



January 2023

SUBMINIMUM WAGE PROGRAM

DOL Could Do More to Ensure Timely Oversight

GAO Highlights

Highlights of [GAO-23-105116](#), a report to congressional requesters

Why GAO Did This Study

Section 14(c) of the Fair Labor Standards Act of 1938 permits employers to pay wages below the federal minimum to individuals with disabilities if they hold a 14(c) certificate from DOL. In 2014, legislation amended the Rehabilitation Act of 1973 to call for maximizing opportunities for these individuals to earn competitive wages in the community. GAO was asked to examine the 14(c) program.

This report (1) describes trends in 14(c) program participation and the wages workers earn, (2) describes what 14(c) employers report about their workers' characteristics and movement to competitive employment, and (3) examines the extent to which DOL oversees the 14(c) program. GAO reviewed relevant federal laws, regulations, and guidance, and analyzed DOL data on 14(c) employment, wages, certificates, and investigations. GAO also surveyed a nationally representative sample of community rehabilitation program employers and received an overall response rate of 72 percent, allowing GAO to generalize results to the population. In addition, GAO interviewed officials from DOL and representatives from stakeholder organizations selected for their experience working with the 14(c) program.

What GAO Recommends

GAO is making three recommendations, including that DOL set and communicate timeliness goals for processing 14(c) certificate applications. DOL agreed with the recommendations.

View [GAO-23-105116](#). For more information, contact Elizabeth H. Curda at (202) 512-7215 or curdae@gao.gov.

January 2023

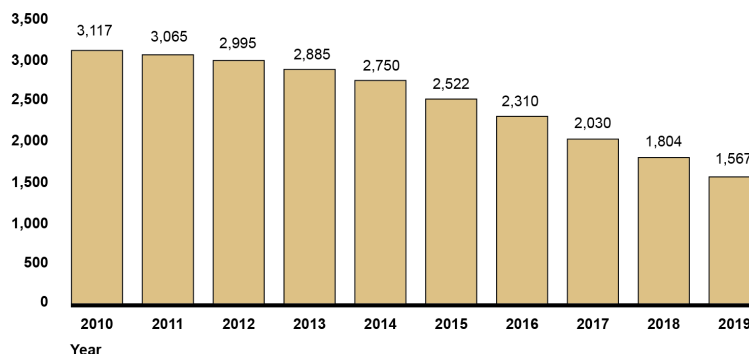
SUBMINIMUM WAGE PROGRAM

DOL Could Do More to Ensure Timely Oversight

What GAO Found

Through the 14(c) program, the Department of Labor (DOL) certifies employers to pay individuals with disabilities wages below the federal minimum—also known as subminimum wage. Employer participation in this program decreased by about half from 2010 to 2019, according to GAO's analysis of DOL data. During this period, the number of 14(c) workers also fell from about 296,000 to 122,000. Officials GAO interviewed from DOL and four stakeholder organizations attributed this decline, in part, to federal and state policies restricting the payment of wages below the federal minimum. Since August 2019, most 14(c) workers earned less than \$3.50 per hour, while about 14 percent earned at or above the federal minimum of \$7.25. Representatives from two of the four stakeholder organizations said these earnings patterns may reflect differences in workers' skills and abilities, employment opportunities, and state minimum wage laws.

Employers Authorized under Section 14(c) to Pay Subminimum Wages, 2010-2019
Employers



Source: GAO analysis of the most recent available Wage and Hour Division certificate data. | GAO-23-105116

Community rehabilitation programs provide vocational rehabilitation and other services to individuals with disabilities and represent the vast majority of 14(c) employers. According to GAO's survey of these employers, almost all 14(c) workers had an intellectual or developmental disability, and most were White and of prime working age (25 to 54 years old). In addition, these employers reported few 14(c) workers engaged in competitive employment—which includes earning at least minimum wage in a work setting with individuals without disabilities.

DOL oversees the 14(c) program in part through its certification process, such as by ensuring employers calculate wages accurately. However, this oversight has been hampered by long processing times for some applications, including renewals. DOL's processing times varied from 2 days to over 2 years, with about 40 percent completed within 4 months, based on GAO's analysis of data from 2019 through 2021. DOL's application processing manual states that staff are to ensure timely processing, but the agency has not set or communicated timeliness goals. Employers with an existing certificate are allowed to continue paying workers subminimum wages while waiting for their certificates to be renewed. However, if the employer incorrectly calculated wages during this period, the employer may owe workers significant back pay to make up the difference between the correct wage and the wage paid.

Contents

Letter		1
	Background	5
	Participation in the 14(c) Program Has Decreased, and the Majority of Workers Earned Less than \$3.50 per Hour	12
	CRP Employers Reported that Most 14(c) Workers Had Similar Demographic Characteristics and Few Engaged in Competitive Employment	21
	DOL's Slow Processing of 14(c) Certificates Has Hindered Oversight of Some Employers, Even as the Agency Has Supported Competitive Employment	32
	Conclusions	49
	Recommendations for Executive Action	49
	Agency Comments	50
Appendix I	Objectives, Scope and Methodology	51
Appendix II	Questions and Results from the Survey of 14(c) Community Rehabilitation Program Employers	62
Appendix III	Comments from the Department of Labor	86
Appendix IV	GAO Contact and Staff Acknowledgments	88
Related GAO Products		89
Tables		
	Table 1: Estimated Percentage of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs in August 2021, by Primary Disability	25
	Table 2: Estimated Percentage of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs in August 2021 and National Working Age Population, 2014 to 2018, by Race and Ethnicity	25

Table 3: Estimated Percentage of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs in August 2021, by Age	26
Table 4: Wage and Hour Division’s (WHD) Goals and Median Processing Times for Various Steps in the 14(c) Certificate Application Process	37
Table 5: Wage and Hour Division (WHD) Data Sets Used in Our Analysis of the 14(c) Program	51
Table 6: During the month of August 2021, was your organization paying workers under an approved 14(c) certificate or under a previously approved 14(c) certificate that was pending renewal? (Check one.) (Question 1)	63
Table 7: Were your organization’s 14(c) program operations paused (i.e., not operating and thus not paying wages to any 14(c) workers) at any point between March 2020 and August 2021? (Please select one response.) (Question 1A)	64
Table 8: (If either “Yes” answer to 1A) For how many months were your organization’s 14(c) program operations paused between March 2020 and August 2021? (Please click on the bar below to select the number of months.) (Question 1B)	64
Table 9: Of the months your organization’s 14(c) program was operating (i.e., not paused) between March 2020 and August 2021, were 14(c) program operations reduced at any point during that time? (Please select one response. Examples of reductions in program operations include decreases in average hours or days worked among 14(c) workers or decreases in number of 14(c) workers or worksites.) (Question 1C)	64
Table 10: (If either “Yes” answer to 1C) For how many months were your organization’s 14(c) program operations reduced between March 2020 and August 2021? (Examples of reductions in program operations include decreases in average hours or days worked among 14(c) workers or decreases in number of 14(c) workers or worksites. Please click on the bar below to select the number of months.) (Question 1D)	65
Table 11: (If “No” to 1) When did your organization’s 14(c) program stop or pause operations (i.e., stopped or paused 14(c) work and the payment of wages to any 14(c) workers)? (Question 1E)	65

Table 12: (If “No” to 1) Which of the following are a primary reason your organization was not operating a 14(c) program during the month of August 2021? (Check all that apply.) (Question 1F).	65
Table 13: During the month of August of the following year(s), was your organization paying workers under an approved 14(c) certificate or under a previously approved 14(c) certificate that was pending renewal? (Please select a response for each time period.)(Question 2)	66
Table 14: During the month of August of the following year(s), how many 14(c) workers were paid wages under your organization’s 14(c) certificate? (Please provide a response for each time period.) (Question 3)	66
Table 15: During the month of August of the following year(s), does your organization maintain electronic or otherwise readily accessible information about the primary disability affecting each 14(c) worker’s productivity for their job? (Please select a response for each time period.) (Question 4)	67
Table 16: (If “Yes” to any year in 4) During the month of August of the following year(s), how many 14(c) workers have the following as their primary disability that affects productivity for their job? (Please provide a response for each time period.) (Question 4A)	67
Table 17: During the month of August of the following year(s), does your organization maintain electronic or otherwise readily accessible information about the age of 14(c) workers? (Please select a response for each time period.) (Question 5)	69
Table 18: (If “Yes” to any year in 5) During the month of August of the following year(s), how many 14(c) workers fall within these age ranges? (If the 14(c) worker’s birth date is in August, please enter that worker’s age as of August 31 of that year. Please provide a response for each time period.) (Question 5A)	69
Table 19: During the month of August of the following year(s), does your organization maintain electronic or otherwise readily accessible information about 14(c) workers’ race/ethnicity? (Please select a response for each time period.) (Question 6)	70
Table 20: (If “Yes” to any year in 6) During the month of August of the following year(s), how many 14(c) workers are	

identified in your organization’s records as having the following as their race/ethnicity? (Please provide a response for each time period and report workers in only one category. The Hispanic or Latino category should include all workers who are identified as Hispanic or Latino, regardless of race.) (Question 6A)	71
Table 21: How many 14(c) workers worked for the following hours during a typical week in August of the following year(s)? (Please provide a response in each row for each time period.) (Question 7)	73
Table 22: During the month of August of the following year(s), did your organization provide accommodations to help 14(c) workers perform 14(c) work? (Please select a response for each time period.) (Question 8)	74
Table 23: Which of the following accommodations did your organization provide to help 14(c) workers perform 14(c) work during the month of August of the following year(s)? (Please select a response for each accommodation and time period.) (Question 8A)	74
Table 24: During the month of August of the following year(s), how many 14(c) workers also received day supports that were directly provided or organized by your organization? (Please provide a response for each time period.) (Question 9)	75
Table 25: During the month of August of the following year(s), did any workers paid under your 14(c) certificate also work in a CIE position? (Please include those who fully transitioned to CIE, those who performed CIE and 14(c) work concurrently, and those who performed CIE work but then returned to 14(c) work. Please select a response for each time period.) (Question 10)	76
Table 26: (If “Yes” to either time period in 10) For each of the CIE categories, how many 14(c) workers are you aware also worked in a CIE position during the month of August of the following year(s)? (Please provide a response for each time period.) (Question 10A)	77
Table 27: Of those 14(c) workers who fully transitioned to a CIE position during the month of August of the following year(s), how many worked in the CIE position for the following hours during a typical week? (Please provide a response for each time period. If this information is not available for some or all 14(c) workers who fully	

transitioned to a CIE position, enter the number of these workers under “Unknown number of hours.”) (Question 10B)	78
Table 28: Of those 14(c) workers who performed CIE and 14(c) work concurrently during the month of August of the following year(s), how many worked in the CIE position for the following hours during a typical week? (Please provide a response for each time period. If this information is not available for some or all 14(c) workers who performed CIE and 14(c) work concurrently, enter the number of these workers under “Unknown number of hours.”) (Question 10C)	78
Table 29: Of those 14(c) workers who performed CIE work but then returned to 14(c) work during the month of August of the following year(s), how many worked in the CIE position for the following hours during a typical week? (Please provide a response for each time period. If this information is not available for some or all 14(c) workers who performed CIE work but then returned to 14(c) work, enter the number of these workers under “Unknown number of hours.”) (Question 10D)	79
Table 30: Based on your organization’s experience through August 2021, what has generally been the impact of the COVID-19 pandemic on the extent to which 14(c) workers worked in CIE positions (i.e., number of transitions and hours worked)? (Please select a response in each row. Select ‘not applicable’ if your organization had no CIE transitions before and during the COVID-19 pandemic.)(Question 11)	80
Table 31: During the month of August of the following year(s), did your organization employ any staff who had explicit responsibilities to help 14(c) workers work in CIE positions? (Please select a response for each time period.) (Question 12)	80
Table 32: During the month of August of the following year(s), did your organization directly provide or organize any of the following supports to 14(c) workers to help them work in CIE positions? (Please select a response for each support and time period.) (Question 13)	81
Table 33: During the month of August of the following year(s), did your organization use public funding (e.g., Medicaid payments) or private funding (i.e., from sources other than	

through contracts and/or sales) to pay for supports it directly provided or organized to help 14(c) workers work in CIE positions? (Please select a response for each time period.) (Question 14)	82
Table 34: (If “Yes” to 14) During the month of August of the following year(s), did your organization use funding from any of the following sources to pay for supports it directly provided or organized to help 14(c) workers work in CIE positions? (Please select a response for each funding source and time period.) (Question 14A)	83
Table 35: Does your organization plan to renew its 14(c) certificate when it is next up for renewal? (Question 15)	84
Table 36: (If “No” to 15) Which of the following are a primary reason your organization does not plan to renew its 14(c) certificate? (Check all that apply.) (Question 15A)	84

Figures

Figure 1: Selected Requirements for Employers to Receive and Maintain Certification in the 14(c) Program	6
Figure 2: Types of Facilities or Programs Where Workers with Disabilities May Be Employed under a 14(c) Certificate	7
Figure 3: Department of Labor Roles Related to the 14(c) Program and Competitive Employment	10
Figure 4: General Steps Specialists Are to Take When Processing Employer Applications for a 14(c) Certificate	11
Figure 5: Steps Investigators Are to Take When Conducting Compliance Investigations of 14(c) Employers	11
Figure 6: Employers Authorized to Pay Subminimum Wages under a 14(c) Certificate, 2010-2019	13
Figure 7: Distribution of Hourly Earnings Reported by 14(c) Employers, August 2019-December 2021	17
Figure 8: Selected Characteristics of 14(c) Workers by Hourly Earnings Level, August 2019-December 2021	19
Figure 9: Estimated Number of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs, August 2015-August 2021	24
Figure 10: Estimated Percentage of 14(c) Workers at Community Rehabilitation Programs Reported to Be Engaged in Competitive Employment to Varying Degrees in August 2021	28

Figure 11: Estimated Percentage of Community Rehabilitation Program Employers Who Reported Offering Various Supports to 14(c) Workers in August 2021	31
Figure 12: Variation in Processing Times for 14(c) Certificate Applications, August 2019-December 2021	34
Figure 13: Number of Investigations with Violations Related to the 14(c) Program as Determined By the Wage and Hour Division, by Year Concluded, Fiscal Years 2012-2021	41
Figure 14: 14(c) Back Wages Assessed Due to Violations Determined by WHD, by Fiscal Year Investigation Concluded	44
Figure 15: Department of Labor's Office of Disability Employment Policy Initiatives	47

Abbreviations

CAPS	Certificate Application Processing System
CPS	Certificate Processing System
CRP	community rehabilitation program
DOL	Department of Labor
FLSA	Fair Labor Standards Act of 1938
ODEP	Office of Disability Employment Policy
WHD	Wage and Hour Division
WHISARD	Wage and Hour Investigative Support and Reporting Database
WIOA	Workforce Innovation and Opportunity Act

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January 25, 2023

The Honorable Robert C. “Bobby” Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

The Honorable Robert P. Casey, Jr.
United States Senate

Under Section 14(c) of the Fair Labor Standards Act of 1938 (FLSA), the U.S. Department of Labor (DOL) may authorize employers to pay individuals with disabilities wages lower than the federal minimum wage if their earning or productive capacity is limited as a result of their disability.¹ The intention of this provision is to prevent the curtailment of employment opportunities. DOL’s Wage and Hour Division (WHD) authorizes qualifying employers through a 14(c) certificate, which allows them to employ these individuals at wages lower than the federal minimum—also known as “subminimum” wage.²

In 2014, the Workforce Innovation and Opportunity Act (WIOA) amended the Rehabilitation Act of 1973 to state that one of its purposes is “to maximize opportunities for individuals with disabilities, including individuals with significant disabilities, for competitive integrated employment,” which provides the option of earning a competitive wage in an integrated employment setting where workers with disabilities interact with other individuals without disabilities.³ WIOA also added to the Rehabilitation Act of 1973 a new Section 511, which requires that individuals receive, as a condition of 14(c) employment, regular career counseling, among other things.⁴

¹See 29 U.S.C. § 214(c).

²In this report, we generally refer to wages lower than the statutory minimum wage as “subminimum” when they are paid to an individual under a 14(c) certificate.

³For the purposes of our reporting objectives, we refer to competitive integrated employment in the community as “competitive employment.”

⁴Pub. L. No. 113-128, § 458(a), 128 Stat. 1425, 1676-78 (2014), codified at 29 U.S.C. § 794g(c).

Community rehabilitation programs (CRP)—one of several different settings where employers may employ individuals with disabilities under a 14(c) certificate—make up the largest share of employers in the 14(c) program.⁵ However, little is known about the characteristics of their workers, or the extent to which the workers move to competitive employment.

You asked us to examine various aspects of the 14(c) program and its management. This report: (1) describes how participation in the 14(c) program has changed over time and the wages 14(c) workers earn; (2) describes what 14(c) CRP employers report about their program operations and their workers' characteristics and movement to competitive employment; and (3) examines the extent to which DOL oversees the 14(c) program, including compliance with Section 511 of the Rehabilitation Act of 1973, and promotes opportunities in competitive employment.

We relied on several methodologies to inform our objectives. To understand trends in 14(c) participation and the wages workers earn in the program, we analyzed available 14(c) employer certificate data on employment and wages from August 2010 through December 2021 from WHD's Certificate Processing System (CPS) and its successor, the Certificate Application Processing System (CAPS).⁶ To supplement the analysis of wages, we also reviewed information on DOL's website on current and historical state minimum wage levels. We assessed the reliability of relevant variables by conducting electronic data tests for completeness and accuracy, reviewing documentation on the datasets, and by interviewing knowledgeable officials about how the data were

⁵A community rehabilitation program (CRP) primarily provides vocational rehabilitation services and employment for individuals with disabilities.

⁶We measured 14(c) employer and employee participation from August 2010 to August 2019 because we were unable to provide an exact measure of participation in 2020 or 2021 due to data limitations that we describe later in the report. We reported on 14(c) wages using application data from August 2019 through December 2021 because wage information was not stored in the system that the Wage and Hour Division (WHD) used prior to August 2019. In addition, we measured employment using the information reported in employers' renewal applications. This information provides an appropriate indicator of trends in 14(c) employment during this period, but may not coincide with the actual number of workers with disabilities paid subminimum wages at the time we counted the employer as active in the 14(c) program, depending on the amount of time elapsed since the employer applied for the certificate (up to 2 years). We used employment data from renewal applications because WHD does not require initial applicants to provide this information prior to receiving authorization to pay subminimum wages.

collected and maintained and their appropriate uses. We determined that these data were sufficiently reliable to identify trends in 14(c) participation and wages these workers earned.

To address the second objective, we surveyed a nationally representative sample of CRP employers who were certified under 14(c) to employ workers with disabilities at subminimum wage rates, either through a renewal application that was issued a certificate by DOL or that was pending a decision.⁷ We selected our survey sample using a simple random sampling approach, with a sampling error of plus or minus 7 percentage points. Our final sample included 316 CRP employers. We received responses from 226 employers, yielding an overall response rate of 72 percent, which allows us to estimate to the population of CRP employers. Our survey included a range of fixed-choice and open-ended questions that covered topics including 14(c) program operations; trends and characteristics of 14(c) workers, such as primary disability, age, and race and ethnicity; 14(c) workers' movement to competitive employment positions; and supports employers provide to help 14(c) workers in their positions and to work in competitive employment.

For our third objective, we analyzed data on 14(c) certificate applications submitted from August 2019 through December 2021 to determine processing times and compared those times with any goals WHD established for processing certificates.⁸ We also analyzed data from the Wage and Hour Investigative Support and Reporting Database (WHISARD) on investigations conducted and their results for fiscal years 2012 through 2021.⁹ We assessed the reliability of relevant variables by

⁷Employers with an initial certificate, a renewal certificate, or a renewal application pending a decision are allowed to pay subminimum wages to their workers. However, we focused on renewal certificate holders and applicants for our survey sample, as our analysis of WHD application data showed renewal applications comprise the largest percentage of applications (97 percent). Our survey population either had an approved 14(c) renewal certificate or had submitted a renewal application that was pending a decision as of September 16, 2021, based on data from the Department of Labor's (DOL) Certificate Application Processing System.

⁸Although WHD began using its new certificate processing data system in August 2019, our data set includes one application that was received in July 2019 but processed using the new system.

⁹We focused on fiscal years 2012 through 2021 to provide a 10-year trend analysis of investigations of 14(c) employers. This time period also covered the period before and after Section 511 of the Rehabilitation Act of 1973, as added by the Workforce Innovation and Opportunity Act (WIOA), went into effect, as well as the COVID-19 pandemic, which may have affected both investigations and 14(c) employers in the most recent years.

conducting electronic data tests for completeness and accuracy, reviewing documentation on the datasets, and interviewing knowledgeable officials about how the data were collected and maintained and their appropriate uses. We determined that these data were sufficiently reliable to identify certificate-processing times; the number of investigations conducted and associated characteristics; types of violations; and investigation outcomes. We also reviewed relevant federal laws and regulations as well as DOL policy and guidance documents and training materials. To understand how DOL oversees the 14(c) program and promotes opportunities in competitive employment, we interviewed agency officials from the WHD national office and the Office of Disability Employment Policy (ODEP). In addition, we interviewed WHD officials responsible for processing all 14(c) certificate applications. We also assessed efforts by DOL to design control activities and externally communicate quality information to achieve its objectives against *Standards for Internal Control in the Federal Government*.¹⁰

To supplement our analysis and obtain additional perspectives on all three objectives, we interviewed representatives from four key stakeholder organizations selected based on their experiences working with 14(c) employers and individuals with disabilities and their families.¹¹ See appendix I for a detailed description of our methods.

We conducted this performance audit from March 2021 through January 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

¹¹These organizations were ACCSES, Coalition for the Preservation of Employment Choice, Inc., Mark Knuckles Associates, Inc., and The Arc. While the views expressed by representatives from these organizations are not generalizable to all stakeholder organizations, they provide insights on various topics discussed in this report.

