑ No

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Work Performed by Section 14(c) Workers

22. Which of the kinds of work listed below are currently being performed by some of your facility's section 14(c) workers? (CHECK ALL THAT APPLY.)

    1. ❑ Office work (e.g. administrative, clerical, mailing, data entry and storage)
    2. ❑ Laundry
    3. ❑ Food service
    4. ❑ Grounds maintenance or janitorial work
    5. ❑ Assembly
    6. ❑ Production of a product
    7. ❑ Other (PLEASE SPECIFY.)

    _____

    _____

    _____

23. Is the **prevailing wage** rate for **all** section 14(c) workers currently employed by your facility the same as the federal minimum wage of $5.15 an hour?

    1. ❑ Yes → (GO TO QUESTION 25.)
    2. ❑ No → (CONTINUE.)

24. About how many section 14(c) workers currently employed by your facility are working in positions for which the **prevailing wage*** is…

	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.)					
	None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. the same as the federal minimum wage of $5.15 per hour?	❑	❑	❑	❑	❑	❑
2. more than $5.15 per hour but less than $7.00 per hour?	❑	❑	❑	❑	❑	❑
3. $7.00 per hour or more but less than $10.00 per hour?	❑	❑	❑	❑	❑	❑
4. $10.00 per hour or more but less than $15.00 per hour?	❑	❑	❑	❑	❑	❑
5. $15.00 per hour or more?	❑	❑	❑	❑	❑	❑

*If the prevailing wage is determined on a piece-rate basis, please convert this rate into the average prevailing wage per hour.

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25. About how many section 14(c) workers currently employed by your facility are being paid at an **hourly rate*** that is …	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.) None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. less than $1.00 per hour?	❑	❑	❑	❑	❑	❑
2. $1.00 per hour or more but less than $2.50 per hour?	❑	❑	❑	❑	❑	❑
3. $2.50 per hour or more but less than $5.15 per hour?	❑	❑	❑	❑	❑	❑
4. $5.15 per hour or more but less than $7.00 per hour?	❑	❑	❑	❑	❑	❑
5. $7.00 per hour or more but less than $10.00 per hour?	❑	❑	❑	❑	❑	❑
6. $10.00 per hour or more?	❑	❑	❑	❑	❑	❑

* If workers are paid on a piece-rate basis, please convert this rate into their average earnings per hour as described on form 226A submitted to DOL in your section 14(c) certificate application package.

26. About how many section 14(c) workers currently employed by your facility have a **productivity rate** that is…	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.) None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. less than 25 percent?	❑	❑	❑	❑	❑	❑
2. 25 percent or more but less than 50 percent?	❑	❑	❑	❑	❑	❑
3. 50 percent or more but less than 75 percent?	❑	❑	❑	❑	❑	❑
4. 75 percent or more?	❑	❑	❑	❑	❑	❑

27. About how many section 14(c) workers currently employed by your facility typically work a **number of hours each week** that is…	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.) None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. less than 10 hours?	❑	❑	❑	❑	❑	❑
2. 10 hours or more but less than 20 hours?	❑	❑	❑	❑	❑	❑
3. 20 hours or more but less than 32 hours?	❑	❑	❑	❑	❑	❑
4. 32 hours or more?	❑	❑	❑	❑	❑	❑

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28. About how many section 14(c) workers currently employed by your facility have been **employed** by your facility for …	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.) None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. less than 1 year?	❑	❑	❑	❑	❑	❑
2. 1 year or more but less than 5 years?	❑	❑	❑	❑	❑	❑
3. 5 years or more?	❑	❑	❑	❑	❑	❑

Supports and Accommodations

29. Of the support services listed below, which if any, does your facility
    - directly provide
    - help obtain from other sources
    - both directly provide and help obtain from other sources
    - not provide or help obtain from other sources

    to any of its current section 14(c) workers?