Background

14(c) Certificate Program and Certificate Holders

Section 14(c) of the FLSA allows DOL to certify employers to pay wage rates below the federal minimum in certain circumstances.¹² Under this section, DOL may approve an employer to pay subminimum wages to individuals whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury. The law also states that wages paid to workers with disabilities must be commensurate with the wages paid to workers without disabilities employed in the same vicinity and doing a similar type, quality, and quantity of work.¹³ Workers with disabilities also may qualify for benefits unrelated to their employer, such as Supplemental Security Income.¹⁴

Employers wishing to participate in the 14(c) program must apply for and receive a certificate to pay workers with disabilities subminimum wages. The Secretary of Labor delegated authority to WHD to administer and enforce the 14(c) program, including issuing 14(c) certificates to pay subminimum wages in accordance with relevant regulations.¹⁵ Employers may submit an application for a 14(c) certificate either through WHD's paper option or its online application portal.¹⁶ See figure 1 for a description of selected requirements employers must meet to participate in the 14(c) program and maintain certification. Certificates, along with the employer's authorization to pay subminimum wages, expire on the indicated date unless the employer files an application for renewal with

¹²29 U.S.C. § 214(c).

¹³An employer can determine the proper commensurate wage for each employee with a disability using methods such as time studies. Time studies are used by employers to determine the length of time it should take a worker who does not have a disability to perform an operation, or an element of an operation. The commensurate rate is then determined by comparing the performance of the worker with a disability against that "standard."

¹⁴Administered by the Social Security Administration, Supplemental Security Income is a federal benefit program that pays monthly benefits to certain individuals with limited income and resources who are aged, blind, or have a disability. To be eligible for the program on the basis of a disability, a working-age adult must have a medically determinable physical or mental impairment that (1) has lasted or is expected to last for at least a continuous period of 1 year or is expected to result in death and (2) prevents them from engaging in substantial gainful activity—generally considered by the Social Security Administration to be earning above a certain monthly amount.

¹⁵See 29 C.F.R. § 525.5(a).

¹⁶See [https://section14c.dol.gov/?_ga=2.202693457.1536457117.1659127819-1080999625.1627485132#/#/](https://section14c.dol.gov/?_ga=2.202693457.1536457117.1659127819-1080999625.1627485132#/) for DOL's online 14(c) application portal.

WHD before the expiration date—in which case, the employer may continue to pay its workers subminimum wages while a final decision on the application is pending.

Figure 1: Selected Requirements for Employers to Receive and Maintain Certification in the 14(c) Program



To **receive** certification in the 14(c) program, employers must:

- **establish a commensurate wage rate** for each individual they employ under the Fair Labor Standards Act of 1938, for each specific type of work those individuals perform.



To **establish** the wage rates, employers must:

- **identify the prevailing wages** in their geographic area.
- **calculate workers' productivity ratings** for each job they perform based on their measured productivity as compared to the measured productivity of experienced workers without disabilities.
- **apply the workers' productivity ratings** to the prevailing wages.



To **maintain** certification in the 14(c) program, employers must:

- provide assurances that they will **review hourly wage rates** at least every 6 months and adjust all wages at least annually, to reflect changes in local prevailing wages for comparable work.

Source: GAO analysis of Wage and Hour Division (WHD) documents. | GAO-23-105116

There are different types of settings where workers with disabilities may be employed under a 14(c) certificate (see fig. 2). In addition, these workers may be employed at different types of work sites, including a main establishment, a branch establishment, an offsite work location, or a school work experience program site.¹⁷

¹⁷According to WHD, a main establishment is the primary location of the employer. A branch establishment is a physically separate work site that is part of the same organization as the main establishment. An offsite work location is a work site typically on the premises of a separate establishment, where workers with disabilities, or groups of workers with disabilities, are placed in work settings along with job coaches (i.e., staff of a community rehabilitation program). A school work experience program is a school-operated program site in which students with disabilities may be placed in subminimum wage employment.

Figure 2: Types of Facilities or Programs Where Workers with Disabilities May Be Employed under a 14(c) Certificate

Community rehabilitation programs

- Specialize in the employment of workers with disabilities and may also provide rehabilitation.
- Sometimes referred to as supported employment worksites.

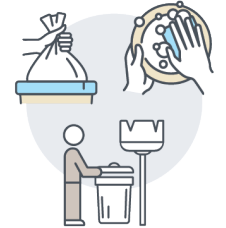
WHD-issued 14(c) certificates are for a 2-year period.



Hospitals and residential care facilities

May employ patients who have disabilities to perform janitorial, grounds maintenance, food service, and other functions that are of consequential economic benefit to the institution.

WHD-issued 14(c) certificates are for a 2-year period.



Business establishments

For-profit employers in private industry who choose to employ workers with disabilities at subminimum wages in, for example, fast food establishments or grocery stores.

WHD-issued 14(c) certificates are for a 1-year period.



School work experience program

School programs that place students with disabilities in subminimum wage employment.^a

WHD-issued 14(c) certificates are for a 1-year period.



Source: GAO analysis of Wage and Hour Division (WHD) documents. | GAO-23-105116

^aJobs involved and the conditions of employment must comply with relevant federal child labor laws when the student is less than 18 years of age.

Section 14(c) certificate holders may finance their operations using some combination of public funding, revenue from their business, or charitable contributions. Certificate holders who also are service providers may receive payment for providing home- and community-based services from other programs, including their state’s Medicaid program.¹⁸ Examples of employment-related home and community-based services include assisting individuals in the 14(c) program in building social skills, preparing for employment, and performing required tasks (e.g., a job coach may support individuals as they perform their job duties).

¹⁸Medicaid, overseen at the federal level by the Department of Health and Human Services’ Centers for Medicare & Medicaid Services, is a joint federal-state program that finances health-care coverage for certain low-income and medically needy individuals. Home- and community-based services provide opportunities for Medicaid beneficiaries to receive services in their own home or community rather than institutions or other isolated settings. These programs serve a variety of targeted populations and groups, such as people with intellectual or developmental disabilities, physical disabilities, and/or mental illnesses. Home- and community-based services include adult day care, personal care services, and services provided in assisted living facilities. See *Medicaid Home- and Community-Based Services: Selected States’ Program Structures and Challenges Providing Services*, GAO-18-628 (Washington, D.C.: Aug. 30, 2018). According to the Institute for Community Inclusion, Medicaid is the largest federal source of funds for day and employment services for individuals with developmental disabilities.

Certificate holders also may receive revenue from public or private contracts to purchase the goods or services produced by the individuals receiving subminimum wages. Generally, 14(c) program employees who perform this contract-based work do so in a congregate setting along with other individuals with disabilities who may be working under the same or other contracts, or receiving disability services.

Competitive Employment for Individuals with Disabilities

In 2014, WIOA established—through an amendment to the Rehabilitation Act of 1973—the goal to maximize opportunities for individuals with disabilities, including those with significant disabilities, for competitive employment.¹⁹ Competitive employment is employment performed on a full- or part-time basis that:

- pays a wage at least as high as (1) the relevant required minimum wage, and (2) the customary rate paid by the employer for the same or similar work performed by other employees who do not have a disability and who are situated in similar occupations by the same employer and who have similar training, experience, and skills;
- makes an individual eligible for the level of benefits provided to other employees;
- is located where employees with disabilities interact with individuals without disabilities to the same extent as individuals without disabilities in comparable positions interact with each other; and
- as appropriate, provides opportunities for advancement that are similar to those for employees without disabilities in similar positions.²⁰

WIOA also added to the Rehabilitation Act of 1973 a new Section 511.²¹ Section 511 requires that individuals receive regular career counseling and information designed to enable them to explore, discover, experience, and attain competitive employment, every 6 months during

¹⁹See 29 U.S.C. § 701(b)(2).

²⁰Pub. L. No. 113-128, § 404(5), 128 Stat. 1425, 1633-34 (2014), codified at 29 U.S.C. § 705(5). The Department of Education, which plays a role in helping individuals with disabilities achieve competitive employment, issued a document clarifying its policy with respect to the definition of “competitive integrated employment.” Department of Education, *Frequently Asked Questions: Criterion for an Integrated Employment Location in the Definition of “Competitive Integrated Employment” and Participant Choice*, FAQ 21-03 (Washington, D.C.: Jan. 19, 2021).

²¹Pub. L. No. 113-128, § 458(a), 128 Stat. 1425, 1676-78 (2014), codified at 29 U.S.C. § 794g. In this report, we refer to the set of requirements in this section of the law as “Section 511.”

the first year of 14(c) employment and annually thereafter. Specifically, Section 511 requires that:

- this career counseling be provided by “designated state units,” which generally are state vocational rehabilitation agencies;
- 14(c) certificate holders inform their 14(c) workers about certain self-advocacy, self-determination, and peer-mentoring training opportunities, though there is no requirement for certificate holders to assist their workers actively in obtaining competitive employment; and
- 14(c) certificate holders obtain and review documentation, and verify that individuals with a disability age 24 or younger have completed transition services, vocational rehabilitation services, and career counseling and information and referral services before paying such individuals subminimum wages.

As part of the conditions for holding a 14(c) certificate, employers must verify that these requirements have been met for any workers paid subminimum wages.

Movement from the 14(c) Program to Competitive Employment

For the purposes of this report, movement from 14(c) employment to competitive employment generally means that the individual is actively seeking or has achieved some degree of competitive employment. An individual’s movement from 14(c) employment to competitive employment can take a range of paths that are influenced by many factors, such as the individual’s desires and needs, available supports, and the availability and nature of competitive employment, among others.²² Depending on such factors, the transition may be gradual, tentative, or temporary.

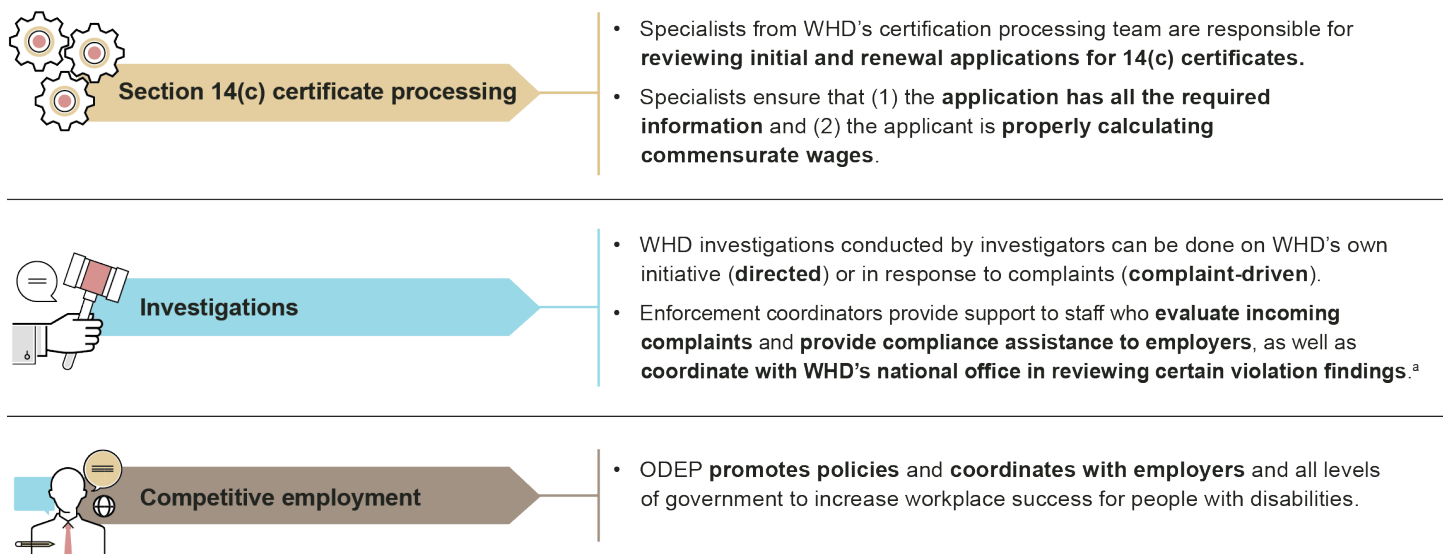
During their transition from 14(c) employment to competitive employment, individuals may receive support, such as training to prepare for a workplace setting, from their 14(c) employer, from other providers funded by federal or state programs, or from other sources. For example, during the time individuals are not working in competitive employment, they may continue receiving other Medicaid home- and community-based services.

²²See GAO, *Subminimum Wage Program: Factors Influencing the Transition of Individuals with Disabilities to Competitive Integrated Employment*, [GAO-21-260](#) (Washington, D.C.: Mar. 4, 2021).

DOL's Roles and Responsibilities Related to the 14(c) Program and Competitive Employment

WHD carries out its role of administering and overseeing the 14(c) program through (1) its review of employer applications for 14(c) certificates; (2) compliance actions, such as investigations; and (3) compliance assistance and guidance materials and outreach to employers, workers, and stakeholders. Separately, ODEP develops and influences policies and practices intended to increase the number and quality of employment opportunities for people with disabilities. See figure 3 for a description of roles of various DOL agencies.

Figure 3: Department of Labor Roles Related to the 14(c) Program and Competitive Employment

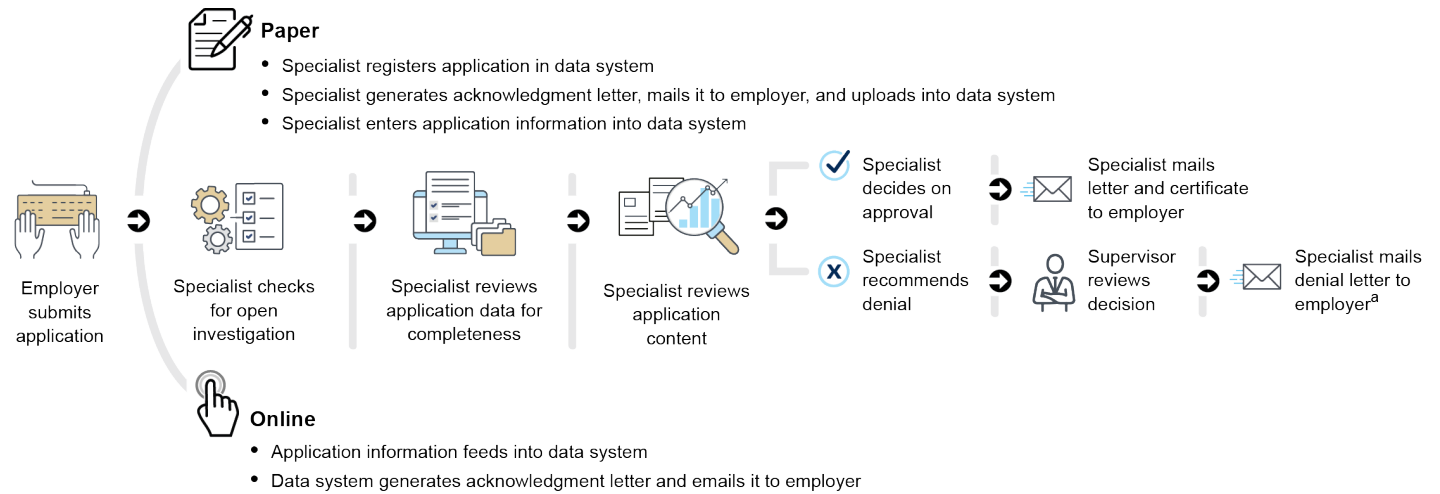


Source: GAO analysis of Wage and Hour Division (WHD) and Office of Disability Employment Policy (ODEP) documents and interviews. | GAO-23-105116

^aCompliance assistance activities include outreach events, providing guidance and developing online tools, including Field Assistance Bulletins that provide detailed information on the application of the law, letters sent directly to 14(c) certificate holders and posted online, and fact sheets.

Specialists from the certification processing team are to take several steps when reviewing both paper and online 14(c) applications (see fig. 4). As part of the certificate approval process, specialists check to see whether there is an open WHD investigation of the employer. If they find that the employer is being investigated, they withhold approval until the investigation is concluded.

Figure 4: General Steps Specialists Are to Take When Processing Employer Applications for a 14(c) Certificate

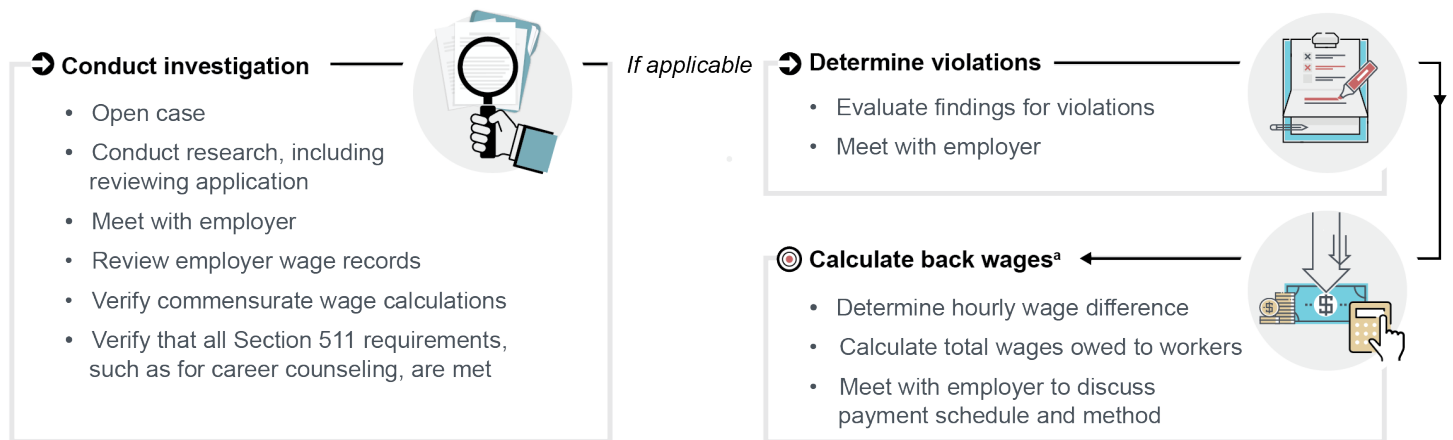


Source: GAO analysis of Wage and Hour Division (WHD) documents. | GAO-23-105116

^aFigure does not include the due process steps that WHD provides the employer before the employer's application is denied.

Investigators are to take several steps when conducting investigations of 14(c) employers and determining violations and associated penalties (see fig. 5).

Figure 5: Steps Investigators Are to Take When Conducting Compliance Investigations of 14(c) Employers



Source: GAO analysis of Wage and Hour Division (WHD) documents. | GAO-23-105116

^aBack wages are the difference between the correct wage rate and the wage rate paid by the employer, for all hours paid in violation.

When WHD finds violations, it may seek various civil or criminal remedies, including the payment of back wages to the worker(s)—the difference between the correct wage rate and the wage paid by the employer, for all hours paid in violation—as applicable. Investigators generally must contact the certificate processing team as soon as it becomes apparent that an investigation involves compliance with Section 14(c). WHD also provides employers with compliance assistance, such as training and fact sheets, to help them understand and meet the requirements of the law.

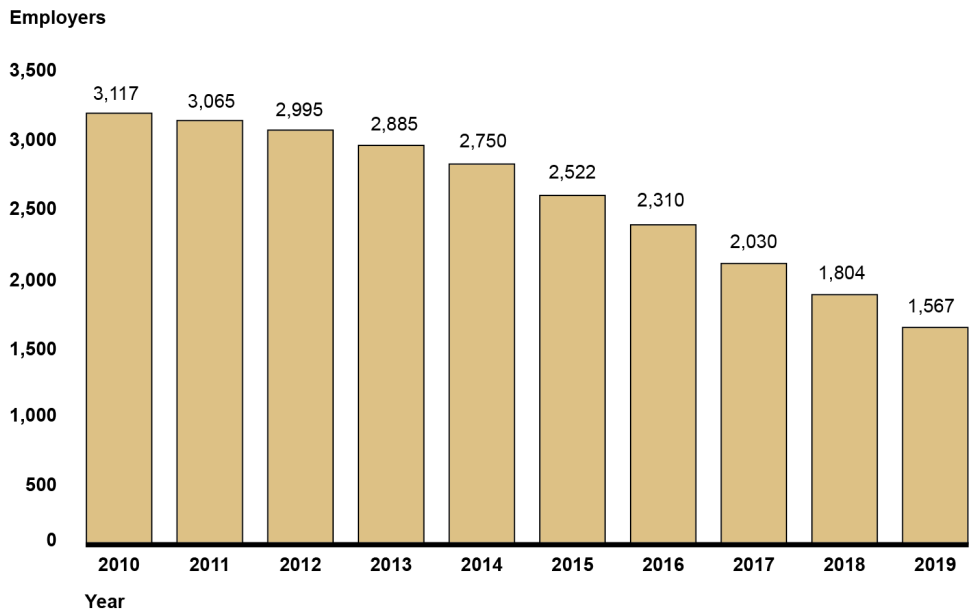
Participation in the 14(c) Program Has Decreased, and the Majority of Workers Earned Less than \$3.50 per Hour

Employer Participation Has Decreased by About One-Half From 2010 to 2019 and Fewer Workers Are Employed in the 14(c) Program

The number of employers authorized to pay subminimum wages under the 14(c) program decreased by about 50 percent from 2010 to 2019, according to our analysis of WHD’s certificate data and recent application trends. Specifically, the number of employers who held a 14(c) certificate fell from 3,117 to 1,567 from August 2010 to August 2019 (see fig. 6). Our analysis of application trends suggests that fewer than 1,300 employers were authorized at the end of August 2021.²³

²³Although 14(c) certificates generally expire within 2 years, certificates can remain in effect until WHD approves or denies the employer’s renewal application. We were unable to count the number of employers authorized after August 2019 because WHD data do not identify employers authorized under a pending certificate application. Nevertheless, to have retained authority under the 14(c) program, all 1,567 employers who held a certificate in August 2019 would have had to submit an application by the end of August 2021. However, 1,264 employers applied for 14(c) certificates over this period, including initial applicants.

Figure 6: Employers Authorized to Pay Subminimum Wages under a 14(c) Certificate, 2010-2019



Source: GAO analysis of Wage and Hour Division (WHD) certificate data. | GAO-23-105116

Note: Figure reports the number of employers that held an active 14(c) certificate in August of each year. Employers were counted in each year a certificate was active.

Participation from August 2010 to August 2019 fell among all types of 14(c) certificate holders—CRPs, business establishments, hospitals and residential care facilities, and school work experience programs. In addition, participation fell among new and renewing certificate holders. Despite the general decline in 14(c) employer participation, the rate at which CRP employers declined was less than most other types of 14(c) employers. Consequently, the overall share of CRP employers rose modestly, from 87 to 93 percent from 2010 to 2019. In addition, we found that that almost all CRP employers as of August 2019 had been participating in the 14(c) program for 15 years or longer.