	(CHECK ONE BOX IN EACH ROW.) Facility directly provides	Facility helps obtain from other sources	Facility **both** directly provides and helps obtain from other sources	Facility does **not** provide or help obtain from other sources
1. Assistive devices and technology	❑	❑	❑	❑
2. Behavioral modification	❑	❑	❑	❑
3. Case management	❑	❑	❑	❑
4. Daily living skills training	❑	❑	❑	❑
5. Health care	❑	❑	❑	❑
6. Health insurance	❑	❑	❑	❑
7. Housing	❑	❑	❑	❑
8. Increased supervision	❑	❑	❑	❑
9. Job coaching	❑	❑	❑	❑
10. Job station adaptations	❑	❑	❑	❑
11. Occupational therapy	❑	❑	❑	❑
12. Personal care assistants	❑	❑	❑	❑
13. Psychological counseling	❑	❑	❑	❑
14. Speech therapy	❑	❑	❑	❑
15. Task adaptations	❑	❑	❑	❑
16. Transportation	❑	❑	❑	❑
17. Other (PLEASE SPECIFY.) _____	❑	❑	❑	

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30. Which, if any, of the accommodations listed below has your facility provided to its current section 14(c) workers? (CHECK ALL THAT APPLY.)

1. ❑ Job restructuring
2. ❑ Work schedule modification due to worker limitations
3. ❑ Provision of specialized equipment not required by workers without disabilities
4. ❑ Adjustment or modifications of examinations, training materials, or policies
5. ❑ Provision of readers or interpreters
6. ❑ Other (PLEASE SPECIFY.)

_____

_____

_____

Characteristics of Section 14(c) Workers

31. About how many section 14(c) workers currently employed by your facility have their productivity limited **primarily** by each of the categories of **impairment** listed below?	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.) None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. developmental disability (e.g., mental retardation, cerebral palsy)	❑	❑	❑	❑	❑	❑
2. mental illness	❑	❑	❑	❑	❑	❑
3. visual impairment	❑	❑	❑	❑	❑	❑
4. other physical impairment (e.g., hearing, neuromuscular)	❑	❑	❑	❑	❑	❑
5. other	❑	❑	❑	❑	❑	❑

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32. About how many of your current section 14(c) workers have their productivity limited by at least one other impairment? (CHECK ONE.)

1. ❑ None (0%)
2. ❑ Few (1-19%)
3. ❑ Some (20-39%)
4. ❑ About half (40-59%)
5. ❑ Most (60-79%)
6. ❑ All or nearly all (80-100%)

33. About what percentage of your facility's current section 14(c) workers are male and about what percentage are female?

1. Male _____%
2. Female _____%

Total 100%

34. About how many of your current section 14(c) workers are …

	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.)					
	None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. younger than 25 years of age?	❑	❑	❑	❑	❑	❑
2. 25 years or older but younger than 40 years of age?	❑	❑	❑	❑	❑	❑
3. 40 years of age or older but younger than 55 years of age?	❑	❑	❑	❑	❑	❑
4. 55 years of age or older?	❑	❑	❑	❑	❑	❑

Transitions in Calendar Year 2000

35. During calendar year 2000, about how many of your section 14(c) workers transitioned into employment at your facility at the full minimum or prevailing wage (i.e., are no longer covered under section 14(c) provisions)?

_____section 14(c) workers

36. During calendar year 2000, about how many section 14(c) workers left employment with your facility? (IF "0," GO TO QUESTION 38.)

_____section 14(c) workers

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37. Of the section 14(c) workers who left employment with your facility during calendar year 2000, about how many …	Section 14(c) workers (CHECK ONE BOX IN EACH ROW.) None (0%)	Few (1-19%)	Some (20-39%)	About half (40-59%)	Most (60-79%)	All or nearly all (80-100%)
1. went to another facility?	❑	❑	❑	❑	❑	❑
2. transitioned to work in a non-facility based setting, **with** support services?	❑	❑	❑	❑	❑	❑
3. transitioned to work in a non-facility based setting, **without** support services?	❑	❑	❑	❑	❑	❑
4. left the workforce entirely?	❑	❑	❑	❑	❑	❑
5. Employment situation unknown.	❑	❑	❑	❑	❑	❑

Employers' 14(c) Requirements

38. Which of the method(s) listed below does your facility use most frequently to measure the productivity of section 14(c) workers? (CHECK ONE.)

1) ❑ Stopwatch
2) ❑ MODAPTS
3) ❑ Other (PLEASE SPECIFY.)

_____

39. In measuring productivity, which of the methods listed below does your facility use most frequently to determine the quality of the work performed by section 14(c) workers? (CHECK ONE.)

1. ❑ Estimate based on visual or physical inspection
2. ❑ Not determined – Assume 100% quality
3. ❑ Other (PLEASE SPECIFY.)

_____

40. The last time you submitted paperwork to renew your section 14(c) certificate, how was the prevailing wage determined for **most** of your workers? (CHECK ONE.)

1. ❑ Calls to local businesses
2. ❑ Call to the state employment office
3. ❑ Other (PLEASE SPECIFY.)

_____

Department of Labor (DOL)

41. Consider the last section 14(c) certificate that your facility had that eventually expired. Did the DOL notify your facility prior to the certificate's expiration date that it was to expire soon?

1. ❑ Yes
2. ❑ No

42. In what month and year did your facility most recently submit paperwork to renew its section 14(c) certificate? (ENTER MONTH AND YEAR.)

_____month _____year

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43. About how long did it take your facility to complete the most recent section 14(c) application package you submitted to DOL? (CHECK ONE.)

    1. ❑ 45 minutes or less
    2. ❑ More than 45 minutes but less than 1 hour
    3. ❑ More than 1 hour but less than 2 hours
    4. ❑ More than 2 hours but less than 4 hours
    5. ❑ More than 4 hours

44. After you most recently submitted your application package to renew your section 14(c), did the DOL contact you to clarify information or ask you to provide more information?

    1. ❑ Yes
    2. ❑ No

45. During the renewal process, did DOL determine that you were required to pay back wages?

    1. ❑ Yes
    2. ❑ No

46. In what month and year did your facility receive your most recent section 14(c) certificate? (ENTER MONTH AND YEAR.)

    _____month _____year

47. Have DOL staff visited your facility in the last 5 years to review your section 14(c) employment records?

    1. ❑ Yes → (CONTINUE.)
    2. ❑ No → (GO TO QUESTION 50.)

48. How many times have DOL staff visited your facility in the last 5 years to review your section 14(c) employment records? (ENTER NUMBER.)

    _____number of visits

49. Did DOL staff assess back wages as a result of any of these visits in the past 5 years?

    1. ❑ Yes
    2. ❑ No

50. Which of the organizations listed below provide guidance to your facility regarding section 14(c) requirements? (CHECK ALL THAT APPLY.)

    1. ❑ DOL
    2. ❑ Another 14(c) employer
    3. ❑ One of the two central non-profit agencies that provides technical assistance to facilities – NIB or NISH
    4. ❑ State vocational rehabilitation agency
    5. ❑ Other national organization for the disabled (PLEASE SPECIFY.)

       _____

    6. ❑ Other source (PLEASE SPECIFY.)

       _____

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Quality of DOL Guidance

(CHECK ONE BOX IN EACH ROW.)

51. How adequate is the guidance provided by DOL to your facility for meeting the requirements of each of the section 14(c)-related topics listed below?	Much more than adequate	More than adequate	Adequate	Less than adequate	Much less than adequate	No guidance provided
1. Determination of prevailing wage	❑	❑	❑	❑	❑	❑
2. Determination of workers' productivity levels	❑	❑	❑	❑	❑	❑
3. Determination of quality of work	❑	❑	❑	❑	❑	❑
4. Calculation of wages for workers with disabilities	❑	❑	❑	❑	❑	❑
5. Verification of a person's disability	❑	❑	❑	❑	❑	❑
6. Other (PLEASE SPECIFY.) _____	❑	❑	❑	❑	❑	❑

Comments

52. If you have any comments about the issues covered in the questionnaire, please note them below.

Thank you for completing this questionnaire.

Please return your completed questionnaire in the enclosed postage-paid envelope.
If you do not have this envelope, please send the completed questionnaire to:

U.S. General Accounting Office
Attn: Ann T. Walker
301 Howard Street, Suite 1200
San Francisco, CA 94105-2252

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Appendix III: Comparison of Work Centers for the Blind and All Other Work Centers

Because of the special interest of our congressional requesters in work centers that primarily employ 14(c) workers with visual impairments (work centers for the blind), we analyzed their responses separately and compared them with those of all other work centers that employ 14(c) workers. The following tables provide selected statistics that compare data on work centers for the blind with data on all other work centers.[1]

We determined whether there was a statistically significant difference between the responses for work centers for the blind and all other work centers by comparing each category with the rest of the categories in the table combined. All of the cited differences are statistically significant unless otherwise noted. The sampling errors for the data in this appendix do not exceed plus or minus 6 percentage points.[2]

Work centers for the blind represent about 1 percent of all work centers, and the centers employ less than 1 percent of all 14(c) workers in work centers. The proportion of 14(c) workers to total workers at work centers for the blind was much lower than at other work centers (table 10).