The overall number of 14(c) workers also fell from about 295,000 to 122,000 from 2010 to 2019, according to data employers reported on

their renewal applications.²⁴ Generally, 14(c) employment fell across the country.²⁵

Officials we interviewed from WHD and representatives from stakeholder organizations attributed the declines in 14(c) employer and worker participation to recent federal and state policies, as well as to shifting views about the program.²⁶

- **Federal policies.** WHD officials and stakeholders told us that several federal policies may have contributed to the decline in 14(c) program participation. For example, officials from WHD and representatives from two of the four stakeholder organizations we interviewed explained that WIOA, enacted in 2014, limited the payment of subminimum wages by adding new requirements via new Section 511 of the Rehabilitation Act of 1973. This included a requirement related to individuals with disabilities age 24 and younger receiving, among other things, pre-employment transition services, like job exploration counseling, before entering 14(c) employment.²⁷ According to one of

²⁴Although WHD does not collect data on the number of 14(c) workers employed at any point in time, employers report the number of 14(c) workers they employed in the most recently completed quarter when they renew their certificates. To count the number of 14(c) workers, we summed the values each employer holding a renewal certificate had reported in their previous application, which may predate the year specified in our analysis.

²⁵We found exceptions to the drop in 14(c) employment during this period in three states—Arizona, North Dakota, and Utah—which employed a relatively small share of 14(c) workers (under 4 percent, collectively) in 2019. Since some 14(c) workers may work at multiple work sites, we used employer-level information when reporting on national trends to avoid double counting workers employed at more than one location. However, we used site-level employment information when comparing employment trends between U.S. states to account for employers who may employ workers in sites located in multiple states. In commenting on a draft of this report, WHD officials noted that they found that 14(c) employment fell in all but one U.S. state. WHD officials explained that they used data from applications at the employer level, but we were unable to verify WHD’s calculations without further documentation of their analysis.

²⁶Our work has shown that changes in expectations about 14(c) workers’ skills and abilities to succeed in competitive employment may have shifted over the course of a generation. In addition, we reported on how the adoption of various state and federal policies, such as prioritizing services, as well as employment and training programs for 14(c) workers who want to work in competitive employment, help support and influence movement to competitive employment. See [GAO-21-260](#).

²⁷Pre-employment transition services are provided by the designated state unit in each state, which generally is the vocational rehabilitation agency. According to WHD officials, additional requirements apply to all employees working at subminimum wages under Section 14(c) certificates for the duration of their subminimum wage employment.

these representatives, such requirements may have reduced participation in the 14(c) program, especially among younger individuals, by supporting other employment opportunities before being directed to 14(c) employment. In addition, a representative from one stakeholder organization explained that the Individuals with Disabilities Education Act has increased opportunities for individuals with disabilities to receive education in integrated settings, which may have influenced these individuals, over time, to seek competitive employment over 14(c) employment in congregate settings. In another example, WHD officials pointed to federal policy changes to the AbilityOne Program, which were announced in February 2019 and would eliminate payment of subminimum wages on all its contracts within 3 years.²⁸

- **State policies.** Officials from WHD and representatives from all four stakeholder organizations we interviewed said that multiple states have taken legislative or other action to phase out 14(c) employment or prohibit the payment of subminimum wages, which would have reduced employer applications for 14(c) certificates.²⁹
- **Shifting views of the 14(c) program.** Coinciding with federal and state policies, shifts in employer and individual views of the 14(c) program in favor of other types of services or activities for individuals with disabilities also may have contributed to these declines, according to representatives from three stakeholder organizations. For instance, a representative from one organization said that some employers have ended their 14(c) programs voluntarily, citing efforts to retrain 14(c) workers for competitive employment. This representative also explained that shifts in federal subminimum wage and other policies discussed previously may have encouraged these shifts in employer and worker views.

²⁸The AbilityOne Program—administered by the U.S. AbilityOne Commission, an independent federal agency—is one of the largest sources of employment in the United States for people who are blind or who have significant disabilities. Approximately 500 nonprofit organizations employ these individuals and provide products and services to the federal government. In February 2019, the Commission called for an end to the payment of subminimum wages on its contracts, and subsequently published a final rule to accomplish this in July 2022. The final rule took effect on October 19, 2022. Prohibition on the Payment of Subminimum Wages under 14(c) Certificates as a Qualification for Participation as a Nonprofit Agency under the Javits Wagner O’Day Act, 87 Fed. Reg. 43,427 (July 21, 2022).

²⁹For example, New Hampshire enacted legislation generally banning the payment of subminimum wages to individuals with disabilities.

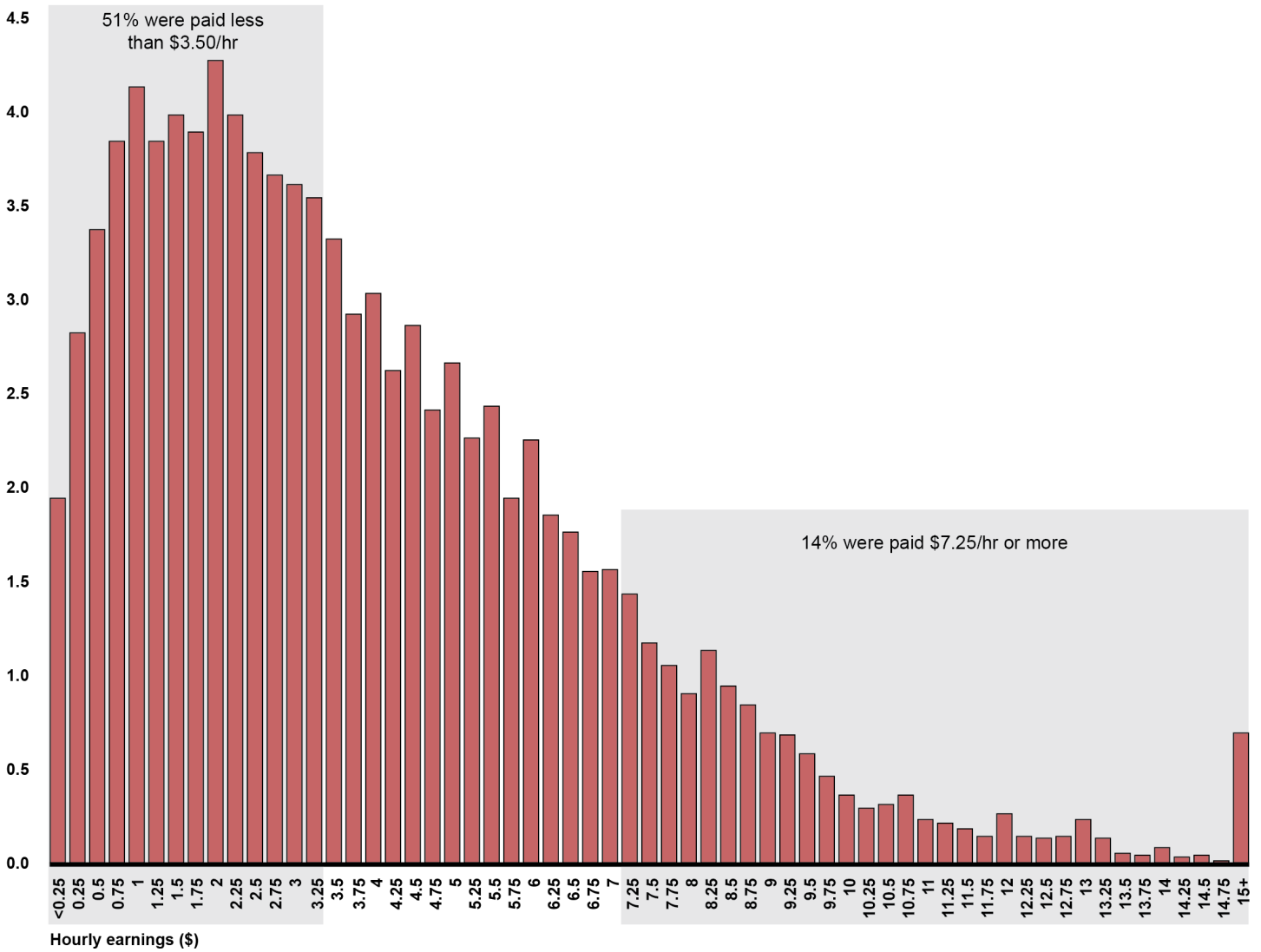
Data Suggest More than Half of 14(c) Workers Earned Less than \$3.50 per Hour, while Some Earned Above the Federal Minimum Wage

Workers in the 14(c) program earned on average \$4.15 per hour, according to our analysis of WHD data from renewal applications that 14(c) employers submitted from August 2019 through December 2021.³⁰ However, the wages paid to 14(c) workers varied widely. For example, while more than 50 percent of workers earned less than \$3.50 per hour, about 14 percent earned the federal minimum wage of \$7.25 or more during this period (see fig. 7).

³⁰To report on wages paid under the 14(c) program, we used data on 14(c) renewal applications that employers submitted from August 26, 2019 through December 30, 2021. We did not adjust for inflation over this period. Due to data limitations, we analyzed wage information only for employers whose applications were certified by the end of this period (62 percent of all applications). Therefore, these wages may not be representative of those employers who paid wages under a pending application.

Figure 7: Distribution of Hourly Earnings Reported by 14(c) Employers, August 2019-December 2021

Percent of 14(c) workers



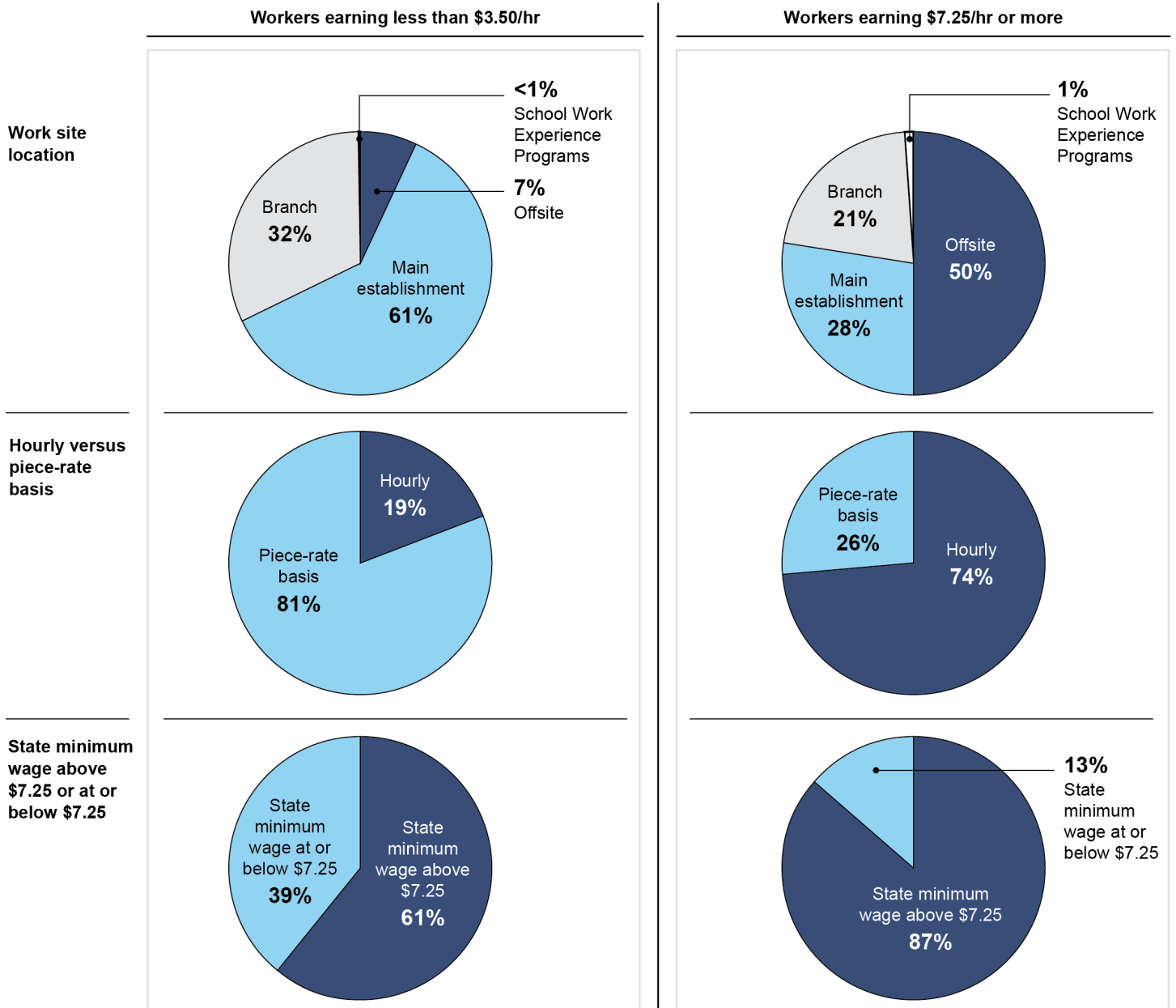
Source: GAO analysis of Wage and Hour Division (WHD) certificate data. | GAO-23-105116

Note: Data are based on 14(c) renewal applications that WHD received from August 26, 2019 through December 30, 2021. To plot the distribution, earnings were grouped into 25 cent bins, and all workers earning at least \$15 were grouped together. Workers are counted at each site in which they were employed in the previous fiscal quarter at the time the application was submitted. Earnings data are based on the 62 percent of applications that were certified and may not be representative of wages paid by employers under a pending application.

Workers who earned higher wages tended to work in different types of positions and locations than those who earned lower wages, according to our analysis (see fig. 8). For example, workers who earned the federal minimum wage or above more often worked at offsite locations in the community, typically with support from a job coach, while workers who earned less than \$3.50 per hour generally worked in congregate settings alongside other individuals with disabilities. In addition, higher-earning workers more often were paid an hourly rate than lower-earning workers, who mostly worked on a piece-rate basis, in which wages are based on the number of units a worker produces rather than the time they work. To a lesser extent, higher-earning workers also were more likely to work in a state that had a minimum wage higher than the federal level in 2019, according to our analysis of WHD data on state minimum wage laws.³¹

³¹According to our analysis of 14(c) renewal applications and WHD data on state minimum wage laws, 17 percent of 14(c) workers in states that had a minimum wage higher than the federal level in 2019 earned at least \$7.25 an hour, compared to 6 percent of 14(c) workers in states that did not have a higher minimum wage. In addition, 3.5 percent of 14(c) workers in states with higher minimum wages earned their respective states' minimum or above in 2019. We did not verify WHD's data on state minimum-wage laws.

Figure 8: Selected Characteristics of 14(c) Workers by Hourly Earnings Level, August 2019-December 2021



Source: GAO analysis of Wage and Hour Division (WHD) data on both certificates and state minimum wage laws. | GAO-23-105116

Note: Data are based on 14(c) renewal applications that WHD received from August 26, 2019 through December 30, 2021. Workers are counted at each site in which they were employed in the previous fiscal quarter at the time the application was submitted. Earnings data are based on the 62 percent of applications that were certified and may not be representative of wages paid by employers under a pending application.

Examples of Piece-Rate Work Conducted by 14(c) Workers

State-contracted book destruction and recycling at a Community Rehabilitation Program (CRP).



Assembly of electronic circuit pieces for airline manufacturing at a CRP.



Source: GAO. | GAO-23-105116

According to representatives we interviewed from stakeholder organizations, these earning patterns may reflect underlying differences between 14(c) workers, differences in resources and employment opportunities, and state laws.

- **Differences between workers.** Representatives from two stakeholder organizations familiar with how wages are set under the 14(c) program explained that workers performing tasks offsite tend to have less severe disabilities and different skills than workers who work on-site. These representatives explained that jobs performed offsite in the community generally involve more complex tasks, such as janitorial work or cleaning services, compared to jobs performed in congregate settings alongside other individuals with disabilities, such as assembly work. Consequently, workers performing tasks offsite may be paid higher wages under the 14(c) program compared to workers performing tasks on-site, based in part on their productivity.
- **Differences in resources and employment opportunities.** Although offsite jobs may tend to pay higher wages under 14(c) than those onsite, representatives from all four stakeholder organizations explained that some employers may not offer these opportunities because supporting 14(c) workers offsite may require additional resources and sufficient employment opportunities at local businesses. For example, representatives from two organizations told us that offsite placements generally require additional staff, for example to supervise 14(c) workers, as well as transportation to the location. In addition, representatives from one organization explained that there may be fewer offsite employment opportunities offered in rural areas because there generally are fewer jobs available in these areas.
- **State laws.** According to representatives from all four stakeholder organizations, 14(c) employers may pay higher wages in states with higher minimum wage laws. Since 14(c) wages are commensurate with the wages of workers without disabilities in the same job, 14(c) employers may pay higher wages in states with higher minimum wages to the extent that these laws raise the wages that workers without disabilities earn in these jobs.³²

³²Representatives from one stakeholder organization also noted that the earnings differences between states that do and do not have minimum wages above the federal minimum also may be attributable to other differences not directly related to these policies, such as the cost of living.

CRP Employers Reported that Most 14(c) Workers Had Similar Demographic Characteristics and Few Engaged in Competitive Employment

Despite Pandemic-Related Disruptions, Most Employers Reported They Were Operating in August 2021 and Planned to Continue

The COVID-19 pandemic disrupted 14(c) program operations starting in March 2020, but we estimate that most employers were operating in August 2021 and planned to renew their 14(c) certificate, based on our nationally representative survey of 14(c) CRP employers.³³ Among the estimated 82 percent of employers who were operating in August 2021, almost all reported that the pandemic caused them to reduce or pause their 14(c) program operations.³⁴ Based on our estimates, most employers reduced or paused their operations for several months to over a year.³⁵ In addition, most of these employers operating in August 2021

³³We received responses from 226 of the 316 CRP employers surveyed. The majority of our survey results are generalizable to the CRP employer population that was operating in August 2021, and are reported as estimates. Survey results that are not generalizable to the CRP employer population are instead reported with the specific number of employer responses. In this report, we defined and used quantifiers—"few," "some," "many," "most," and "almost all"—to quantify the percentage of CRP employers that provided a specific survey response. The quantifiers are defined as follows: "few" employers represents 1 to 19 percent; "some" employers represents 20 to 39 percent; "many" employers represents 40 to 50 percent; "most" employers represents 51 to 84 percent; and "almost all" employers represents 85 to 99 percent. See appendix I for more information about our survey methodology and appendix II for survey questions and results.

³⁴The 95 percent confidence interval for this estimate of employers operating in August 2021 is (78, 86). A pause in program operations means that the employer was not operating their 14(c) program and thus not paying wages to any 14(c) workers. A reduction in program operations can include decreases in average hours or days worked among 14(c) workers or decreases in the number of 14(c) workers or worksites.

³⁵Among the majority of employers who reported they both paused and reduced operations (an estimated 67 percent), the estimated total median time paused or operating at reduced capacity was 17 months. The 95 percent confidence intervals for these estimates are (61, 72) and (15, 18), respectively.

(an estimated 84 percent) said that they planned to renew their certificate.³⁶

Other CRP employers were not operating in August 2021 or did not plan to renew their certificate. Of the 40 employers that were not operating in August 2021, 20 employers said the primary reason they were not operating was that they were transitioning away from 14(c) certificates, while 16 employers cited reasons related to the pandemic.³⁷ Overall, 36 employers were not planning to renew their 14(c) certificate, including those operating and not operating in August 2021, and most of these (29) cited transitioning away from 14(c) certificates as the primary reason.³⁸

³⁶The 95 percent confidence interval for this estimate is (79, 88). Among employers who reported they were operating in August 2021, an estimated 9 percent did not know whether they planned to renew their certificate and 7 percent did not plan to renew their certificate. The 95 percent confidence intervals for these estimates are (6, 13) and (4, 11), respectively.

³⁷Employers could select more than one primary reason for not operating a 14(c) program in August 2021.

³⁸Of the 36 employers that did not plan to renew their certificate, 23 were not operating in August 2021, and 13 were operating at that time.

Most 14(c) Workers in 2021 Had an Intellectual or Developmental Disability, Were White, and Were Prime Working Age, Based on Our Survey of Employers

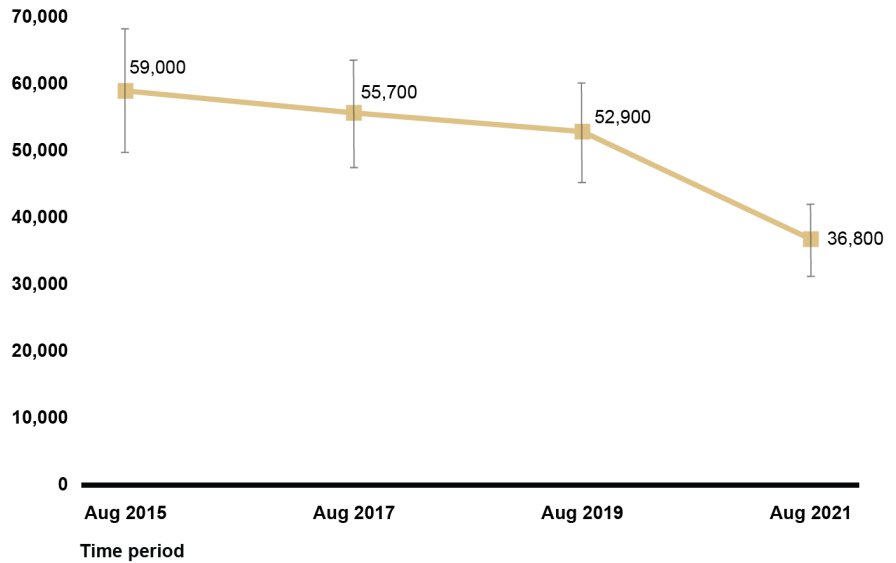
Based on our survey, CRP employers had an estimated 36,800 14(c) workers in August 2021—or a median of 36 workers per employer.³⁹ Among these employers, the estimated total number of workers decreased gradually between August 2015 and August 2019. However, we found a significant decrease (33 percent) in the estimated number of workers between August 2019 and August 2021, during which time programs were affected by the COVID-19 pandemic (see fig. 9).⁴⁰

³⁹The 95 percent confidence intervals for these estimates are (31,620, 41,930) and (30, 42), respectively. These estimates are for employers who were operating in August 2021, and are rounded to the nearest hundred and whole number, respectively. The estimated number of 14(c) workers presented in this section (36,800 as of August 2021) is lower than the number of workers presented in the previous section (122,000 as of August 2019) for three key reasons. First, as previously noted, the number of 14(c) employers declined from 2019 to 2021 as total applications for 14(c) certificates fell, and some CRP employers suspended their operations. Second, as noted in this section, we estimated that employers that were operating significantly reduced the number 14(c) workers they employed from 2019 to 2021, further reducing total 14(c) employment. Third, the figures are based on different data sources. Estimates in this section are based on data reported to us in a survey by a representative sample of CRP employers who were operating in August 2021. By comparison, our trend analysis in the previous section is based on data reported to WHD on 14(c) certificate renewal applications by a broader group of employers, not just CRP employers. While CRPs have accounted for the vast majority of 14(c) employers, the number of 14(c) workers that we estimated from our survey does not capture employment at other types of employers.