Table 10: Number of 14(c) Workers Employed by Work Centers

	Work centers for the blind	All other work centers
Number of work centers	50	4,674
Number of 14(c) workers	1,038	399,402
Average number of 14(c) workers employed by each work center	21	87
Average ratio of 14(c) workers to total workers at each work center	51%	89%

Source: GAO analysis of Labor's databases (number of work centers) and information reported by employers in GAO's survey of 14(c) work centers (number of 14(c) workers).

Nearly 80 percent of the 14(c) workers at work centers for the blind had a visual impairment as their primary impairment, compared with less than 4 percent at all other work centers. A much higher percentage of 14(c)

[1]Work centers for the blind represent a small proportion of all work centers that employ 14(c) workers. Most work centers that employ 14(c) workers employ primarily individuals with mental retardation or another developmental disability. The second most frequent type of predominant impairment at the other work centers is mental illness.

[2]The information on various characteristics of 14(c) workers employed by work centers contains a degree of imprecision inherent with the method used to gather and analyze it. See app. I for a description of the methodology used.

workers at work centers for the blind had more than one impairment that limited their productivity—70 percent, compared with about 46 percent at all other work centers (table 11).

Table 11: Impairment Characteristics of 14(c) Workers Employed by Work Centers

Primary impairment that limits the productivity of 14(c) workers	Percentage of work centers for the blind	Percentage of all other work centers
Mental retardation or other developmental disability	14	74
Mental illness	3	12
Visual impairment	78	5
Other impairment (a physical impairment other than visual, such as hearing or neuromuscular, or an impairment not specified by the work center manger)	5	9
Multiple impairments		
More than one impairment	70	46

Source: Information reported by employers in GAO's survey of 14(c) work centers.

Work centers for the blind provided jobs more often in assembly work or production of a product and much less often in service jobs than other work centers. To provide these job opportunities, work centers for the blind were more likely to rely on contracts for products with federal agencies than other work centers and were much more likely to rely on preferential contracts with state or local agencies than other work centers (table 12).

Table 12: Type of Jobs and Contracts at Work Centers

	Percentage of work centers for the blind	Percentage of all other work centers
Type of jobs provided to 14(c) workers		
Light assembly work	90	77
Grounds maintenance or janitorial work	13	68
Production of a product	68	42
Office work	10	35
Food service	3	23
Laundry	3	15
Other	15	29
Type of contracts		
Contract with a federal agency: products under the Public Contract Act	28	2
Contract with a federal agency: services under the Service Contract Act	3	14
Contract with a federal agency: products, services, or both	36	16
Other government set-aside contract, such as a contract with a state or county	68	21

Source: Information reported by employers in GAO's survey of 14(c) work centers.

Although work centers for the blind provided a higher proportion of jobs that paid a prevailing wage of less than $7.00 per hour than other work centers, a much higher proportion of these 14(c) workers earned $2.50 or more per hour. The 14(c) workers in work centers for the blind also had higher productivity levels and worked a greater number of hours each week than 14(c) workers at other work centers. Moreover, 14(c) workers at work centers for the blind tended to be older, and a greater proportion of them had worked 5 years or more for their current employer than 14(c) workers at other work centers (table 13).

Table 13: Characteristics of 14(c) Workers Employed by Work Centers

	Percentage of 14(c) workers at work centers for the blind	Percentage of 14(c) workers at all other work centers
Prevailing wage for jobs held by 14(c) workers		
The same as the federal minimum wage of $5.15 per hour	5[a]	7[a]
More than $5.15 per hour but less than $7.00 per hour	81	72
$7.00 per hour or more but less than $10.00 per hour	14[a]	20[a]
$10.00 per hour or more but less than $15.00 per hour	0	1
$15.00 per hour or more	0	0
Hourly wage rates of 14(c) workers		
Less than $1 per hour	9	23
$1 per hour or more but less than $2.50 per hour	25	31
$2.50 per hour or more but less than $5.15 per hour	35	28
$5.15 per hour or more but less than $7 per hour	21	13
$7 per hour or more but less than $10 per hour	10	4
$10 per hour or more	1[a]	1[a]
Productivity levels of 14(c) workers		
Less than 25 percent	35	41
25 percent or more but less than 50 percent	30[a]	29[a]
50 percent or more but less than 75 percent	18[a]	19[a]
75 percent or more	17	11
Hours worked weekly by 14(c) workers		
Less than 10 hours	20[a]	17[a]
10 hours or more but less than 20 hours	20	28
20 hours or more but less than 32 hours	34	41
32 hours or more	26	14
Years employed by current employer		
Less than 1 year	11	15
1 year or more but less than 5 years	28[a]	30[a]
5 years or more	61	55
Age of 14(c) workers		
Younger than 25 years of age	9	12
25 years or older but younger than 40 years of age	31	40
40 years of age or older but younger than 55 years of age	45	35
55 years of age or older	15	12

[a]The difference was not statistically significant.

Source: Information reported by employers in GAO's survey of 14(c) work centers.

Appendix IV: Comparison of Work Centers and Businesses That Employ 14(c) Workers

Although the majority of 14(c) employers are work centers, we also surveyed a random sample of businesses that employ workers at special minimum wage rates under the provisions of section 14(c) of FLSA. The following tables provide selected statistics that compare data for work centers that employ 14(c) workers with data for businesses that employ 14(c) workers. We only reported the data elements for which the differences between work centers and businesses were statistically significant; all the differences in the tables were statistically significant unless otherwise noted. The sampling errors for work centers did not exceed plus or minus 5 percentage points and for businesses it did not exceed plus or minus 10 percentage points, unless otherwise noted.[1]

Approximately 10 times as many work centers employed 14(c) workers as businesses. Businesses, on average, employed 3 workers at special minimum wage rates, while work centers employed 86 workers (table 14).

Table 14: Number of Businesses and Work Centers and Number of 14(c) Workers They Employ

	Businesses	Work centers
Number of employers	506	4,724
Number of 14(c) workers	1549	400,440
Average number of 14(c) workers	3	86

Source: GAO's analysis of Labor's databases (number of employers) and information reported by employers in GAO's survey of 14(c) work centers and businesses (number of 14(c) workers).

Businesses were much less likely than work centers to provide work opportunities in assembly and production jobs. The businesses were also less likely to provide accommodations to 14(c) workers to help them perform their jobs, although this difference may relate to differences in the types of work provided (table 15).

[1]The information on various characteristics of 14(c) workers employed by work centers contains a degree of imprecision inherent with the method used to gather and analyze it. See app. I for a description of the methodology used.

Table 15: Types of Jobs and Accommodations Provided by Businesses and Work Centers

	Percentage of businesses	Percentage of work centers
Types of jobs		
Light assembly work	13	77
Grounds maintenance or janitorial work	43	67
Production of a product	9	43
Office work	15	34
Food service	21[a]	22[a]
Laundry	10[a]	15[a]
Other	27[a]	29[a]
Accommodations provided to 14(c) workers		
Job restructuring	62	85
Work schedule modification due to worker limitations	87	95
Provision of specialized equipment not required by workers without disabilities	17	72
Adjustment or modifications of examinations, training materials, or policies	27	67
Provision of readers or interpreters	10	47

[a]The difference between businesses and work centers was not statistically significant.

Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses.

A greater proportion of 14(c) workers employed by businesses than work centers earned $2.50 or more per hour and their productivity levels, in general, were higher than that of 14(c) workers employed by work centers. However, 14(c) workers in businesses tended to work fewer hours with nearly 70 percent working less than 20 hours a week as compared with 45 percent of the 14(c) workers in work centers (table 16).