⁴⁰The 95 percent confidence interval for this estimate is (28, 38).

Figure 9: Estimated Number of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs, August 2015-August 2021

Estimated number of 14(c) workers



Brackets contain 95 percent confidence intervals

Source: GAO survey of Community Rehabilitation Program employers. | GAO-23-105116

Note: Estimates are for employers who reported operating in August 2021 and are shown rounded to the nearest hundred.

Most 14(c) workers in August 2021 had an intellectual or developmental disability, were White, and were of prime working age, based on our survey of CRP employers.⁴¹ Specifically, an estimated 90 percent of 14(c) workers had an intellectual or developmental disability (see table 1).

⁴¹See appendix II for survey questions and results for all years of data collection. GAO previously surveyed CRP employers with active 14(c) certificates in calendar year 2000 and found relatively similar worker characteristics for primary disability and age. See GAO, *Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers with Disabilities, But Labor Should Improve Oversight*, [GAO-01-886](#) (Washington, D.C.: Sept. 4, 2001).

Table 1: Estimated Percentage of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs in August 2021, by Primary Disability

(numbers in percent)

Primary disability	Estimated percentage of 14(c) workers in August 2021	Lower bound 95% confidence interval	Upper bound 95% confidence interval
Intellectual/developmental disability	90	87	93
Psychiatric disability	7	4	9
Neuromuscular disability	1	1	1
Hearing impairment	1	0	1
Visual impairment	0	0	1
All other disabilities	2	1	3

Source: GAO survey of Community Rehabilitation Program employers. | GAO-23-105116

Note: Estimates are for employers who reported operating in August 2021 and are shown rounded to the nearest whole percentage point. For the purposes of this table, we consolidated (1) substance abuse, (2) age-related disability, and (3) "other" categories into the "All other disabilities" category as the estimates in these three categories were low and not sufficiently reliable to report out individually. Twenty-three employers reported having workers in August 2021 that fell under the "other" primary disability category, and the most common of these responses were traumatic brain injury and autism spectrum disorder.

In addition, an estimated 78 percent of 14(c) workers were White, based on our survey of employers (see table 2).

Table 2: Estimated Percentage of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs in August 2021 and National Working Age Population, 2014 to 2018, by Race and Ethnicity

(numbers in percent)

Race/ethnicity category	Estimated percentage of 14(c) workers in August 2021	Lower bound 95% confidence interval	Upper bound 95% confidence interval	Estimated percentage of national working age population from 2014-2018 American Community Survey
White (Not Hispanic or Latino)	78	74	82	63
Black or African American (Not Hispanic or Latino)	14	11	18	12
Asian (Not Hispanic or Latino)	1	1	1	6
Native American or Alaska Native (Not Hispanic or Latino)	1	0	1	1
Hispanic or Latino	5	3	6	17
All other race/ethnicity categories	2	1	3	N/A

Source: GAO survey of Community Rehabilitation Program employers and the U.S. Census Bureau, 2014-2018 Equal Employment Opportunity Tabulation using 5-year American Community Survey data. | GAO-23-105116

Note: In our survey instrument, we used the race and ethnicity categories the Equal Employment Opportunity Commission (EEOC) used at the time to collect information on workers. Certain private employers with more than 100 workers (or federal contractors with more than 50 workers) are required to annually track and report on workers' race and ethnicity, among other things, to the EEOC. Estimates are for employers who reported operating in August 2021 and are shown rounded to the nearest whole percentage point. Estimates derived from American Community Survey data have a margin of error no greater than plus or minus 0.1 percentage point at the 90 percent level of confidence. The 14(c) worker population is not directly comparable to the national working age population. The national working age population from the American Community Survey is provided as a reference population and for approximate comparison purposes only. In addition, the American Community Survey uses a different category for "Native American or Alaska Native" (i.e., American Indian and Alaska Native). For the GAO survey results, non-generalizable survey race/ethnicity categories include (1) Native Hawaiian or Pacific Islander (Not Hispanic or Latino), (2) Two or more races (Not Hispanic or Latino), and (3) Other or unknown race and ethnicity. For the purposes of this table, we consolidated these three categories into the "All other race/ethnicity categories" category.

Finally, an estimated 70 percent of 14(c) workers were of prime working age (25 to 54 years old), based on our survey of employers (see table 3).

Table 3: Estimated Percentage of 14(c) Workers Reported to Be Employed by Community Rehabilitation Programs in August 2021, by Age

(numbers in percent)

Age	Estimated percentage of 14(c) workers in August 2021	Lower bound 95% confidence interval	Upper bound 95% confidence interval
18 - 24 years old (excluding the School Work Experience Program)	4	3	5
25 - 54 years old	70	67	72
55 years old or older	26	23	28

Source: GAO survey of Community Rehabilitation Program employers. | GAO-23-105116

Note: Estimates are for employers who reported operating in August 2021 and are shown rounded to the nearest whole percentage point. Non-generalizable survey results for age include 17 years old or younger (excluding the School Work Experience Program, which is a school-operated program in which students with disabilities may be placed in subminimum wage employment).

Regarding other worker characteristics reported by CRP employers in our survey, we estimate that almost all 14(c) workers worked less than 35 hours a week, with a roughly even distribution of workers across the following categories: working 1 to 10 hours, 11 to 20 hours, and 21 to 34 hours per week.⁴² According to representatives from four stakeholder organizations we interviewed, the number of hours worked per week reflects a combination of factors related to workers and their employers.

⁴²An estimated 34 percent of workers worked 1 to 10 hours per week, 31 percent worked 11 to 20 hours per week, and 33 percent worked 21 to 34 hours per week. The 95 percent confidence intervals for these estimates are (29, 39), (27, 34), and (27, 39), respectively.

For example, several of these representatives explained that workers may prefer part-time schedules, particularly if their income affects their eligibility for certain means-tested public assistance programs, such as Supplemental Security Income.⁴³ In addition, work hours may be scheduled around other supports that the employer provides, such as pre-vocational training, day habilitation, or the transportation schedule of specific pick-up or drop-off times for workers who live in group homes.⁴⁴

Comment from Survey Respondent

“... working more than a few hours a week [in the 14(c) program] interferes with necessary benefits and Medicaid that is necessary to pay for healthcare, medications, room and board for group home residents, or other living costs. We work with a substantial amount of persons who live in group homes and many have mental health and health concerns that require high prescription costs that they would be unable to afford if their benefits were cut.”

Source: A respondent to GAO's nationally representative survey of 14(c) Community Rehabilitation Program employers. | GAO-23-105116

Employers Reported Few 14(c) Workers Engaged in Competitive Employment

Relatively few 14(c) workers (an estimated 12 percent) engaged in competitive employment during the month of August 2021, based on our survey of CRP employers.⁴⁵ Specifically, an estimated 2,590 14(c) workers (a median of three workers per employer) worked in competitive employment in some capacity during that month, and they most

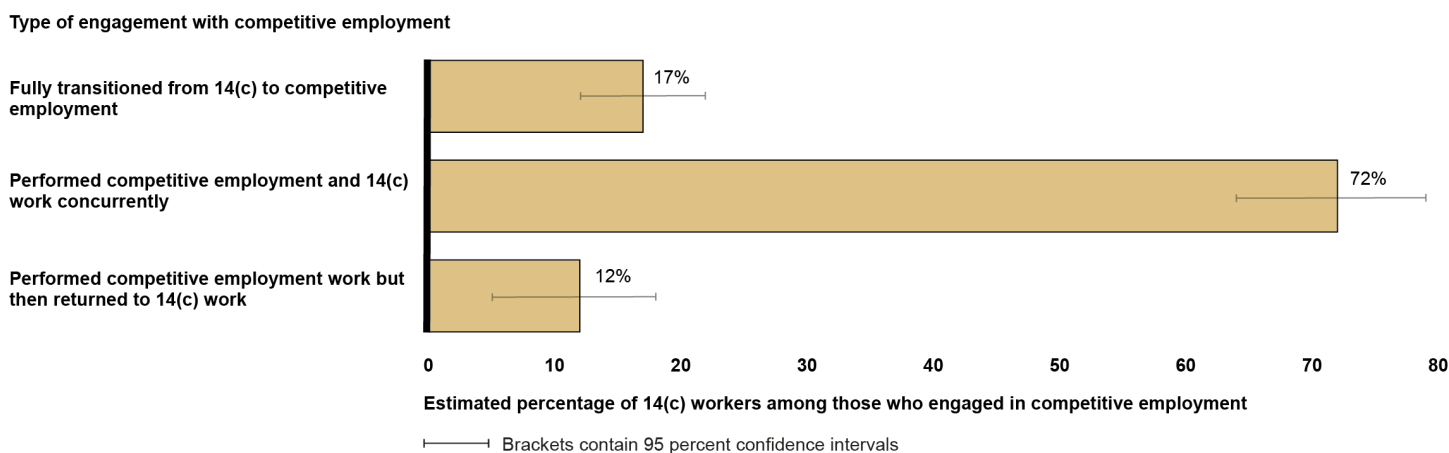
⁴³Supplemental Security Income provides monthly benefits for individuals with limited income and resources who are aged, blind, or have a disability. In 2022, an individual recipient's monthly countable income must be less than the maximum monthly federal Supplemental Security Income benefit rate of \$841 per month. SSA, *SSI Federal Payment Amounts, 1975-2022*, accessed July 27, 2022, <https://www.ssa.gov/oact/cola/SSlamts.html>.

⁴⁴According to the Centers for Medicaid and Medicare Services, pre-vocational services help the individual to develop general, non-job-task-specific strengths and skills that contribute to employability in competitive employment. States may receive funding for pre-vocational services and day habilitation through Medicaid home and community-based services 1915(c) waivers, and 14(c) employers may receive funding by providing these services. See CMCS Informational Bulletin, *Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services*, September 16, 2011.

⁴⁵The 95 percent confidence interval for this estimate is (7, 17). There are limitations to the data we gathered on competitive employment: (1) we did not ask employers whether they track movement of their 14(c) workers into competitive employment, so some employers may not have had readily accessible information about the number of their workers who worked in competitive employment; and (2) we asked for data from a specific month (August) that may not be reflective of other months.

frequently worked 1 to 10 hours a week (an estimated 49 percent).⁴⁶ Of these workers, an estimated 1,430 workers, or a median of 2 workers per employer, engaged in competitive employment while continuing to work in 14(c) programs.⁴⁷ See figure 10 for the estimated percentage of these workers who engaged in competitive employment to varying degrees, as reported by employers in our survey.

Figure 10: Estimated Percentage of 14(c) Workers at Community Rehabilitation Programs Reported to Be Engaged in Competitive Employment to Varying Degrees in August 2021



Source: GAO survey of Community Rehabilitation Program employers. | GAO-23-105116

Note: Estimates shown are rounded to the nearest whole percentage point. The estimates presented in this figure are for the subpopulation of 14(c) workers engaged in competitive employment in August 2021.

The COVID-19 pandemic had an impact on 14(c) workers' opportunities to work in competitive employment, according to our survey. More than one-half of CRP employers reported a decrease during the pandemic in both the number of workers transitioning from 14(c) to competitive employment, as well as the hours worked in competitive employment (an

⁴⁶The 95 percent confidence intervals for these estimates are (1,560, 3,620), (3, 4), and (42, 56), respectively. Estimated totals of workers are rounded to the nearest 10. We previously have reported that concern about losing public benefits, such as health care or Supplemental Security Income, due to higher earnings may hamper the movement of 14(c) workers into competitive employment. See [GAO-21-260](#).

⁴⁷The 95 percent confidence intervals for these estimates are (1,110, 1,760) and (2, 3), respectively. Estimated totals of workers are rounded to the nearest 10.

estimated 57 percent and 65 percent, respectively).⁴⁸ Some employers we surveyed also commented on the different ways the pandemic impacted opportunities in competitive employment.

Comments from Survey Respondents

“Though we have been successful in helping workers with disabilities to achieve [competitive employment], the current situation (pandemic and worker shortages) has actually made it more difficult to help workers with disabilities find and maintain [competitive employment]. When working with employers, though we offer intensive supports in the beginning of employment and ongoing follow-along supports for an extended period, we also rely on employers and their employees to provide natural supports and continued training for the individual. It appears that during this period of universal worker shortages, employers are reluctant to commit their limited staff resources to those natural supports. Employers who enthusiastically commit to those supports when fully staffed appear to fear erosion of the productivity of their other employees when actively assisting, training, and supporting the worker with a disability. Though counter-intuitive, it appears that great worker shortage is actually an additional hurdle to people with serious disabilities working in [competitive employment].”

“Many employers have been more open to employing individuals with disabilities during this time of overwhelming job openings. This has been a great opportunity for many of our clients to obtain community employment.”

Source: Respondents to GAO’s nationally representative survey of 14(c) Community Rehabilitation Program employers. | GAO-23-105116

In August 2021, almost all CRP employers reported offering general supports for 14(c) workers as well as supports to assist 14(c) workers to work in competitive employment.⁴⁹ Regarding general supports for 14(c) work, an estimated 89 percent of employers reported that they provided

⁴⁸The 95 percent confidence intervals for these estimates are (50, 64) and (58, 71), respectively. GAO previously found that the COVID-19 pandemic caused disruptions to working in competitive employment, and there was concern and uncertainty about the potential effects of the pandemic on the transition from 14(c) to competitive employment, according to the state officials and experts interviewed. For example, officials from one state said that many individuals with disabilities were laid off because of the state’s stay-at-home order, and three experts noted a general fear that people with disabilities are the first to be fired and the last to be rehired. On the other hand, two experts and officials from two states said that many individuals working in competitive employment who were identified as essential workers (e.g., at grocery stores) have continued working during the pandemic. See [GAO-21-260](#).

⁴⁹Consistent with all other survey responses, information on supports is based on what employers reported. We did not collect information or documentation from employers about the effectiveness, quality, or extent of these supports. As noted in a previous report, availability of sufficiently qualified staff to support 14(c) workers is an important factor that influences whether 14(c) workers transition to competitive employment. See [GAO-21-260](#).

accommodations to help 14(c) workers perform their job.⁵⁰ Further, according to employers, an estimated 70 percent of workers received day supports that were provided directly from or organized by their employers, specifically non-work activities or services to help build socialization and daily living skills.⁵¹ To assist 14(c) workers to work in competitive employment, an estimated 98 percent of employers reported that they offered at least one type of support.⁵² The most common source of funding for these supports was Medicaid payments for home- and community-based services (an estimated 83 percent among those employers who used public or private funding).⁵³ In addition, more than one-half of employers (an estimated 58 percent) reported they had staff specifically assigned to help 14(c) workers work in competitive employment, such as job coaches.⁵⁴ See figure 11 for the most commonly reported general supports for 14(c) workers and supports to help workers engage in competitive employment.

⁵⁰The 95 percent confidence interval for this estimate is (85, 92). For the purposes of our survey, we defined “accommodation” as a change in the work environment (or in the way things are usually done) to help an individual with a disability perform their job.

⁵¹The 95 percent confidence interval for this estimate is (62, 78).

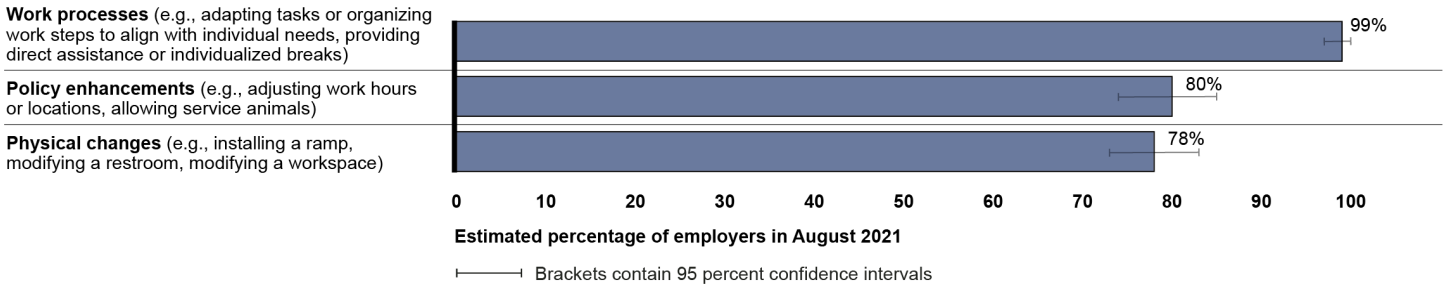
⁵²The 95 percent confidence interval for this estimate is (95, 100).

⁵³The 95 percent confidence interval for this estimate is (76, 88). Centers for Medicare & Medicaid Services issued a rule in 2014 requiring that state Medicaid home- and community-based services—including employment-related services—be delivered in settings that promote and support community integration. States are required to demonstrate compliance with this requirement by March 17, 2023. See [GAO-21-260](#).

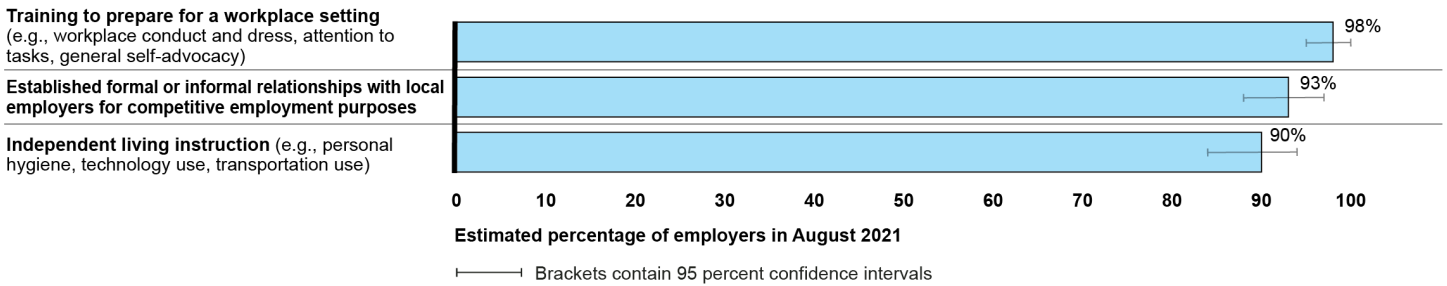
⁵⁴The 95 percent confidence interval for this estimate is (52, 64).

Figure 11: Estimated Percentage of Community Rehabilitation Program Employers Who Reported Offering Various Supports to 14(c) Workers in August 2021

Accommodations to help 14(c) workers perform their 14(c) work



Supports to help 14(c) workers engage in competitive employment



Source: GAO survey of Community Rehabilitation Program employers. | GAO-23-105116

Note: Estimates are for employers who reported operating in August 2021, and are shown rounded to the nearest whole percentage point. Percentages in the first graph are based upon the estimated 89 percent of respondents who indicated they provided accommodations. The 95 percent confidence interval for the estimate of the percentage of employers who provided accommodations is (85, 92).

In addition to the supports mentioned above, some CRP employers we surveyed described their own efforts to help 14(c) workers transition to competitive employment. Specifically, 29 of the 91 employers who provided comments about the transition to competitive employment cited such services or programs, including job coaches or specific job preparation or exploration programs.

Most CRP employers we surveyed also described challenges 14(c) workers may face when trying to obtain or maintain a competitive employment position, while a few employers noted success in transitioning their workers to competitive employment. Specifically, 54 of the 91 employers who provided comments about the transition to competitive employment described challenges such as few resources to assist 14(c) workers with the transition, few opportunities or hours in competitive employment, and difficulties some individuals with more

severe disabilities may face in working in competitive employment. In contrast, nine employers reported success in transitioning workers to competitive employment, with several of these employers noting that the supports they provided helped workers to obtain or retain competitive employment.

Comments from Survey Respondents

“Many of the workers covered by 14(c) produce at levels that do not translate well to the [competitive employment] environment. Personally and socially, the individual might be a good fit, but productivity is such that employers are reluctant to hire.”

“The 14(c) program allows us to employ individuals with significant disabilities, who are not able to find employment in the community. [The 14(c) program] is an excellent program for individuals that are not prepared to transition to [competitive employment] based on the level of support they require in the workplace.”

“Transitions increased each year following the development of our Skills Center (vocational training program)... [Competitive employment] has been successful in our community with Supported Employment Follow Along services. The training and on-going supports result in multi-year retention at 40 hour work weeks.”

“With Employment First style programming we have been able to help over 30 members find gainful [competitive employment]. Most of these members were not part of our 14(c) program... but some were, and when the 14(c) members witnessed their peers take the step into the community, they wanted to do the same.”

Source: Respondents to GAO's nationally representative survey of 14(c) Community Rehabilitation Program employers. | GAO-23-105116

DOL's Slow Processing of 14(c) Certificates Has Hindered Oversight of Some Employers, Even as the Agency Has Supported Competitive Employment

DOL's oversight—carried out by WHD—has been hampered by long processing times for some 14(c) certificate applications. According to WHD's manual for processing certification applications, the application review process helps ensure employer compliance by evaluating information such as whether the employer is calculating accurate wages; the process also gathers information for the agency's enforcement efforts. From receipt to final decision, processing times varied widely, ranging from 2 days to over 2 years. However, WHD has no timeliness goals for the overall process or its interim steps, despite an internal policy requiring timely processing. Paper applications also create an administrative burden and affect overall processing times. Significant delays raise concerns that employers with expired certificates could continue to operate while not meeting program requirements, such as by not paying commensurate wages. WHD also oversees 14(c) employers through its investigations, which overall determined that \$15 million in total unpaid wages were owed to workers, and most of which found violations of federal labor laws. While WHD administers the 14(c) program, DOL's Office of Disability Employment Policy (ODEP) primarily has used technical assistance to support state agencies and 14(c) employers in

moving away from non-competitive employment to competitive employment for individuals with disabilities.

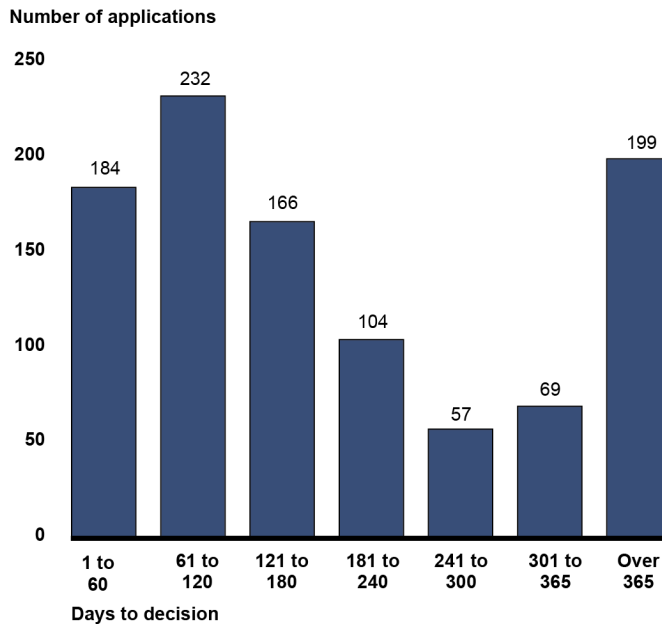
WHD Has Been Slow to Process Some Applications for 14(c) Certificates and Lacks Timeliness Goals to Monitor the 14(c) Program

The time it took for WHD to process employer applications for 14(c) certificates has varied widely, and the agency took significantly more time to process some applications than others. From receipt to final decision, processing times for approximately 1,000 of the applications WHD received from August 2019 through December 2021 ranged from 2 days to over 2 years.⁵⁵ WHD issued approximately 40 percent of certificates within 4 months of receiving the application; however, about 20 percent of certificates were issued over a year after receiving the application, according to our analysis of WHD's certificate data for applications employers submitted online and on paper (see fig. 12). Of these processed applications, 965 were issued certificates, 27 were denied, and 32 were withdrawn. The remaining 532 applications that were pending a final decision as of December 31, 2021, had been in process for an average of 1 year, with one application that had been pending for over 2 years.⁵⁶

⁵⁵According to interviews with WHD officials, the COVID-19 pandemic contributed to longer processing times, in part because staff were unable to access their offices to receive paper applications for a period of time. Although our analysis of certificate data shows that employers who applied between March and October of 2020 received a certificate after an average of almost 9 months, pre-pandemic processing times were a few days shorter.

⁵⁶According to our analysis of application data, some of these applications (52) were paused because the employers were undergoing a WHD investigation or had been directed to conduct a self-audit of their compliance with federal labor laws.

Figure 12: Variation in Processing Times for 14(c) Certificate Applications, August 2019-December 2021



Source: GAO analysis of Wage and Hour Division application processing data. | GAO-23-105116

Representatives from one of the four stakeholder organizations we interviewed told us that application processing times were so long—more than 2 years in some cases—that employers had to submit a renewal application before their previous application was approved. Nine employers out of 63 who provided comments in our survey about DOL’s administration of the 14(c) program reported that DOL was unresponsive or slow to review certificate applications.

Comment from Survey Respondent

“Our certificate was due in March 2020 and the documentation was timely submitted...As of January 2022, the website shows our certificate as “pending” and our next application is due in March 2022...As providers, we must submit the application timely however DOL has had our application for over 22 months. Programs cannot be successful with this lengthy delay in issuing renewal certificates.”

Source: A respondent to GAO’s nationally representative survey of 14(c) Community Rehabilitation Program employers. | GAO-23-105116

Our analysis of WHD data from August 2019 through December 2021 shows that for 20 of the 965 approved applications, specialists completed their application review after the certificate expiration date (in other words,

WHD issued the certificates retroactively), and four additional applications were reviewed less than one month before the certificate expired. For example, WHD created and sent one certificate in December 2021 that was valid from November 1, 2019, to October 31, 2021. Another certificate that was valid from April 1, 2019, to March 31, 2021, was created and sent on July 2, 2021. WHD officials did not explain why these applications were processed after the expiration date, but noted that if an application is processed after the certificate end date, consistent with regulations, employers have provisional authority to continue to operate if they filed a timely renewal application.

WHD has no overall timeliness goal for the entire application approval process or goals for the intermediate approval steps, making it difficult to determine what processing times are expected. WHD's certificate processing manual sets forth the policies and procedures by which the staff are to review and process Section 14(c) certificate applications. According to WHD's manual, this review process helps ensure employer compliance by ensuring the application has all required information and evaluating information such as how the employer is calculating commensurate wages. This process also gathers information for the agency's enforcement efforts, as investigators review the applications when they begin an investigation of a 14(c) employer. The manual also states that certification specialists are responsible for ensuring WHD responds to each application timely and appropriately. However, the manual does not define "timely" or "appropriately" and does not include a goal for the entire length of the certification process. Further, the manual has no goals for the intermediate application approval steps, such as reviewing applications for completeness or content.

Our past work identified various attributes of successful agency performance measures, including that they address government wide priorities, such as timeliness.⁵⁷ In addition, *Standards for Internal Control in the Federal Government* states that management should design control activities, such as reviews of performance measures and indicators against goals, to achieve objectives and respond to risks. Management also should communicate quality information externally so that external parties can help the entity achieve its objectives and address related

⁵⁷GAO, *Tax Administration: IRS Needs to Further Refine Its Tax Filing Season Performance Measures*, [GAO-03-143](#) (Washington, D.C.: Nov. 22, 2002). See appendix I of that report for a description of nine important attributes of program performance goals and measures.

risks.⁵⁸ Further, performance measures should show an agency's progress toward achieving an intended level of performance or results.⁵⁹ Without establishing and reporting timeliness goals and measurable objectives for the program, WHD, employers, and workers and families lack a basis for gauging whether the 14(c) program is responding to applications timely—a key component of oversight.

WHD officials said that it is difficult to establish goals because processing times vary greatly, due to factors such as the need to pause the application because there is an ongoing investigation of the employer, or the need to request additional information from the employer. Our analysis found that some applications were paused for significant amounts of time due to an investigation—over a year and a half in some cases. However, 78 out of the approximately 1,000 applications processed during the period of our analysis (about 8 percent) were paused for investigation.⁶⁰ Other than reviews paused for an investigation, the longest delays were the time the applications spent in registration status, rather than when WHD is reviewing the application for completeness or content. For all applications processed during the period of our analysis, the median time applications remained in registration status was about 2 months and for the subset that took over a year to process, the median time in that status was 10 months.

While there are no timeliness goals for the overall process or intermediate application approval steps, WHD has established some front-end timeliness goals for processing paper applications (see table 4). However, the agency did not always meet these goals, according to our analysis of applications filed and processed from August 2019 through December

⁵⁸[GAO-14-704G](#). Principle 10 states that management should design control activities to achieve objectives and respond to risks. Control activities can include management reviews of actual performance against goals, including analyzing significant differences. In addition, principle 15 states that management should communicate externally the necessary quality information to achieve the entity's objectives. Underlying attributes include that management should communicate with, and obtain quality information from, external parties.

⁵⁹[GAO-03-143](#).

⁶⁰Even among the subset of 199 applications that took over a year to process, 35 (or 18 percent) had been paused due to an investigation.

2021.⁶¹ For example, WHD’s goal is to register paper applications within 2 business days of receiving them, and the agency met this goal about half of the time. In addition, we found that while these goals are laid out in the agency’s internal certificate manual for staff, they are not available to 14(c) employers and other program stakeholders.

Table 4: Wage and Hour Division’s (WHD) Goals and Median Processing Times for Various Steps in the 14(c) Certificate Application Process

Application processing step	WHD timeliness goal	Processing times compared to goals, August 2019 – December 2021
Application Registration		
Paper applications only: Register paper application in system Online applications are automatically registered	Within 2 business days of receipt	The agency registered one-half of paper applications timely from August 2019 through December 2021. The median time to register paper applications was 3 business days.
Paper applications only: Generate and mail acknowledgement letter for paper applications Online applications are automatically sent acknowledgment emails	Within 3 business days of registration	Over one-half of the acknowledgment letters were not uploaded timely, with 10 percent of paper applications missing a letter altogether. The median time to upload letters was 8 business days.
Paper applications only: Enter application data into system for paper applications Online application data is automatically fed into system	None	N/A

⁶¹In addition, WHD is unable to measure one of these goals precisely. Specifically, the agency has a goal to generate and mail a letter acknowledging receipt of an employer’s 14(c) paper application within 3 business days. However, the system tracks when the letter is uploaded into the system, not when it was created. WHD officials said that, with the exception of the COVID-19 pandemic, letters are uploaded the same day they are mailed.

Application processing step	WHD timeliness goal	Processing times compared to goals, August 2019 – December 2021
Application Review and Decision		
Paper and online applications: Check for open WHD investigations Begin reviewing application data for completeness; if complete, review application content ^a Decide on approval or denial; if denial, send to supervisor for review Generate and mail certificate or denial to employer	None	N/A

Source: GAO analysis of Wage and Hour Division (WHD) documentation and certificates application data. | GAO-23-105116

^aAs part of this review process, an application review may be paused if the employer is undergoing a WHD investigation or a self-audit at WHD’s direction.

In addition, we identified the agency’s continued use of paper applications as one factor contributing to longer processing times. Specifically, we found that employers continue to submit a significant share of applications using paper—43 percent of processed applications between August 2019 and December 2021. WHD officials acknowledged that processing paper applications is a larger administrative burden. As mentioned previously, staff must perform manual data entry for paper applications. Further, the same specialists that must perform data entry for paper applications also are responsible for tasks involved in processing all other applications assigned to them. As a result, this can extend the overall application processing time for all applications, including those submitted online, according to WHD officials.⁶²

In response, WHD has taken some steps to encourage the use of electronic application submissions, including modifying its system to allow employers to bulk upload employee information from a spreadsheet. However, representatives from two of the four stakeholder organizations we spoke with mentioned that employers may prefer to submit paper applications due to limitations of WHD’s online system, such as the inability to preview the entire application for accuracy and completeness before submission. WHD sought input and interest from certificate holders

⁶²For paper applications, WHD estimates that it takes approximately 45 minutes to complete data entry related to the main application form, including notes and uploads; and 90 minutes for every 50 workers an employer lists to complete data entry related to supplemental forms. For example, the paper application for an employer who reports they have 150 workers at one worksite will take approximately 315 minutes. This time increases when there are multiple work sites.

across the country prior to the release of its online application. However, since that time, officials said that they have not solicited feedback from employers about the application process. Rather, WHD officials told us they take action to correct technical problems when employers contact them with specific issues. *Standards for Internal Control in the Federal Government* states that management should implement control activities through policies, including through periodically reviewing policies, procedures, and related control activities for continued relevance and effectiveness.⁶³ By not proactively consulting stakeholders since the release of the online application and considering ways to improve the online application and encourage more employers to use it, WHD is missing an opportunity to address a key factor contributing to longer processing times for 14(c) applications.

Finally, long processing times for certificate renewal applications could raise program integrity concerns. Delays in processing renewal applications mean that employers may continue to pay workers subminimum wage without timely oversight from WHD, unless they are selected for an investigation. In addition, this may cause significant hardship for both workers and employers. If the employer has been paying incorrect wages while waiting for WHD to review their certificate, the employer will owe back wages (the difference between the correct wage and the wage paid by the employer, for all hours recorded by each worker). If the employer pays back wages as a lump sum, these payments could affect workers' eligibility for certain benefits, like Supplemental Security Income, if their assets may become too large to allow them to continue receiving the benefit.⁶⁴ Large amounts of back wages also may be financially difficult for the employer to pay, especially if the decision was significantly delayed. Although WHD denied a small percentage of applications (less than 2 percent) over the time period of our analysis, we found that the median processing time for denials was almost 8 months. One application was denied after more than a year and a half. Indeed, a representative from one of the four stakeholder organizations we interviewed explained that, because of WHD's delays in

⁶³GAO-14-704G, principle 12. For example, if there is a significant change in an entity's process, management should review this process in a timely manner after the change to determine that the control activities are designed and implemented appropriately. Changes may occur in personnel, operational process, or information technology.

⁶⁴The asset limit for the Supplemental Security Income program is \$2,000 for individuals.

processing, an employer whose certificate renewal was denied had to pay 18 months of back wages.⁶⁵

WHD Found Violations of Federal Labor Laws in Most 14(c) Investigations and Assessed a Total of \$15 Million in Unpaid Wages Owed to Workers

Investigations

WHD monitors 14(c) employer compliance with the federal labor laws the agency enforces—including with Section 511 of the Rehabilitation Act of 1973—largely through its investigations. From fiscal year 2012 through 2021, most 14(c) investigations were directed, meaning WHD selects employers for investigation rather than opening an investigation as a result of a complaint by a worker or a worker’s family member. Officials said that WHD does not receive many complaints regarding 14(c) employment, so the agency targets employers to investigate based on certain criteria, such as previous violations. The number of investigations completed per year has declined from 275 investigations in 2012 to 135 investigations in 2021. However, WHD officials said that it is important to consider both the overall decline in the number of 14(c) employers participating during this period and the percentage of 14(c) employers investigated, which they said has remained relatively constant.

The average number of hours WHD staff spent on 14(c) investigations increased from 2012 through 2021, according to our analysis, ranging from 51 hours in 2012 to 133 hours in 2021. WHD officials attributed at least some of this increase to their additional enforcement responsibilities under Section 511.⁶⁶ Additionally, WHD officials explained that Section 511 violations require a review at both the regional and national levels

⁶⁵WHD officials told us that back wages would only be due at the point of application review if they discovered errors in the employer’s methodology for determining the correct wage. In that instance, the employer would owe the difference between the correct wages and the wages already paid by the employer for the affected time period.

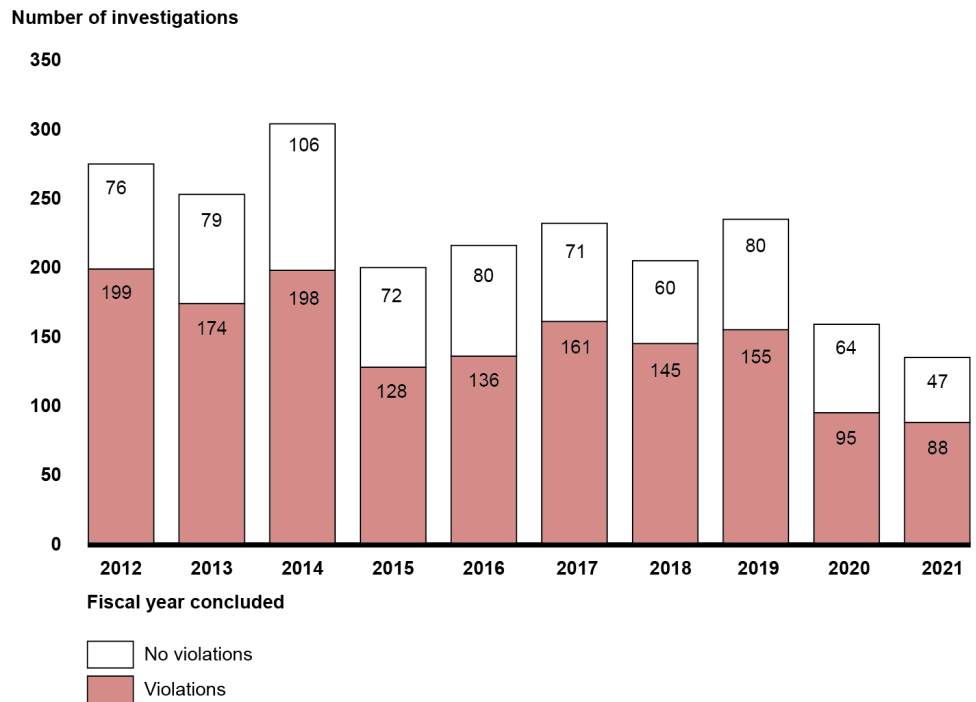
⁶⁶As mentioned previously, WIOA added Section 511 to the Rehabilitation Act of 1973, and that section requires that individuals receive, as a condition of 14(c) employment, regular career counseling and information designed to enable the individuals to explore, discover, experience, and attain competitive employment. Additional requirements apply to individuals with a disability age 24 or younger.

Violations

because they believe the importance of the Section 511 requirements, combined with their complexity and novelty, warrant particular attention.

Most 14(c) program investigations found violations of federal labor laws. According to our analysis of WHD data from fiscal year 2012 through 2021, WHD found violations related to the 14(c) program in two-thirds of its investigations (1,479 out of 2,214) (see fig. 13).⁶⁷ Some of these investigations (272) were of 14(c) employers that had prior violations determined by WHD and may be at higher risk of additional violations, consistent with WHD’s strategy for targeting investigations. These investigations found violations in 70 percent of cases.

Figure 13: Number of Investigations with Violations Related to the 14(c) Program as Determined By the Wage and Hour Division, by Year Concluded, Fiscal Years 2012-2021



Source: GAO analysis of Wage and Hour Division investigations data. | GAO-23-105116

Note: This analysis included investigations from fiscal year 2017 through 2021 that found Section 511 violations.

⁶⁷This analysis included investigations from fiscal year 2017 through 2021 that found Section 511 violations, as discussed in more detail later in this section.

The percentage of cases with violations in the 14(c) program has been approximately the same as the percentage of violations in non-14(c) investigations over this period, according to WHD officials. WHD officials told us the proportion of 14(c) employers investigated is much higher than in any other program area, and investigators receive more managerial oversight and assistance from the regional and national office compared to most other areas WHD oversees. They explained that this is because there is a small universe of employers, and 14(c) employees are considered a vulnerable population, given the payment of subminimum wages.

Effects of COVID-19 Pandemic on Investigations

The pandemic affected 14(c) investigations as well as other types of investigations.

WHD took action to address the effect of the pandemic on investigations. For example, WHD:

- issued guidance to its investigators outlining strategies for conducting 14(c) investigations remotely during the pandemic;
- drafted an employer letter and worksheet to facilitate conducting an initial meeting with the employer remotely;
- outlined procedures for obtaining records electronically or mailing to the WHD office; and
- advised investigators on observing a time study via live streamed video.

Officials said that moving to virtual investigations slowed their ability to initiate new investigations, largely because of stay-at-home or quarantine orders, so they shifted their focus to investigations that already were open.

Source: GAO analysis of documents and information collected from an interview with Wage and Hour Division (WHD) officials. | GAO-23-105116

WHD may determine multiple types of violations in an investigation, and we found the most common type of 14(c) violation determined by WHD was a failure to pay the proper commensurate rate.⁶⁸ According to our analysis of data from fiscal year 2012 through 2021, 84 percent of the nearly 34,000 violations of Section 14(c) or Section 511 determined by WHD were a failure of the employer to pay the proper commensurate rate. WHD officials cited high turnover among the staff of 14(c) employers who calculate commensurate wages as one reason for these violations, as inexperienced staff may have more difficulty complying with the

⁶⁸Other violations determined by WHD included not having a valid 14(c) certificate (6 percent) and failure to meet the terms of the certificate combined with failure to pay commensurate rate (7 percent). Seven investigations identified willful violations—one in 2014, two in 2015, and four in 2016. WHD defines a willful violation as one where the employer knew that its conduct was prohibited by the FLSA, or where the employer showed reckless disregard for the requirements of the FLSA.

requirements to gather information and conduct an accurate wage calculation for each individual.⁶⁹

From fiscal year 2017 through 2021, WHD determined that just under 300 of these violations were associated with Section 511 requirements that 14(c) workers receive career counseling and information to help them move toward competitive employment.⁷⁰ Representatives from two stakeholder organizations we interviewed cited challenges with meeting this requirement, as state agencies are responsible for providing the required counseling. WHD officials acknowledged that meeting this requirement was particularly difficult during the pandemic, when face-to-face meetings were uncommon. WHD issued guidance in June 2022 emphasizing that employers are responsible for ensuring all requirements are met before paying subminimum wages and providing documentation showing compliance with these requirements. In addition, the guidance explained that WHD will recover the full federal minimum wage when the Section 511 requirements are not met timely.⁷¹

Back Wages

As a result of violations it determined occurred, WHD identified over \$15 million in unpaid back wages owed to more than 73,500 14(c) workers from fiscal year 2012 through 2021, according to our analysis of

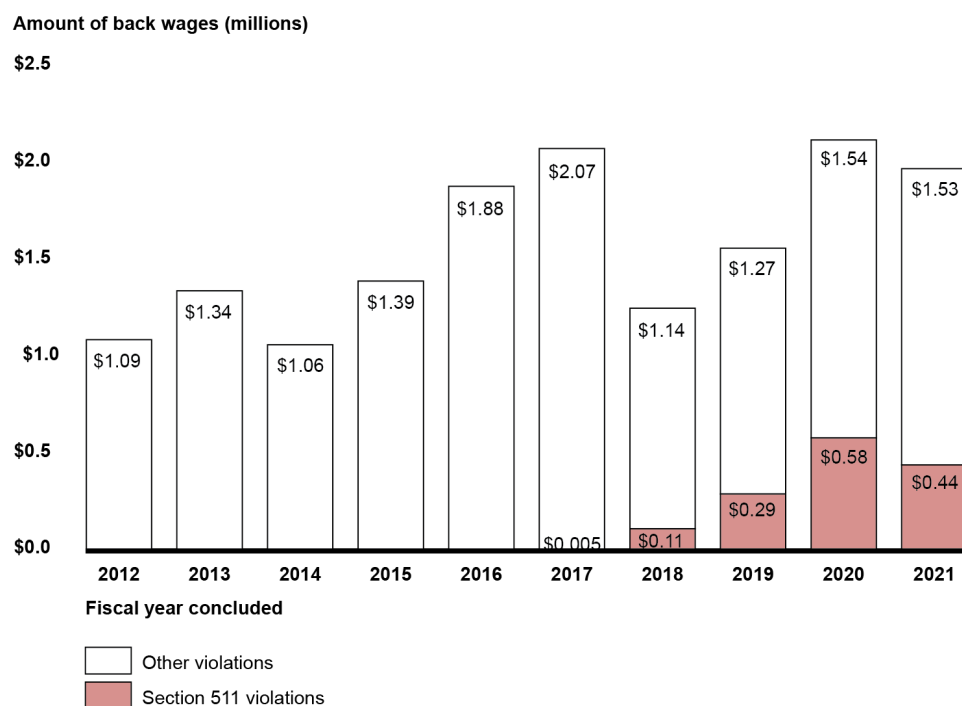
⁶⁹To establish the wage rates, regulations require that employers identify the prevailing wages in their geographic area, calculate workers' productivity ratings for each job they perform based on their measured productivity as compared to the measured productivity of experienced workers without disabilities, and apply the workers' productivity ratings to the prevailing wages. For example, if an individual working under a 14(c) certificate has a productivity rating for a specific job that is 50 percent of the productivity of experienced workers who do not have disabilities that affect their work, and the prevailing wage paid to experienced workers for that job is \$10.00 an hour, the subminimum wage rate for the 14(c) worker for that job would be \$5.00 an hour. WHD has issued a fact sheet explaining how to calculate the hourly commensurate wage. See United States Department of Labor, Wage and Hour Division, *Fact Sheet #39E: Determining Hourly Commensurate Wages to be Paid Workers with Disabilities under Section 14(c) of the Fair Labor Standards Act (FLSA)* (Washington, D.C.; July 2008).