Table 16: Wage-Related Characteristics of 14(c) Workers at Businesses and Work Centers

	Percentage of 14(c) workers employed by businesses	Percentage of 14(c) workers employed by work centers
Prevailing wage for jobs held by 14(c) workers		
The same as the federal minimum wage of $5.15 per hour	24	7
More than $5.15 per hour but less than $7.00 per hour	49[b]	72
$7.00 per hour or more but less than $10.00 per hour	26[a,b]	20[a]
$10.00 per hour or more but less than $15.00 per hour	1[a]	1[a]
$15.00 per hour or more	0[a]	0[a]
Hourly wage rates for 14(c) workers		
Less than $1 per hour	3	23
$1 per hour or more but less than $2.50 per hour	24[a]	31[a]
$2.50 per hour or more but less than $5.15 per hour	61	28
$5.15 per hour or more but less than $7 per hour	11[a]	13[a]
$7 per hour or more but less than $10 per hour	1	4
$10 per hour or more	0	1
Productivity levels of 14(c) workers		
Less than 25 percent	19	41
25 percent or more but less than 50 percent	34[a]	29[a]
50 percent or more but less than 75 percent	37	19
75 percent or more	10[a]	11[a]
Hours worked per week by 14(c) workers		
Less than 10 hours	30	17
10 hours or more but less than 20 hours	40	28
20 hours or more but less than 32 hours	21	41
32 hours or more	10[a]	14[a]

[a]The difference between businesses and work centers was not statistically significant.

[b]The sampling error does not exceed plus or minus 12 percentage points.

Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses.

A higher proportion of 14(c) workers employed by businesses than by work centers had mental retardation or another developmental disability as their primary impairment, while the primary impairment of a lower proportion or 14(c) workers employed by businesses was mental illness. Moreover, a lower percentage of 14(c) workers in business had more than one impairment that limited their productivity than workers employed by work centers. The 14(c) workers employed by businesses tended to be a

younger and had not worked as long for their current employer as workers employed by work centers (table 17).

Table 17: Characteristics of 14(c) Workers at Businesses and Work Centers

	Percentage of 14(c) workers at businesses	Percentage of 14(c) workers at work centers
Primary impairment that limits the productivity of 14(c) workers		
Mental retardation or other developmental disability	88	74
Mental illness	4	12
Visual impairment	1	5
Other impairment (a physical impairment other than visual, such as hearing or neuromuscular, or an impairment not specified by the work center manger)	7[a]	9[a]
Multiple impairments		
More than one impairment	29	46
Years 14(c) workers were employed by their current employers		
Less than 1 year	23	15
1 year or more but less than 5 years	46	30
5 years or more	31	55
Age range of 14(c) workers		
Younger than 25 years of age	14[a]	12[a]
25 years or older but younger than 40 years of age	54	40
40 years of age or older but younger than 55 years of age	25	35
55 years of age or older	7	12
Gender of 14(c) workers		
Male	65	55
Female	35	45

[a]The difference between businesses and work centers was not statistically significant.

Source: Information reported by employers in GAO's survey of 14(c) work centers and businesses.

Appendix V: Comments From the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210

AUG 22 2001

Mr. Sigurd R. Nilson
Director, Education, Workforce
and Income Security Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Nilson:

Thank you for the opportunity to review and provide comments on the General Accounting Office (GAO) report, Characteristics of Workers With Disabilities and Their Employers, and Labor's Management, Which Needs to Be Improved. We recognize that in the past we may not have assigned a sufficient enforcement priority to the Section 14(c) program, but have recently has taken important and significant steps to improve the program. In recognition of these actions, some of which are discussed in detail later in this response, we believe that the last phrase in the title, "*...Which Needs to Be Improved*" is misleading. We would recommend that the title be changed to *Characteristics of Workers With Disabilities and Their Employers, and Labor's Management of the Section 14(c) Program.*

We will address, in the context of each individual recommendation, those actions we have taken or plan to take to improve the Section 14(c) Program.

Recommendation:

Improve the accuracy of its data on the number of 14(c) employers and workers by (1) deleting out-of-date and duplicate records in its database, (2) continuing to verify the accuracy of its database records by periodically comparing it to information in Labor's paper files and correcting any discrepancies, (3) identifying employers with 14(c) certificates that do not employ any workers at special minimum wages and excluding them from its count of 14(c) employers, and (4) implementing the suggestions in our April 6, 2001, letter to the Director of the Office of Enforcement Policy, Wage and Hour Division for improving the 14(c) certificate application form.

Items (1) & (2) – The Division is correcting the database errors with an anticipated completion date of September 30, 2001, and is building in safeguards to maintain the accuracy and integrity of the data. This process includes the deletion of any duplicate records and the removal of any firms who no longer meet the criteria for certification.

Item (3) – The Division agrees that there should be accurate reporting of the number of 14(c) employers and workers and will explore methods to update records. The Division is concerned that any exclusion of these employers ignores the reality that there are legitimate reasons why 14(c) employers may, at any one time, not be paying workers with disabilities subminimum wages. These reasons include:

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- The productivity of employees with disabilities may increase to the point where earnings exceed the Federal minimum wage and thus subminimum wage authority may not be needed until newer, less productive employees come to the work center.

- Employment opportunities may not be available for workers with disabilities at certain times during the two-year certification period as contracts end and start throughout the period.

- Participation in many State and private programs – and the accompanying funding critical to the viability of the work centers – often requires a current DOL certificate authorizing the payment of special minimum wages. In some circumstances this funding enables the work centers to raise the pay of some workers with disabilities to the full Federal minimum wage, even though the workers' productivity would justify the payment of a subminimum wage.

Item (4) – As GAO was advised on June 21, 2001, the Division has revised the appropriate forms to include the suggestions made by GAO in its letter of April 6, 2001, as part of the streamlining of the application process. We are in the process of seeking the approval of the Office of Management and Budget to adopt these changes.

Recommendation:

Track the number of staff hours WHD headquarters, 14(c) certification team members, 14(c) regional specialists, and investigators devote to managing the special minimum wage program, reviewing applications for new and 14(c) certificates and renewals, investigating complaints related to special minimum wages, conducting self-initiated investigations of 14(c) employers, and other tasks aimed at ensuring compliance with the requirements of the special minimum wage program.

The Wage and Hour Investigative Support and Reporting Database (WHISARD) does record hours spent by investigators in Section 14(c) enforcement, education and outreach. The Division is in the process of clarifying instructions regarding WHISARD and the reporting of Section 14(c) actions to insure the accurate tracking of these hours.

WHISARD does not track the specific hours spent by non-investigative employees (national/regional office staff and managers) on each of the many different programs for which they have support and/or oversight responsibility. Consequently the Division will institute a process on October 1, 2001 for reporting the staff time spent in Section 14(c) related activities by WHD headquarters staff, certification team members and the Section 14 regional specialists.

Recommendation:

Collect and compile data on the number, timeliness, and results of WHD's reviews of employers' 14(c) certificate applications and use this information to set performance standards for the timeliness of this process and to determine the appropriate level of resources to allocate to the special minimum wage program.

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The Division concurs with this recommendation and is actively working to compile and collect this information by verifying the certificate database, streamlining the Section 14(c) application process, and redesigning the Certificate Processing System (CPS), the computer program that assists the Certification Team in issuing certificates.

The redesigned CPS will automate several steps in the certification process. It will provide reporting capabilities that display and monitor application caseloads and timeliness as well as allow for queries of the database, and communicate with WHISARD so both the Certification Team and District Offices can share important enforcement information that may impact the certification process. The CPS system will also include safeguards to protect and maintain the accuracy of the certification database.

This information will be provided to the Leadership Team to assist it in setting standards and making decisions regarding the determination and allocation of appropriate resources to the Section 14(c) program.

Recommendation:

Using the results of its reviews of 14(c) certificate applications and its investigations of 14(c) employers conducted in response to complaints, estimate the rate at which employers miscalculate 14(c) workers' special minimum wage rates and use this information to determine the appropriate level of resources to allocate to oversight of the special minimum wage program.

The Division agrees with this recommendation. The Certification Team shares both general and specific information regarding compliance determinations made during the certification process with appropriate regional and district office staff.

Instructions have been provided to the Certification Team and the District Offices regarding what information should be shared and the procedures for doing so. These guidelines, which were part of the *Communications Protocol* developed by the Section 14 Working Group, are being formalized in the FOH. The Regional Section 14 Team Leaders also receive and review the findings of every Section 14(c) investigation conducted within their geographic jurisdiction. The information generated by the Certification Team and the investigation findings are important and are provided to the Leadership Team to facilitate decisions regarding the determination and allocation of resources.