⁷⁰To demonstrate compliance with Section 511, employers must attest to meeting these requirements on the 14(c) certificate application, and must maintain records of when each employee received the required counseling. In addition, WHD guidance states investigators will evaluate compliance with Section 511 during each 14(c) investigation. According to WHD, these requirements became effective on July 22, 2016.

⁷¹United States Department of Labor, Wage and Hour Division, *Field Assistance Bulletin No. 2022-4: Enforcement of the Rehabilitation Act Section 511 Requirements for Workers with Disabilities in the Section 14(c) Program* (Washington, D.C.; June 16, 2022).

investigations data.⁷² Section 511 violations accounted for \$1.4 million of the back wages owed between fiscal years 2017 and 2021, for 112 investigations. Figure 14 shows back wages assessed as the result of investigations over the 10-year period.

Figure 14: 14(c) Back Wages Assessed Due to Violations Determined by WHD, by Fiscal Year Investigation Concluded



Source: GAO analysis of Wage and Hour Division investigations data. | GAO-23-105116

Note: Section 511 refers to Section 511 of the Rehabilitation Act of 1973, which went into effect in 2016.

In some cases, WHD requested that employers pay back wages to 14(c) workers because they calculated the wage incorrectly. In other cases, WHD found employers without a valid 14(c) certificate, such as those whose certificates had expired and had not been renewed, were paying subminimum wages to their workers. In these cases, the employer would owe their workers the difference between the subminimum wage and the

⁷²In cases where WHD finds violations, enforcement remedies also may include payment of liquidated damages to the worker(s), as applicable, and, where appropriate, payment of civil monetary penalties to the government of up to \$2,050 per violation for repeated or willful FLSA violations.

federal minimum wage for all hours they worked in violation. WHD officials told us that, in cases where employers owe workers large amounts of unpaid wages, the officials take steps to ensure that workers' means-tested benefits will not be affected. For example, they may ask the employer to pay workers over time, or to bring in a benefits counselor to assist workers and their families in understanding how benefits could be affected and to address how best to receive back wages to mitigate any effect.

Outreach

WHD provides compliance assistance to employers, including in response to issues identified during investigations. According to WHD officials, regional enforcement coordinators may provide compliance assistance at the conclusion of an investigation, offering a period of training for employer staff or, in some cases, training to the broader community. For example, WHD officials said they held a seminar for approximately 100 employers on the 14(c) program in June 2019 in Minnesota, which included topics on WIOA as well as subminimum wages under the 14(c) program. WHD officials said the agency also continues to review materials and publish guidance on its website.

WHD officials told us that, prior to the pandemic, the agency hosted full-day Section 14(c) seminars annually over an 8-year period throughout the country for certificate holders, advocates, workers, and other interested parties. According to these officials, the seminars provided training that covered topics such as the certification process and conducting wage calculations. However, representatives from one of the four stakeholder organizations we interviewed, representing employers and workers in 22 states, said WHD had not offered seminars recently. In addition, they said that although WHD offers a lot of compliance assistance materials for other areas, it does not offer many materials for 14(c) employers.

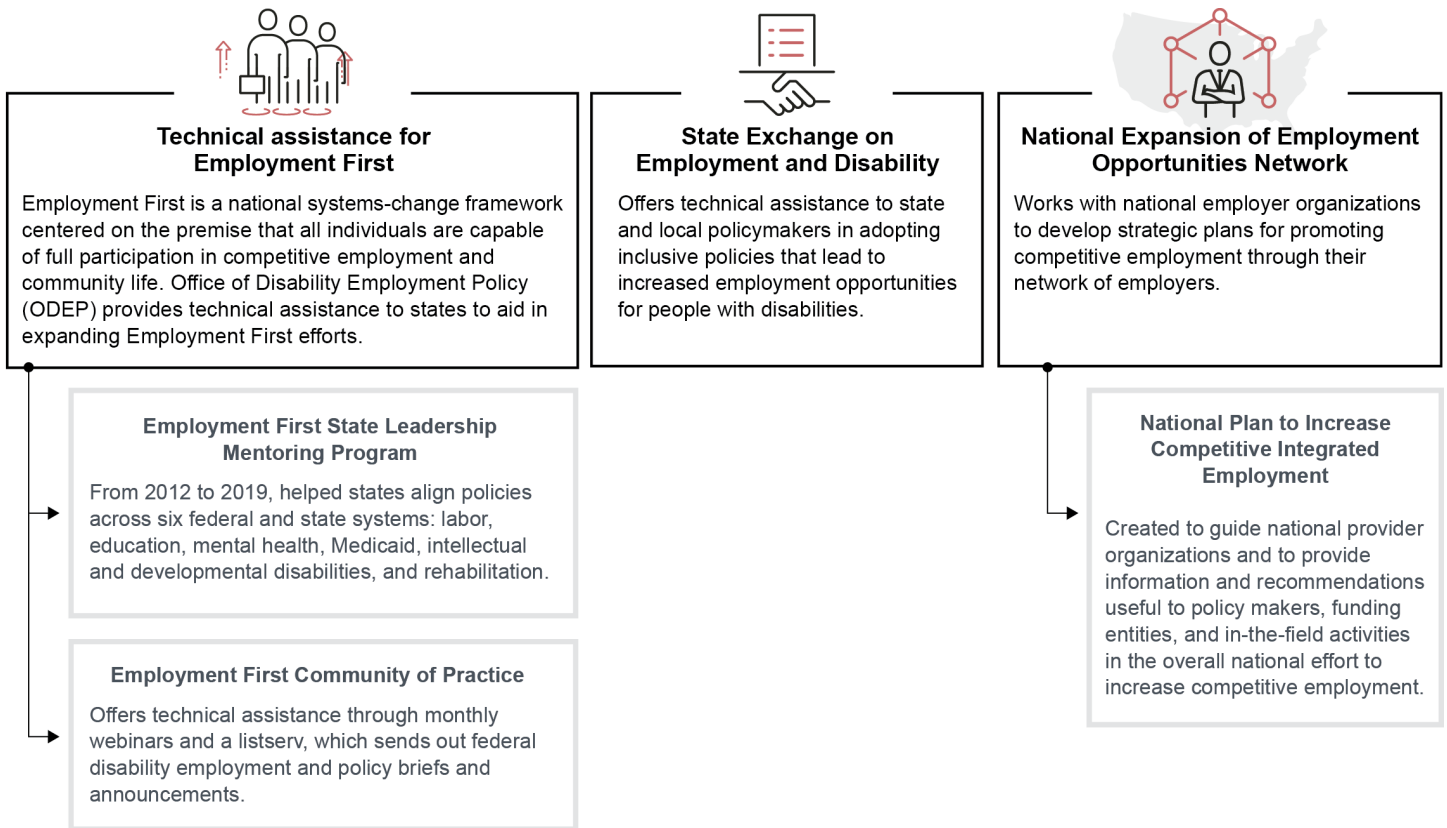
Our analysis found that from fiscal year 2017 to 2021, WHD conducted between seven and 21 outreach events specific to the 14(c) program each year, with the lowest numbers during the COVID-19 pandemic. According to WHD officials, many 14(c) certificate holders were dealing with the effect of the pandemic and not available for outreach efforts during that period or able to focus on new compliance assistance materials. In addition, WHD officials said that because the agency was given responsibility to implement and enforce the requirement that employers provide paid sick leave and expanded family and medical leave under the Families First Coronavirus Response Act, the agency's immediate attention and resources were redirected away from employer outreach to the rollout of this effort. WHD officials said that as of

September 2022, they were still considering how to move forward with outreach, but had held a webinar on Section 511 compliance in June 2022 and conducted some outreach events at the national and regional level.

ODEP Has Assisted States and 14(c) Employers with Promoting Competitive Employment

The Office of Disability Employment Policy (ODEP) has primarily used technical assistance to support state agencies and 14(c) employers in moving away from non-competitive employment to competitive employment for individuals with disabilities. Through three of ODEP's initiatives—technical assistance for Employment First, the State Exchange on Employment and Disability, and the National Expansion of Employment Opportunities Network—the agency has made efforts to help state agencies develop policies promoting competitive employment. This has included leveraging available funding and coordinating relevant systems, such as vocational rehabilitation agencies and agencies responsible for providing services to people with developmental disabilities (see fig. 15).

Figure 15: Department of Labor’s Office of Disability Employment Policy Initiatives



Source: GAO analysis of interviews and documents from ODEP. | GAO-23-105116

Technical Assistance for Employment First

According to ODEP, many states formally committed to the Employment First framework through executive or legislative action. ODEP officials told us that the agency helped 24 states promote competitive employment for individuals with significant disabilities through the Employment First State Leadership Mentoring Program, and made available more than 60 experts covering topics such as system changes, funding, and state data sharing agreements. ODEP has also provided funding for technical briefs that cover topics such as engaging employers and maximizing natural

workplace supports, assistive technology, and job customization.⁷³ Separate from Employment First-related efforts, ODEP released a fact sheet in July 2021 on funding opportunities to increase access to competitive employment for youth and adults with disabilities.⁷⁴ The fact sheet highlighted funding authorized by various pandemic relief laws as well as fiscal year 2020 appropriations that could be used to help promote competitive employment.

State Exchange on
Employment and Disability

According to ODEP officials, the State Exchange on Employment and Disability partners with organizations representing state and local policymakers to provide assistance on a wide range of disability employment issues, including competitive employment. For example, in 2021, ODEP participated in a series of hearings in one state to discuss disability employment issues in that state, providing overviews of a number of requested topics, including subminimum wages.

National Expansion of
Employment Opportunities
Network

ODEP issued a national plan under the National Expansion of Employment Opportunities Network to guide employers and make recommendations to policy makers on ways to increase competitive employment. For example, the plan recommends that federal and state governments provide greater flexibility in service definitions and funding to help increase access to services and technology, such as resume building and smart phones, for people with disabilities and those who support them.⁷⁵ In addition, ODEP disseminated two manuals and related webinars for states with guidance on topics such as recruiting and training staff, identifying funding, and launching pilot projects.⁷⁶

⁷³The National LEAD Center, *Connecting the Dots: Using Federal Policy to Promote Employment First Systems-Change Efforts* (2015). The National LEAD Center, *Criteria for Performance Excellence in Employment First State Systems Change & Provider Transformation* (2015).

⁷⁴Department of Labor Office of Disability Employment Policy, *Recent Funding Opportunities to Expand Access to Competitive Integrated Employment (CIE) for Individuals with Disabilities* (Washington, D.C.; July 2021).

⁷⁵Flexibility in service definitions can include, for example, allowing job coaching over the phone rather than in person, which often was necessary during the pandemic.

⁷⁶Department of Labor Office of Disability Employment Policy, *Provider Transformation Manual, Pilot Version* (Washington, D.C.: May 5, 2017) and Department of Labor Office of Disability Employment Policy, *Provider Transformation Manual 2.0* (Washington, D.C.: Oct. 10, 2018).

Conclusions

Emphasizing the importance of competitive employment has become a national public policy priority for disability employment, as reflected by the enactment of the Workforce Innovation and Opportunity Act in 2014. In addition, some states, through Employment First efforts, have shifted their policies on how individuals with disabilities receive employment services to favor competitive employment in the community over 14(c) employment, according to WHD officials. At the same time, tens of thousands of individuals with disabilities are employed in the 14(c) program and paid subminimum wages. WHD has a responsibility to oversee the program and employers' compliance with applicable laws and regulations.

Without timeliness goals and measurable objectives available to 14(c) employers and other program stakeholders, it is difficult to know whether WHD is responding to employers' 14(c) applications in a timely manner. Significant delays in WHD's response to renewal applications—which represent the vast majority of applications the agency receives—may mean that employers are continuing to pay subminimum wages to workers without timely WHD oversight. If employers are incorrectly calculating wages during this period, for example, they may owe back wages. If significant, these back wages may create hardship for workers, who risk losing certain benefits, as well as for employers, who may face financial difficulty paying back wages. In addition, paper applications add time to the process for all applications. Without a better understanding of why employers continue to submit applications on paper, WHD lacks important information to identify improvements to the online application option and encourage more employers to use it. Taking such action could help speed processing times and, ultimately, improve oversight of the program.

Recommendations for Executive Action

We are making the following three recommendations to the Wage and Hour Division:

The Administrator of DOL's Wage and Hour Division should set and track timeliness goals for intermediate steps and overall duration for processing 14(c) applications. (Recommendation 1)

The Administrator of DOL's Wage and Hour Division should externally communicate its goals for processing 14(c) applications to employers and other program stakeholders, and its progress toward meeting these goals. (Recommendation 2)

The Administrator of DOL's Wage and Hour Division should solicit feedback from 14(c) employers regarding the online application and take appropriate action to address any limitations to help improve the overall timeliness of certificate application processing. (Recommendation 3)

Agency Comments

We provided a draft of this report to DOL for review and comment. DOL provided written comments, which are reproduced in appendix III, as well as technical comments, which we incorporated as appropriate. In its written comments, WHD concurred with our three recommendations.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Secretary of Labor and the appropriate congressional committees. The report will also be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have questions concerning this report, please contact me at (202) 512-7215 or curdae@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



Elizabeth H. Curda
Director, Education, Workforce, and Income Security Issues

Appendix I: Objectives, Scope and Methodology

Our report (1) describes how participation in the 14(c) program has changed over time and the wages 14(c) workers earn; (2) describes what 14(c) community rehabilitation program employers report about their program operations and their workers' characteristics and movement to competitive employment; and (3) examines the extent to which the Department of Labor (DOL) oversees the 14(c) program, including compliance with Section 511 of the Rehabilitation Act of 1973, and promotes opportunities in competitive employment. This appendix provides information about the methods we used to answer these objectives.

Federal Data

To conduct our data analyses, we used Wage and Hour Division's (WHD) certificate, application, and investigation datasets listed in table 5.

Table 5: Wage and Hour Division (WHD) Data Sets Used in Our Analysis of the 14(c) Program

Data file	Description	Used in the following analyses
Certificate Processing System (CPS)	Data on WHD certificates associated with applications that the agency received through August 25, 2019. It includes selected information copied from certificate applications, among other information related to processing applications.	Trends in 14(c) program participation
Certificate Application Processing System (CAPS)	This system replaced CPS in August 2019. It contains data on paper and electronic certificate applications, including information that employers enter when applying for certificates using WHD's online portal. We used CAPS data on 14(c) applications submitted from August 2019 through December 2021.	Trends in 14(c) program participation Wages 14(c) workers earn Sample selection of community rehabilitation program employers for survey Certificate application processing times and outcomes
Wage and Hour Investigative Support and Reporting Database (WHISARD)	Data on WHD investigations and compliance assistance from fiscal year 2012 through 2021, including violations, back wages, and investigator hours.	Investigations and compliance assistance trends and outcomes

Source: GAO analysis of Wage and Hour Division (WHD) data. | GAO-23-105116

For each dataset, we performed a data reliability assessment of selected variables by conducting electronic data tests for completeness and accuracy, reviewing documentation on the datasets, and interviewing knowledgeable officials about how the data were collected and

Trends in 14(c) program participation

maintained and their appropriate uses. Electronic testing included, but was not limited to, checks for missing data elements, duplicative records, and values outside a designated range or valid time period. We determined that these data were sufficiently reliable for our purposes.

To address our first research objective on how employer and employee participation in the 14(c) program has changed over time, we used certificate data from CPS and CAPS. To measure trends in the number of employers authorized under a 14(c) certificate to pay subminimum wages, we used CPS data on certificates that were active from August 2010 through August 2019, when WHD transitioned from CPS to CAPS to process certificate applications.

We counted the number of employers that were authorized under the 14(c) program in August of a given year based on the number of employers who held an active certificate in CPS. Certificates may be active for up to 2 years, and we counted employers in each year a certificate was active. Since employers in CPS can be associated with multiple active certificates in the same month (based on the number of work sites that they operated), we identified unique employers based on their federal Employer Identification Number (EIN).¹

To measure employer and work site characteristics, we used information that employers reported when completing 14(c) certificate applications. For example, we used these data to determine whether employers operated a community rehabilitation program, a hospital or residential care facility, a school work experience program, or a business establishment.

Since CPS does not directly identify whether employers applied for a certificate using an initial or renewal application, in consultation with WHD officials, we identified new and renewing certificate holders by the amount of time that had elapsed since an employer's earliest start date (based on the history of issued and expired certificates in the file) and whether the certificate contained a previous certificate number. For example, to determine whether a community rehabilitation program employer in August 2010 had submitted an initial application, we first checked whether the earliest certificate for that employer began after August 1,

¹Under CPS, WHD previously issued employers separate 14(c) certificates for each work site that sought authorization to pay subminimum wages. WHD changed this policy when it launched CAPS to process certificates so that employers would receive only one certificate, regardless of the number of work sites they operated.

2008, because certificates for these programs expire after 2 years. We then classified the employer as an initial applicant if none of their active certificates reported a previous certificate number.

To examine trends in 14(c) employer participation since August 2019, we used application data in CAPS. These data did not allow us to count the exact number of employers authorized after August 2019, because CAPS does not identify employers authorized under a pending certificate application.² Therefore, to determine whether participation trends in the 14(c) program continued to decline in 2020 and 2021, we counted the number of employers who submitted an application from September 2019 through August 2021. Since some employers may have submitted multiple applications over this period, when available we used the employer's EIN to identify unique employers.³

To report on trends in 14(c) employment, we used CPS data that employers reported when completing renewal certificate applications on the number of workers with disabilities to whom they paid subminimum wages during the previous quarter. We measured the total number of 14(c) workers in a given year by summing the values reported by all the renewing employers who were active in August of that year. In the 14(c) application, employers provide this information both at the employer and site level. We used employer-level information when reporting on national trends, and used site-level information when comparing trends between U.S. states.⁴

²A pending 14(c) renewal application means that the employer had submitted an application to renew their certificate to DOL's WHD, but WHD was still reviewing and processing that application.

³Employer EIN information was missing for 13 applications in our analysis of application trends. To report on trends since 2019, we counted each of these applications as a separate employer.

⁴Since some 14(c) workers may work at multiple work sites, we used employer-level information when reporting on national trends to avoid double counting workers employed at more than one location. However, we used site-level employment information when comparing employment trends between U.S. states to account for employers who may employ workers in sites located in multiple states. Although we found that both methods showed 14(c) employment fell *nationwide* from 2010 to 2019, each method can yield different *state-level* trends. For example, using site-level information we found that 14(c) employment fell across the country from 2010 to 2019, with the exception of three states: Arizona, North Dakota, and Utah. In commenting on a draft of this report, WHD officials noted that they found that 14(c) employment fell in all but one U.S. state. WHD officials explained that they used data from applications at the employer level, but we were unable to verify WHD's calculations without further documentation of their analysis.

We identified the following limitations with this methodology for reporting on 14(c) employer and employee participation:

- We counted the number of employers authorized under the 14(c) program using the employer's EIN to distinguish between employers associated with multiple certificates and multiple applications. This approach also facilitated comparisons between CPS and CAPS, since the systems use different variables for identifying employers. Nevertheless, our approach may understate the number of 14(c) employers to the extent that entities that would be considered distinct employers share the same EIN for tax filing purposes. We assessed how this limitation could affect our findings by comparing the trends we found to those based on an alternative variable in CPS that WHD has used to identify employers. Using this alternative approach, we found participation fell from 3,333 employers in 2010 to 1,623 in 2019, comparable to the decline from 3,117 to 1,567 that we reported.
- While our method for counting 14(c) employers is an appropriate measure of the number of employers that are authorized to pay subminimum wages under the 14(c) program, it may include those who did not employ any subminimum wage workers at the time or were no longer operating at the time that they were counted.
- We reported on trends in 14(c) employment based on the number of workers that renewing employers had reported in their previous certificate application. Although not a point-in-time measure, this count is an appropriate indicator for evaluating employment trends over our time frame. Nevertheless, the number of workers that we report may not coincide with the number of 14(c) workers employed at the time, depending on the amount of time elapsed since the employer applied for their certificate. Relatedly, our analysis did not include new employers who applied for their certificate using an initial certificate application. (WHD does not require initial applicants to provide any employment information prior to receiving authorization to pay subminimum wages.) While this exclusion raises the possibility that our counts may understate 14(c) employment to some extent, new employers made up a small and declining fraction of employers over our time frame (falling from 3.5 percent in 2010 to 2.4 percent in 2019). Therefore, it is unlikely this exclusion materially affected our findings.
- Since our analysis of 14(c) employment trends is based on data that employers reported in their certificate applications, it is subject to self-reporting error.

Analysis of 14(c) worker wages To report on the wages that 14(c) workers earn, we used CAPS earnings data from renewal applications that WHD received from August 26, 2019 through December 30, 2021. These applications include information on each 14(c) worker that was employed during the most recently completed fiscal quarter. We determined each 14(c) worker’s wage based on what the employer reported the worker earned per hour, on average, over the previous quarter. Since employers report this earnings information for each work site for which they seek approval to pay subminimum wages, each 14(c) worker enters our sample separately for each work site in which they were employed. Like the employment information that we used to measure participation trends, these data are not representative of the small percentage of employers that operated under an initial application, and also are subject to self-reporting error.

We also used application information to measure worker and employer characteristics, and to examine which characteristics were associated with higher and lower wages under the 14(c) program. In this analysis, we focused on the job for which the worker worked the most number of hours at a subminimum wage, including whether the job was paid hourly or on a piece-rate basis.

To compare 14(c) workers’ wages to the minimum wage in their respective states, including the District of Columbia, we used public information that WHD has reported on state minimum wage laws.⁵ We used information on the state’s minimum wage level as of January 1, 2019. For some states, WHD reported a range of minimums, such as when the state sets different rates based on the enterprise’s annual receipts. In these cases, we used the highest rate that WHD reported.

Due to data limitations, we restricted our earnings analysis to the 14(c) applications in CAPS that WHD had completed processing by the end of 2021, and which resulted in an issued certificate (62 percent of the applications that WHD received from August 26, 2019 through December 30, 2021). We excluded applications that were pending at the end of this

⁵WHD collects state minimum wages from citations to state laws and regulations, which the division supplements based on research on state web sites, among other sources. The information WHD reports on states’ laws does not identify certain differential provisions of the law. For example, a state’s law may exempt particular occupations or industries from the minimum labor standard, according to WHD. In addition, WHD notes that some local governments may set minimum wage rates higher than their respective state minimum wage. We did not account for such provisions in our analysis, and we did not verify WHD’s data on state laws.

period because over 40 percent of these records contained incomplete data.⁶ Consequently, the earnings data that we used may not be representative of the 14(c) workers employed under a pending application over this period. To assess how this limitation may have influenced our findings, we compared the characteristics of the certified employers to those whose applications were still pending. Overall, we found that these two groups were generally similar, on average, differing mainly in when they submitted their applications.⁷

Certificate application processing times

To analyze 14(c) application processing times for our third objective, we used CAPS data on 14(c) applications submitted from August 2019 through December 30, 2021.⁸ We used system-generated and staff-entered dates to analyze the timeliness of WHD's application processing. For those parts of the process with timeliness goals, we analyzed data to determine whether WHD was meeting its goals. For example, for paper applications, we measured the business days between application receipt and creation of a record in the system. To determine total application processing time for approved certificates, we measured the time between application receipt and the date the certificate specialist completed their review.

To analyze overall processing times for processed and pending applications regardless of final decision (for example, including applications that were denied or withdrawn) and time in the various statuses used by WHD (for example, pending data entry or pending supervisory review), we analyzed CAPS application data and calculated

⁶We also excluded withdrawn and denied applications, because these employers no longer were authorized to pay subminimum wages once their previous certificate expired.

⁷To compare certified and pending applications, we conducted statistical tests based on selected characteristics that we derived from CPS for our analysis of 14(c) participation trends. We considered multiple characteristics, including but not limited to: whether the employer held an active certificate in August 2019, Census division, certificate type (e.g., community rehabilitation program or business), sector, whether the employer operated any offsite locations, number of work sites, and the number of 14(c) employees. We found that such attributes were not significantly associated with whether the application was certified or pending. These patterns suggest that this sample restriction may not have materially affected our findings.

⁸Although WHD began using its new application processing data system in August 2019, our data set includes one application that was received in July 2019 but was processed using the new system.

the number of calendar days an application spent in each status.⁹ We also analyzed application processing timelines based on approximately 8-month increments in order to evaluate the effect of the COVID-19 pandemic on processing times. We discussed some applications, such as those for which certificates were issued near or after the certificate expiration date and those that had the longest processing times, with WHD officials to understand reasons for delays.

Investigations

To evaluate trends in 14(c) investigations and compliance assistance for our third objective, we analyzed WHISARD data on cases concluded from fiscal year 2012 through 2021 to determine the following trends: number of cases; source of cases (complaint-based or directed); outcomes; types of violations; types of compliance assistance; investigations of prior violators; the amount of back wages assessed by violation; and investigator hours.¹⁰

Survey of 14(c)
Community Rehabilitation
Program Employers

To gather information from employers about their 14(c) program operations and their workers' characteristics and movement to competitive employment, we administered a web-based survey to a nationally representative sample of 14(c) Community Rehabilitation Program (CRP) employers.¹¹ Specifically, we surveyed a simple random sample of CRP employers who had an active 14(c) renewal certificate or

⁹To develop our analysis of overall processing times, we requested that WHD share the code used to generate the reports that managers use to monitor application processing. During testing, we observed that the code used by WHD only counted an application's most recent time in status, rather than cumulative time in status. We modified the code to track cumulative time in status and analyzed application processing accordingly, including examining any difference between online and paper applications.

¹⁰In this report, 14(c) cases refers to cases closed during a fiscal year in which WHD reached a determination on employer compliance with Section 14(c) of the FLSA, including cases initially registered under a different law, such as the Family and Medical Leave Act of 1993. These include both cases with violations and without, as well as all types of compliance actions, such as conciliations and investigations.

¹¹For the purposes of this report, we refer to competitive integrated employment in the community as "competitive employment."

a pending 14(c) renewal application as of September 16, 2021.¹² We surveyed CRP employers because they represent the vast majority of 14(c) employers nationwide. In the survey, we asked CRP employers about their 14(c) program operations, characteristics of their 14(c) workers, their 14(c) workers' movement to competitive employment, and supports they provide to their 14(c) workers. Our survey questions primarily collected information pertaining to August 2019 and August 2021, but to examine trends over time, some questions about 14(c) workers also gathered information from August 2015 and August 2017. We administered the survey from December 2021 through January 2022, and we obtained a 72 percent response rate. See appendix II for the full survey instrument and detailed survey results.

To identify the universe of 14(c) CRP employers with an active certificate or pending renewal application, we used CAPS data as of September 16, 2021, which contained information from 900 CRP employers that met our criteria. CRP employers must hold an active 14(c) certificate or have submitted a renewal application to pay subminimum wages to workers with disabilities. For CRP employers, 14(c) certificates are valid for 2 years from the certification date, so they must be renewed every 2 years.

Our initial sample size was designed to achieve survey estimates for attribute variables with a margin of error of no greater than plus or minus 7 percentage points at the 95 percent level of confidence. The initial sample size allocation was adjusted upward for an assumed 50 percent response rate. This produced a final sample size of 322 CRP employers. However, we removed six out-of-scope CRP employers from the final sample. We carried out a statistical nonresponse bias analysis using available administrative data and determined that the results are generalizable to the population of 14(c) CRP employers with an active certificate or pending renewal application as of September 16, 2021.

Because we followed a probability procedure based on random selections, our sample is one of a large number of samples that we might

¹²We surveyed CRP employers renewing their 14(c) certifications to ensure they had sufficient experience with the program to answer our questions. Therefore, we excluded those with an initial 14(c) certificate or a pending initial 14(c) application. Since CRP employers make up the largest share of 14(c) employers, we also excluded employers that listed their establishment type on their certificate application as something other than CRP or listed CRP along with another establishment type. For 14(c) employers, the four establishment types are CRP, Hospital/Residential Care Facility, School Work Experience Program, and Business Establishment, and employers are allowed to select more than one establishment type on their 14(c) certificate application.

have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval (for example, plus or minus 7 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. Confidence intervals are provided with each sample estimate in the report. All survey results presented in the body of this report are generalizable to the estimated population of 900 in-scope CRP employers, except where otherwise noted.

To develop the survey, we performed a number of steps to help ensure the accuracy and completeness of the information collected, including initial interviews with three CRP employers, an internal peer review by an independent GAO survey expert, and pretesting of the survey instrument.¹³ We conducted pretests over the phone with six CRP employers to check the clarity of the question and answer options, as well as the flow and layout of the survey. The CRP employers that participated in pretesting were selected based on variation in the number of work sites, geography, and establishment type.¹⁴ We revised the survey based on the reviews and pretests.

To analyze comments collected via our open-ended survey question, we identified common topics in the comments and determined categories of interest. We then conducted a two-analyst review of the comments to identify those relevant to the pre-determined categories and coded them as such in a data collection instrument. Specifically, one analyst reviewed and identified comments relevant to the categories of interest, and another analyst reviewed those determinations and indicated their agreement or disagreement. The two analysts then consulted on areas of disagreement to reach consensus. If they were unable to reach consensus, a third analyst reviewed the information and made a final

¹³The CRP employers selected for interviews were selected because they had approximately 75 or more work sites based on DOL's CAPS data. The purpose of these initial interviews was to walk through the survey topics and receive feedback on whether the information requested in the survey was accessible and relatively easy to provide.

¹⁴All pretests were conducted with CRP employers. However, the team selected several employers that listed on their 14(c) application that they were both a CRP and another establishment type, such as Hospital/Patient or Business Establishment. The purpose of speaking with several employers that classified themselves as both a CRP and another type of establishment was to help the team determine whether to include these types of employers in the survey sample. Ultimately, the team decided to exclude from the sample employers that listed themselves as a CRP and another establishment type because they were a small percentage of employers.

determination. In our report, we include some illustrative quotes provided by those CRP employers who responded to our survey. In some cases, we lightly edited the response for clarity or to remove references to specific entities or locations.

In the survey section of this report, we used quantifiers, such as “few,” “some,” “many,” “most,” and “almost all,” to quantify the percentage of CRP employers that provided a specific survey response. Quantifiers also sometimes are used to describe a percentage of a sub-group of CRP employers, and this context is provided in the report text. For the purposes of this report, the quantifiers are defined as the following percentage of surveyed CRP employers:

- Few: 1-19%
- Some: 20-39%
- Many: 40-50%
- Most: 51-84%
- Almost all: 85-99%

Interviews and Reviews of Relevant Documents

To inform all three objectives, we reviewed relevant federal laws, regulations, agency policy and guidance documents, and training materials and interviewed officials from DOL, including from WHD and ODEP. In addition, we interviewed WHD officials responsible for processing 14(c) certificates.

To obtain additional perspectives on participation trends and wages in the 14(c) program, our survey results on employers’ programs, and DOL’s oversight of the 14(c) program, including compliance with Section 511 of the Rehabilitation Act of 1973 and DOL’s promotion of opportunities in competitive employment, we interviewed representatives from stakeholder organizations. These organizations were selected based on their experiences working with 14(c) employers and individuals with disabilities and their families and included ACCSES, Coalition for the Preservation of Employment Choice, Inc., Mark Knuckles Associates, Inc., and The Arc. While the views expressed by representatives from these organizations are not generalizable to all stakeholder organizations, they provide insights on various topics discussed in this report.

We also determined that the control activities component of internal control was significant to the analysis of 14(c) processing times for our

third objective, along with the underlying principle that management should design control activities to achieve its objectives. In addition, we determined that the information and communication component was significant, along with the underlying principle that management should externally communicate quality information to achieve its objectives.¹⁵ We assessed efforts by DOL to design control activities and externally communicate quality information to achieve its objectives against these internal control standards.

We conducted this performance audit from March 2021 through January 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

Appendix II: Questions and Results from the Survey of 14(c) Community Rehabilitation Program Employers

We conducted a web-based survey of officials from a nationally representative sample of 316 14(c) Community Rehabilitation Program (CRP) employers to obtain information on (1) their 14(c) program operations, (2) characteristics of their 14(c) workers, (3) their 14(c) workers' movement to competitive employment, and (4) supports they provide to their 14(c) workers. In total, 226 CRP employers responded to our survey, for a response rate of 72 percent. Our survey was composed of closed-ended and open-ended questions. In this appendix, we include all survey questions and results of responses to the closed-ended questions.

The tables below represent the estimated percentages, medians, and totals of the employers' responses to the closed-ended questions. The estimates we report are rounded as follows: all percentage estimates are rounded to the nearest whole percentage point, all median estimates are rounded to the nearest whole number, and all estimated totals of workers are rounded to the nearest 10. The estimates are national-level estimates representing all CRP employers and their 14(c) programs nationwide. Because our estimates are from a generalizable sample, we express our confidence in the precision of our particular estimates as 95 percent confidence intervals, which also are provided in the tables. For a more detailed discussion of our methodology, see appendix I.

14(c) Community Rehabilitation Program Employer Survey

Introduction

These survey questions are focused on 14(c) certificates for Community Rehabilitation Programs issued by the U.S. Department of Labor as allowed under Section 14(c) of the Fair Labor Standards Act. Please complete this survey based on your organization's 14(c) Community Rehabilitation Program, the worksites operating under your organization's 14(c) certificate, and the 14(c) workers paid wages under your 14(c) certificate.

If you want to review a PDF version of our survey before completing it online, you can download a copy by clicking here: [14c Survey PDF](#). Keep in mind that there are "skip" instructions, so not every respondent will be asked to answer every question.

Appendix II: Questions and Results from the Survey of 14(c) Community Rehabilitation Program Employers

When responding, you may consult with others in your organization who are also familiar with this topic and/or utilize databases to help you give a more accurate answer. Depending on how readily available information is, we estimate that this survey may take up to 2 or 3 hours to complete. Please note that you do not need to complete the survey in one sitting, but you will need to use the same internet browser when accessing the survey if you want to resume where you left off at a later time. We recommend completing each question before moving on to the next.

We understand there are great demands on your time and thank you in advance for taking the time to complete this survey.

Terms Used in the Survey: When responding to this survey, please refer to the following definitions to ensure consistency across survey responses.

14(c) program: A program operated by an organization that has the authority to employ workers with disabilities at subminimum wage rates because they have an approved certificate issued by the U.S. Department of Labor, as allowed under Section 14(c) of the Fair Labor Standards Act.

14(c) work: Work performed by an individual who is paid wages under an organization’s 14(c) certificate.

14(c) worker: An individual performing work and being paid wages under an organization’s 14(c) certificate.

Section I: Current 14(c) Program Operations

Table 6: During the month of August 2021, was your organization paying workers under an approved 14(c) certificate or under a previously approved 14(c) certificate that was pending renewal? (Check one.) (Question 1)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Yes	186	82	78	86
No Skip to 1E	40	18	14	22

Source: GAO survey. | GAO-23-105116

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 7: Were your organization’s 14(c) program operations paused (i.e., not operating and thus not paying wages to any 14(c) workers) at any point between March 2020 and August 2021? (Please select one response.) (Question 1A)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Yes, due primarily to reasons related to the COVID-19 pandemic	134	72	67	77
Yes, due primarily to reasons unrelated to the COVID-19 pandemic	1	1	0	2
No Skip to 1C	51	27	22	33

Source: GAO survey. | GAO-23-105116

Table 8: (If either “Yes” answer to 1A) For how many months were your organization’s 14(c) program operations paused between March 2020 and August 2021? (Please click on the bar below to select the number of months.) (Question 1B)

Number of respondents	Estimated median	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
132	3	3	4

Source: GAO survey. | GAO-23-105116

Table 9: Of the months your organization’s 14(c) program was operating (i.e., not paused) between March 2020 and August 2021, were 14(c) program operations reduced at any point during that time? (Please select one response. Examples of reductions in program operations include decreases in average hours or days worked among 14(c) workers or decreases in number of 14(c) workers or worksites.) (Question 1C)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Yes, due primarily to reasons related to the COVID-19 pandemic	160	86	82	90
Yes, due primarily to reasons unrelated to the COVID-19 pandemic	5	3	1	5
No Skip to 2	21	11	8	16

Source: GAO survey. | GAO-23-105116

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 10: (If either “Yes” answer to 1C) For how many months were your organization’s 14(c) program operations reduced between March 2020 and August 2021? (Examples of reductions in program operations include decreases in average hours or days worked among 14(c) workers or decreases in number of 14(c) workers or worksites. Please click on the bar below to select the number of months.) (Question 1D)

Number of respondents	Estimated median	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
161	12	10	13
Skip to 2			

Source: GAO survey. | GAO-23-105116

Table 11: (If “No” to 1) When did your organization’s 14(c) program stop or pause operations (i.e., stopped or paused 14(c) work and the payment of wages to any 14(c) workers)? (Question 1E)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Between July 1, 2019, and February 28, 2020 (Prior to the COVID-19 pandemic)	13	34	22	48
Between March 1, 2020, and March 31, 2020 (At the onset of the COVID-19 pandemic)	17	45	32	58
April 1, 2020 or later (Later into the COVID-19 pandemic)	8	21	12	34

Source: GAO survey. | GAO-23-105116

Table 12: (If “No” to 1) Which of the following are a primary reason your organization was not operating a 14(c) program during the month of August 2021? (Check all that apply.) (Question 1F).

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Reasons related to the COVID-19 pandemic. Skip to 15	16	40	28	52
My organization is transitioning away from 14(c) certificates. Skip to 15	20	50	38	63
My state is transitioning away from 14(c) certificates (e.g., state has enacted legislation or has pending legislation to phase out subminimum wage programs). Skip to 15	5	13	5	23
Other (please specify.) Skip to 15	9	23	13	35

Source: GAO survey. | GAO-23-105116

Note: Respondents could select more than one answer, so the estimated percentages sum to over 100 percent.

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

**Section II: Trends and
Characteristics of 14(c)
Workers**

Instructions: We are interested in demographic trends of 14(c) workers. The questions in this section apply to 14(c) workers during the month of August in 2015, 2017, 2019, and 2021. Please provide information for years for which your organization has electronic or otherwise readily accessible information. Information you provide may differ from what was listed on your organization’s most recent 14(c) certificate renewal application.

Table 13: During the month of August of the following year(s), was your organization paying workers under an approved 14(c) certificate or under a previously approved 14(c) certificate that was pending renewal? (Please select a response for each time period.)(Question 2)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2015				
Yes	180	97	94	99
No	6	3	2	6
August 2017				
Yes	183	98	96	100
No	3	2	1	4
August 2019				
Yes	183	98	96	100
No	3	2	1	4

Source: GAO survey. | GAO-23-105116

Table 14: During the month of August of the following year(s), how many 14(c) workers were paid wages under your organization’s 14(c) certificate? (Please provide a response for each time period.) (Question 3)

Time period	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2015	164	59,000	50,030	67,960
August 2017	173	55,650	47,800	63,490
August 2019	178	52,890	45,690	60,100
August 2021	183	36,770	31,620	41,930

Source: GAO survey. | GAO-23-105116

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 15: During the month of August of the following year(s), does your organization maintain electronic or otherwise readily accessible information about the primary disability affecting each 14(c) worker’s productivity for their job? (Please select a response for each time period.) (Question 4)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2015				
Yes	146	81	77	86
No Skip to 5 if also No for August 2017, 2019, and 2021	34	19	14	24
August 2017				
Yes	159	87	82	91
No Skip to 5 if also No for August 2015, 2019, and 2021	24	13	9	18
August 2019				
Yes	169	92	89	95
No Skip to 5 if also No for August 2015, 2017, and 2021	14	8	5	11
August 2021				
Yes	173	93	89	96
No Skip to 5 if also No for August 2015, 2017, and 2019	13	7	4	11

Source: GAO survey. | GAO-23-105116

Table 16: (If “Yes” to any year in 4) During the month of August of the following year(s), how many 14(c) workers have the following as their primary disability that affects productivity for their job? (Please provide a response for each time period.) (Question 4A)

Primary disability	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2015				
Intellectual/developmental disability	138	43,170	36,160	50,180
Psychiatric disability	138	n/r	n/r	n/r
Visual impairment	138	180	110	240
Hearing Impairment	138	150	80	220
Substance Abuse	138	n/r	n/r	n/r
Neuromuscular Disability	138	200	130	270
Age Related Disability	138	n/r	n/r	n/r

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Primary disability	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
Other (Please specify.)	138	n/r	n/r	n/r
August 2017				
Intellectual/developmental disability	155	43,500	37,140	49,850
Psychiatric disability	155	3,280	1,760	4,790
Visual impairment	155	190	120	250
Hearing Impairment	155	150	90	210
Substance Abuse	155	n/r	n/r	n/r
Neuromuscular Disability	155	380	210	550
Age Related Disability	155	n/r	n/r	n/r
Other (Please specify.)	155	n/r	n/r	n/r
August 2019				
Intellectual/developmental disability	165	44,180	37,820	50,540
Psychiatric disability	165	3,140	1,800	4,480
Visual impairment	165	190	120	260
Hearing Impairment	165	n/r	n/r	n/r
Substance Abuse	165	n/r	n/r	n/r
Neuromuscular Disability	165	380	230	520
Age Related Disability	165	n/r	n/r	n/r
Other (Please specify.)	165	520	290	750
August 2021				
Intellectual/developmental disability	170	32,630	27,740	37,520
Psychiatric disability	170	2,400	1,390	3,410
Visual impairment	170	140	80	190
Hearing Impairment	170	n/r	n/r	n/r
Substance Abuse	170	n/r	n/r	n/r
Neuromuscular Disability	170	250	160	340
Age Related Disability	170	n/r	n/r	n/r
Other (Please specify.)	170	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 17: During the month of August of the following year(s), does your organization maintain electronic or otherwise readily accessible information about the age of 14(c) workers? (Please select a response for each time period.) (Question 5)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2015				
Yes	129	72	66	77
No Skip to 6 if also No for August 2017, 2019, and 2021	51	28	23	34
August 2017				
Yes	141	77	72	82
No Skip to 6 if also No for August 2015, 2019, and 2021	42	23	18	28
August 2019				
Yes	153	84	79	88
No Skip to 6 if also No for August 2015, 2017, and 2021	30	16	12	21
August 2021				
Yes	165	89	85	92
No Skip to 6 if also No for August 2015, 2017, and 2019	21	11	8	16

Source: GAO survey. | GAO-23-105116

Table 18: (If “Yes” to any year in 5) During the month of August of the following year(s), how many 14(c) workers fall within these age ranges? (If the 14(c) worker’s birth date is in August, please enter that worker’s age as of August 31 of that year. Please provide a response for each time period.) (Question 5A)

Age ranges	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2015				
17 years old or younger (excluding the School Work Experience Program, SWEP)	118	n/r	n/r	n/r
18 - 24 years old (excluding SWEP)	114	3,190	2,370	4,000
25 – 54 years old	114	23,990	19,670	28,310
55 years old or older	114	8,640	6,500	10,790

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Age ranges	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2017				
17 years old or younger (excluding the School Work Experience Program, SWEP)	134	n/r	n/r	n/r
18 - 24 years old (excluding SWEP)	131	2,560	1,910	3,220
25 – 54 years old	131	25,950	21,780	30,130
55 years old or older	131	9,460	7,400	11,510
August 2019				
17 years old or younger (excluding the School Work Experience Program, SWEP)	144	n/r	n/r	n/r
18 - 24 years old (excluding SWEP)	141	2,030	1,570	2,490
25 – 54 years old	141	25,460	21,610	29,310
55 years old or older	141	9,860	7,870	11,840
August 2021				
17 years old or younger (excluding the School Work Experience Program, SWEP)	156	n/r	n/r	n/r
18 - 24 years old (excluding SWEP)	153	1,260	950	1,560
25 – 54 years old	153	19,640	16,680	22,600
55 years old or older	153	7,280	5,890	8,670

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25. While there were very few surveyed employers operating in August 2021 that reported having 14(c) workers that were 17 years old or younger, there were a small number of employers that reported having workers in the youngest age group for each time period covered by our survey. Specifically, there were three employers with a total of five workers in August 2015; one employer with 11 workers in August 2017; two employers with a total of eight workers in August 2019; and one employer with four workers in August 2021.