Recommendation:

Conduct self-initiated investigations of a randomly selected sample of 14(c) employers in all regions and use the results to estimate the rate of employer compliance nationwide. After initially estimating the employer compliance rate, Labor should continue to systematically conduct self-initiated investigations of employers as indicated by the results of its compliance efforts, including its reviews of employers' 14(c) certificate applications and investigations.

Currently the Northeast Region and several District Offices across the country are conducting locally based section 14(c) directed (noncomplaint)enforcement actions. The Division's Leadership Team will review theresults of these actions and determine the best approach for

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improving compliance. At the same time, in keeping with Secretary of Labor Chao's strategy of using compliance assistance to prevent violations in the first instance, the Division will make a concerted outreach effort to employers who use this program.

Recommendation:

Follow-up with employers that do not respond to 14(c) certificate renewal notices to ensure that they do not pay special minimum wages to their workers with disabilities without authorization and use the information obtained from its follow-up efforts on employers who no longer have 14(c) certificates to update the database on 14(c) employers.

The redesigned CPS will automatically generate renewal packages for each employer 60 days before the expiration date printed on the employer's current certificate. The CPS will then automatically alert the appropriate Wage Specialist should the employer not submit a completed application within 30 days after the expiration date. The employer will be contacted at that time and queried regarding the firm's intentions regarding Section 14(c) recertification. The Wage Specialist will use the CPS to update the database.

Recommendation:

Train staff in all of its regions on the requirements of the special minimum wage program contained in the newly revised Field Operations Handbook and incorporate this training into its standard curriculum for investigators.

As GAO was advised at a meeting on June 21, 2001, the Division is conducting "classroom" training of all Investigators who will be conducting investigations under Section 14(c). To date over 200 Investigators throughout the country have received extensive, formalized training on Section 14(c) investigation procedures that included the new FOH chapter as a resource. A total of 285 Investigators will have received this training by September 30, 2001.

All members of the Certification Team, several District Office managers, and attorneys from the Office of the Solicitor have also received this training. Several Investigators have also received additional training concerning various methods of evaluating the performance of workers and determining commensurate wage rates for both hourly and piece rated workers. Investigators who have received this training will share their knowledge with coworkers.

The Division will continue this training in FY 2002 and will consider exposing Investigators to the Section 14(c) program during the Basic II Investigator Training Course.

Recommendation:

Post the revisions of the sections of the Field Operations Handbook that relate to the special minimum wage program on Labor's Web site so that they are available to employers.

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The Division agrees with this recommendation and will take steps to post the FOH chapter concerning Section 14(c) on the Web site. The Division will also be adding a series of Section 14(c) fact sheets to the Web site that address such issues as prevailing wages; commensurate wages; personal, fatigue and delay allowances; the certification process; and how Section 14(c) applies to employers who hold government contracts.

Recommendation:

Regularly conduct outreach sessions for employers in each region on the requirements of the special minimum wage program, with special emphasis on correcting errors identified in WHD's reviews of employers' 14(c) certificate renewal applications and investigations of employers.

The Division will continue its extensive Section 14(c) employer education and outreach efforts. These efforts and the materials provided those in attendance focus in large part on proper completion of Section 14(c) applications and the most common violations found in Division investigations.

Recently the Midwest Regional Office sponsored two Section 14(c) educational conferences that attracted over 450 employers. National Office and/or Regional Office staff have also participated in several employer-training conferences sponsored by NISH throughout the country. These conferences are well attended and feedback has been extremely favorable. In addition, other employer associations and advocacy groups have received similar training. The Division plans to conduct similar, regular sessions in the future.

The Division also contacts Section 14(c) employers at least once a year, upon the filing of the initial or renewal application or when the Division contacts the firm on the anniversary of the certificate to highlight the employer's responsibility to review prevailing wages. These occasions will be used to provide the employers with information that will be designed, in part, to decrease the incidence of errors in the application process and the potential for ensuing violations.

If there are any questions concerning these comments, please do not hesitate to contact us.

Sincerely,

Joe N. Kennedy
Acting Assistant Secretary

Appendix VI: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

Other major contributors to this report are Beverly A. Crawford, Angela A. Miles, Katherine M. Raheb, Ellen L. Soltow, Linda W. Stokes, Ann T. Walker, Joel I. Grossman, Barbara W. Alsip, Corinna A. Nicolaou, and James P. Wright.

Related GAO Products

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