Table 19: During the month of August of the following year(s), does your organization maintain electronic or otherwise readily accessible information about 14(c) workers' race/ethnicity? (Please select a response for each time period.) (Question 6)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2015				
Yes	100	56	50	61

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
No Skip to 7 if also No for August 2017, 2019, and 2021	80	44	39	50
August 2017				
Yes	106	58	52	64
No Skip to 7 if also No for August 2015, 2019, and 2021	77	42	36	48
August 2019				
Yes	121	66	61	72
No Skip to 7 if also No for August 2015, 2017, and 2021	62	34	28	39
August 2021				
Yes	130	70	65	75
No Skip to 7 if also No for August 2015, 2017, and 2019	56	30	25	35

Source: GAO survey. | GAO-23-105116

Table 20: (If “Yes” to any year in 6) During the month of August of the following year(s), how many 14(c) workers are identified in your organization’s records as having the following as their race/ethnicity? (Please provide a response for each time period and report workers in only one category. The Hispanic or Latino category should include all workers who are identified as Hispanic or Latino, regardless of race.) (Question 6A)

Race/ethnicity	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2015				
Hispanic or Latino	90	1,410	770	2,050
White (Not Hispanic or Latino)	90	21,900	17,110	26,690
Black or African American (Not Hispanic or Latino)	90	4,610	2,890	6,330
Native Hawaiian or Pacific Islander (Not Hispanic or Latino)	90	n/r	n/r	n/r
Asian (Not Hispanic or Latino)	90	210	130	290
Native American or Alaska Native (Not Hispanic or Latino)	90	100	50	140
Two or more races (Not Hispanic or Latino)	90	n/r	n/r	n/r

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Race/ethnicity	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2017				
Hispanic or Latino	97	1,590	870	2,310
White (Not Hispanic or Latino)	97	19,650	15,710	23,590
Black or African American (Not Hispanic or Latino)	97	4,040	2,430	5,650
Native Hawaiian or Pacific Islander (Not Hispanic or Latino)	97	n/r	n/r	n/r
Asian (Not Hispanic or Latino)	97	250	160	350
Native American or Alaska Native (Not Hispanic or Latino)	97	130	70	180
Two or more races (Not Hispanic or Latino)	97	n/r	n/r	n/r
Other or unknown race and ethnicity	97	n/r	n/r	n/r
August 2019				
Hispanic or Latino	113	1,460	930	1,990
White (Not Hispanic or Latino)	113	23,100	19,010	27,180
Black or African American (Not Hispanic or Latino)	113	5,020	3,210	6,830
Native Hawaiian or Pacific Islander (Not Hispanic or Latino)	113	n/r	n/r	n/r
Asian (Not Hispanic or Latino)	113	300	200	390
Native American or Alaska Native (Not Hispanic or Latino)	113	130	80	170
Two or more races (Not Hispanic or Latino)	113	n/r	n/r	n/r
Other or unknown race and ethnicity	113	n/r	n/r	n/r
August 2021				
Hispanic or Latino	120	1,080	700	1,470
White (Not Hispanic or Latino)	120	17,880	14,730	21,020
Black or African American (Not Hispanic or Latino)	120	3,230	2,160	4,300
Native Hawaiian or Pacific Islander (Not Hispanic or Latino)	120	n/r	n/r	n/r
Asian (Not Hispanic or Latino)	120	230	160	310
Native American or Alaska Native (Not Hispanic or Latino)	120	130	90	180
Two or more races (Not Hispanic or Latino)	120	n/r	n/r	n/r

Appendix II: Questions and Results from the Survey of 14(c) Community Rehabilitation Program Employers

Race/ethnicity	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
Other or unknown race and ethnicity	120	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

Section III: Recent 14(c) Program Operations

Instructions: The questions in this section focus on 14(c) program operations during the month of August in 2019 (if applicable) and 2021.

Table 21: How many 14(c) workers worked for the following hours during a typical week in August of the following year(s)? (Please provide a response in each row for each time period.) (Question 7)

Weekly hours worked	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2019				
1-10 hours per week	145	17,460	13,940	20,990
11-20 hours per week	149	14,440	11,900	16,980
21-34 hours per week	135	15,770	12,160	19,380
35 hours or more per week	104	n/r	n/r	n/r
August 2021				
1-10 hours per week	150	11,330	9,150	13,510
11-20 hours per week	152	10,300	8,540	12,060
21-34 hours per week	136	10,970	8,240	13,700
35 hours or more per week	106	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

Accommodation: For the purposes of this survey, an accommodation is a change in the work environment (or in the way things are usually done) to help an individual with a disability perform their job.

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 22: During the month of August of the following year(s), did your organization provide accommodations to help 14(c) workers perform 14(c) work? (Please select a response for each time period.) (Question 8)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019				
Yes	165	90	86	93
No Skip to 9 if also No for August 2021	18	10	7	14
August 2021				
Yes	165	89	85	92
No Skip to 9 if also No for August 2019	21	11	8	16

Source: GAO survey. | GAO-23-105116

Table 23: Which of the following accommodations did your organization provide to help 14(c) workers perform 14(c) work during the month of August of the following year(s)? (Please select a response for each accommodation and time period.) (Question 8A)

Accommodation	Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019					
Physical changes (e.g., installing a ramp, modifying a restroom, modifying a workspace)	Yes	125	80	75	85
	No	31	20	15	25
Accessible assistive technologies and equipment (e.g., providing accessible software, videophones, or tools to address dexterity issues)	Yes	97	63	57	69
	No	57	37	31	43
Accessible communications (e.g., providing sign language, closed captioning, or written materials in large print or Braille)	Yes	92	61	55	67
	No	59	39	33	45
Work processes (e.g., adapting tasks or organizing work steps to align with individual needs, providing direct assistance or individualized breaks)	Yes	159	98	96	99
	No	3	2	1	4
Policy enhancements (e.g., adjusting work hours or locations, allowing service animals)	Yes	120	77	72	82
	No	36	23	18	28
Other (Please specify.)	Yes	20	33	23	42

Appendix II: Questions and Results from the Survey of 14(c) Community Rehabilitation Program Employers

Accommodation	Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
	No	41	67	58	77
August 2021					
Physical changes (e.g., installing a ramp, modifying a restroom, modifying a workspace)	Yes	121	78	73	83
	No	34	22	17	27
Accessible assistive technologies and equipment (e.g., providing accessible software, videophones, or tools to address dexterity issues)	Yes	96	62	56	69
	No	58	38	32	44
Accessible communications (e.g., providing sign language, closed captioning, or written materials in large print or Braille)	Yes	92	61	55	68
	No	58	39	32	45
Work processes (e.g., adapting tasks or organizing work steps to align with individual needs, providing direct assistance or individualized breaks)	Yes	159	99	97	100
	No	1	1	0	3
Policy enhancements (e.g., adjusting work hours or locations, allowing service animals)	Yes	124	80	74	85
	No	32	21	15	26
Other (Please specify.)	Yes	20	33	24	43
	No	40	67	57	76

Source: GAO survey. | GAO-23-105116

Day supports: Non-work activities or services that can help an individual build skills, including socialization and daily living skills, and foster greater independence. May also be referred to as day habilitation.

Table 24: During the month of August of the following year(s), how many 14(c) workers also received day supports that were directly provided or organized by your organization? (Please provide a response for each time period.) (Question 9)

Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2019			
172	36,560	30,180	42,940
August 2021			
177	25,160	20,600	29,730

Source: GAO survey. | GAO-23-105116

Section IV: 14(c) Workers' Transition to Competitive Integrated Employment (CIE) Positions

Instructions: Questions in this section are about 14(c) workers who had experience with a CIE position in any capacity during the month of August in 2019 (if applicable) and 2021. This may include 14(c) workers who fully transitioned to CIE (i.e., no longer performed 14(c) work), those who performed CIE and 14(c) work concurrently, and those who performed CIE work but then returned to 14(c) work.

CIE Employment: The Workforce Innovation and Opportunity Act (WIOA) established the goal to “maximize opportunities for individuals with disabilities, including individuals with significant disabilities, for competitive integrated employment (CIE).”

Generally, CIE is work performed on a full- or part-time basis that meets the following three conditions related to wages/benefits, integration, and opportunities for advancement:

1. is compensated (including benefits) at or above applicable minimum wage rates and not less than the customary rate paid by the employer to employees without disabilities performing the same or similar work who have similar experience, training, and skills;
2. is performed at a location typically found in the community and where the employee interacts with individuals without disabilities (who are not supervisory personnel or service providers) as appropriate for the work performed and to the same extent as employees without disabilities interact with these individuals; and
3. offers opportunities for advancement similar to employees without disabilities in similar positions.

Work performed under a 14(c) certificate is not considered CIE employment.

Table 25: During the month of August of the following year(s), did any workers paid under your 14(c) certificate also work in a CIE position? (Please include those who fully transitioned to CIE, those who performed CIE and 14(c) work concurrently, and those who performed CIE work but then returned to 14(c) work. Please select a response for each time period.) (Question 10)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019				
Yes	96	53	47	58
No Skip to 11 if also No to August 2021	87	48	42	53

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2021				
Yes	94	51	45	56
No Skip to 11 if also No to August 2019	92	50	44	55

Source: GAO survey. | GAO-23-105116

Table 26: (If “Yes” to either time period in 10) For each of the CIE categories, how many 14(c) workers are you aware also worked in a CIE position during the month of August of the following year(s)? (Please provide a response for each time period.) (Question 10A)

Response	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2019				
Fully transitioned to CIE during the month of August (i.e., no longer performed 14(c) work	89	290	150	430
Performed CIE and 14(c) work concurrently during the month of August	90	1,830	1,420	2,230
Performed CIE work but then returned to 14(c) work during the month of August	89	n/r	n/r	n/r
August 2021				
Fully transitioned to CIE during the month of August (i.e., no longer performed 14(c) work	87	340	210	470
Performed CIE and 14(c) work concurrently during the month of August	86	1,430	1,110	1,760
Performed CIE work but then returned to 14(c) work during the month of August	87	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 27: Of those 14(c) workers who fully transitioned to a CIE position during the month of August of the following year(s), how many worked in the CIE position for the following hours during a typical week? (Please provide a response for each time period. If this information is not available for some or all 14(c) workers who fully transitioned to a CIE position, enter the number of these workers under “Unknown number of hours.”) (Question 10B)

Weekly hours worked	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2019				
1-10 hours per week	25	n/r	n/r	n/r
11-20 hours per week	25	n/r	n/r	n/r
21-34 hours per week	25	n/r	n/r	n/r
35 hours or more per week	25	n/r	n/r	n/r
Unknown number of hours per week	25	n/r	n/r	n/r
August 2021				
1-10 hours per week	34	n/r	n/r	n/r
11-20 hours per week	34	n/r	n/r	n/r
21-34 hours per week	34	n/r	n/r	n/r
35 hours or more per week	34	n/r	n/r	n/r
Unknown number of hours per week	34	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

Table 28: Of those 14(c) workers who performed CIE and 14(c) work concurrently during the month of August of the following year(s), how many worked in the CIE position for the following hours during a typical week? (Please provide a response for each time period. If this information is not available for some or all 14(c) workers who performed CIE and 14(c) work concurrently, enter the number of these workers under “Unknown number of hours.”) (Question 10C)

Weekly hours worked	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2019				
1-10 hours per week	80	870	610	1,130
11-20 hours per week	80	510	360	660
21-34 hours per week	80	120	60	170
35 hours or more per week	80	0	0	0
Unknown number of hours per week	80	n/r	n/r	n/r
August 2021				
1-10 hours per week	75	590	410	760
11-20 hours per week	75	400	270	520

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Weekly hours worked	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
21-34 hours per week	74	n/r	n/r	n/r
35 hours or more per week	74	n/r	n/r	n/r
Unknown number of hours per week	74	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

Table 29: Of those 14(c) workers who performed CIE work but then returned to 14(c) work during the month of August of the following year(s), how many worked in the CIE position for the following hours during a typical week? (Please provide a response for each time period. If this information is not available for some or all 14(c) workers who performed CIE work but then returned to 14(c) work, enter the number of these workers under “Unknown number of hours.”) (Question 10D)

Weekly hours worked	Number of respondents	Estimated total	95 percent confidence interval – lower bound	95 percent confidence interval – upper bound
August 2019				
1-10 hours per week	13	n/r	n/r	n/r
11-20 hours per week	13	n/r	n/r	n/r
21-34 hours per week	13	n/r	n/r	n/r
35 hours or more per week	13	0	0	0
Unknown number of hours per week	13	n/r	n/r	n/r
August 2021				
1-10 hours per week	17	n/r	n/r	n/r
11-20 hours per week	17	n/r	n/r	n/r
21-34 hours per week	17	n/r	n/r	n/r
35 hours or more per week	17	0	0	0
Unknown number of hours per week	17	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Table 30: Based on your organization’s experience through August 2021, what has generally been the impact of the COVID-19 pandemic on the extent to which 14(c) workers worked in CIE positions (i.e., number of transitions and hours worked)? (Please select a response in each row. Select ‘not applicable’ if your organization had no CIE transitions before and during the COVID-19 pandemic.)(Question 11)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Number of Transitions to CIE				
Increased	23	19	13	25
No Impact	30	24	18	31
Decreased	70	57	50	64
Not applicable	0	0	0	2
Number of hours worked in CIE				
Increased	16	13	9	19
No Impact	28	23	17	29
Decreased	80	65	58	71
Not applicable	0	0	0	2

Source: GAO survey. | GAO-23-105116

Section V: Support for 14(c) Workers to Work in Competitive Integrated Employment (CIE)

Instructions: Questions in this section pertain to supports and resources that help 14(c) workers work in competitive integrated employment (CIE) positions during the month of August in 2019 (if applicable) and 2021.

Supports to help 14(c) workers work in a CIE position: Supports that an organization directly provides or organizes to help 14(c) workers work in a CIE position, such as supported or customized employment services.

Table 31: During the month of August of the following year(s), did your organization employ any staff who had explicit responsibilities to help 14(c) workers work in CIE positions? (Please select a response for each time period.) (Question 12)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019				
Yes	107	59	53	65
No	74	41	35	47

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2021				
Yes	107	58	52	64
No	77	42	36	48

Source: GAO survey. | GAO-23-105116

Table 32: During the month of August of the following year(s), did your organization directly provide or organize any of the following supports to 14(c) workers to help them work in CIE positions? (Please select a response for each support and time period.) (Question 13)

Support for 14(c) workers	Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019					
Independent living instruction (e.g., personal hygiene, technology use, transportation use)	Yes	95	91	85	95
	No	10	10	6	15
Money skills instruction	Yes	79	75	69	82
	No	26	25	18	31
Training to prepare for a workplace setting (e.g., workplace conduct and dress, attention to tasks, general self-advocacy)	Yes	104	98	95	100
	No	2	2	0	5
Vocational skills instruction (e.g., computer skills instruction)	Yes	92	88	82	92
	No	13	12	8	19
General employment exploration services (e.g., interviewing, resume building, job searching, volunteer work experiences)	Yes	91	87	80	92
	No	14	13	9	20
Supported employment services to retain a CIE position (e.g., job coaching, transportation, and self-advocacy with CIE employer)	Yes	93	87	81	92
	No	14	13	8	19
Established formal or informal relationships with local employers for CIE purposes	Yes	99	95	91	98
	No	5	5	2	9
Other (Please specify)	Yes	6	19	9	32
	No	26	81	68	91
August 2021					
Independent living instruction (e.g., personal hygiene, technology use, transportation use)	Yes	92	90	84	94
	No	10	10	6	16
Money skills instruction	Yes	78	76	69	82
	No	25	24	18	31

Appendix II: Questions and Results from the Survey of 14(c) Community Rehabilitation Program Employers

Support for 14(c) workers	Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Training to prepare for a workplace setting (e.g., workplace conduct and dress, attention to tasks, general self-advocacy)	Yes	103	98	95	100
	No	2	2	0	5
Vocational skills instruction (e.g., computer skills instruction)	Yes	92	89	83	93
	No	12	12	7	18
General employment exploration services (e.g., interviewing, resume building, job searching, volunteer work experiences)	Yes	88	85	79	91
	No	15	15	10	21
Supported employment services to retain a CIE position (e.g., job coaching, transportation, and self-advocacy with CIE employer)	Yes	91	86	80	91
	No	15	14	9	21
Established formal or informal relationships with local employers for CIE purposes	Yes	96	93	88	97
	No	7	7	3	12
Other (<i>Please specify</i>)	Yes	7	21	11	35
	No	26	79	65	89

Source: GAO survey. | GAO-23-105116

Table 33: During the month of August of the following year(s), did your organization use public funding (e.g., Medicaid payments) or private funding (i.e., from sources other than through contracts and/or sales) to pay for supports it directly provided or organized to help 14(c) workers work in CIE positions? (Please select a response for each time period.) (Question 14)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019				
Yes	112	62	56	67
No Skip to 15 if also No for August 2021	70	39	33	44
August 2021				
Yes	112	61	55	66
No Skip to 15 if also No for August 2019	73	40	34	45

Source: GAO survey. | GAO-23-105116

Home and Community Based Services (HCBS): Home- and community-based services are types of person-centered care delivered in the home or community. HCBS address the needs of people with functional limitations who need assistance with everyday activities, such

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

as getting dressed or bathing. These services generally fall within two categories: (1) health services, such as occupational therapy or dietary management, and (2) human services, such as adult daycares or referral services. HCBS providers may offer a combination of both types of services.

Table 34: (If “Yes” to 14) During the month of August of the following year(s), did your organization use funding from any of the following sources to pay for supports it directly provided or organized to help 14(c) workers work in CIE positions? (Please select a response for each funding source and time period.) (Question 14A)

Funding source	Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
August 2019					
Medicaid payments for providing Home and Community Based Services (HCBS)	Yes	90	81	74	87
	No	21	19	13	26
Federal funding <i>other than Medicaid HCBS payments</i>	Yes	20	21	15	28
	No	76	79	72	85
State funding <i>other than Medicaid HCBS payments</i>	Yes	54	55	47	63
	No	44	45	37	53
Local funding, such as county or municipal funding	Yes	37	38	30	46
	No	61	62	55	70
Private donations	Yes	33	34	26	42
	No	64	66	58	74
Other (<i>Please specify</i>)	Yes	10	n/r	n/r	n/r
	No	18	n/r	n/r	n/r
August 2021					
Medicaid payments for providing Home and Community Based Services (HCBS)	Yes	92	83	76	88
	No	19	17	12	24
Federal funding <i>other than Medicaid HCBS payments</i>	Yes	24	25	18	32
	No	71	75	68	82
State funding <i>other than Medicaid HCBS payments</i>	Yes	57	59	51	67
	No	40	41	33	49
Local funding, such as county or municipal funding	Yes	37	38	30	46
	No	60	62	54	70
Private donations	Yes	35	37	29	44
	No	61	64	56	71
Other (<i>Please specify</i>)	Yes	11	n/r	n/r	n/r

**Appendix II: Questions and Results from the
Survey of 14(c) Community Rehabilitation
Program Employers**

Funding source	Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
	No	18	n/r	n/r	n/r

Source: GAO survey. | GAO-23-105116

Note: N/r indicates that we are not reporting the estimate because the relative standard error is greater than 0.25.

Section VI: Conclusion

Table 35: Does your organization plan to renew its 14(c) certificate when it is next up for renewal? (Question 15)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Yes Skip to 16	165	74	70	79
No	36	16	13	21
Don't know Skip to 16	21	10	7	13

Source: GAO survey. | GAO-23-105116

Table 36: (If “No” to 15) Which of the following are a primary reason your organization does not plan to renew its 14(c) certificate? (Check all that apply.) (Question 15A)

Response	Number of respondents	Estimated percentage	95 percent confidence interval – lower bound (percentage)	95 percent confidence interval – upper bound (percentage)
Reasons related to the COVID-19 pandemic	4	11	4	23
My organization is transitioning away from 14(c) certificates.	29	81	68	90
My state is transitioning away from 14(c) certificates (e.g., state has enacted legislation or has pending legislation to phase out subminimum wage programs).	12	33	21	47
Other (please specify.)	3	8	3	19

Source: GAO survey. | GAO-23-105116

Note: Respondents could select more than one answer, so the estimated percentages sum to over 100 percent.

Question 16. Please provide any additional perspectives or comments you may have on the following topics:

- a. 14(c) program: (1000 character limit)
- b. Transition to CIE: (1000 character limit)
- c. U.S. Department of Labor administration of 14(c) program: (1000 character limit)

Question 17. What is the name, title, department or office, email address, and telephone number of the person primarily responsible for completing this survey?

a. Name:

b. Title:

c. Department/Office:

d. Email address:

e. Telephone number:

Appendix III: Comments from the Department of Labor

U.S. Department of Labor

Wage and Hour Division
Washington, DC 20210



December 13, 2022

Ms. Cindy Brown Barnes
Managing Director,
Education, Workforce and
Income Security
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Ms. Brown Barnes:

The U.S. Department of Labor's (Department) Wage and Hour Division (WHD) appreciates the opportunity to respond to the Government Accountability Office (GAO) Draft Report titled "*Subminimum Wage Program: DOL Could Do More to Ensure Timely Oversight.*"

GAO's objectives in conducting this study, as outlined to Secretary of Labor Marty Walsh on May 16, 2021, were to examine: (1) what DOL data indicate about the number of 14(c) employers and employees over time, and about the wages of 14(c) employees; (2) what 14(c) employers can report about their employees' characteristics and movement to competitive integrated employment (CIE); and (3) the extent to which DOL oversees employers' use of 14(c) certificates and monitors the experiences of 14(c) employees as they move to CIE.

The report contains 3 recommendations for the Department. WHD plans to take the following actions to address GAO's recommendations.

Recommendation 1: *The Administrator of the Wage and Hour Division should set and track timeliness goals for intermediate steps and overall duration for processing 14(c) applications.*

WHD agrees with the recommendation of setting timeliness goals for intermediate steps and overall duration for processing 14(c) applications. WHD will review its 14(c) certificate application process to determine the appropriate steps and will set and track timeliness goals for the processing of 14(c) applications. WHD notes the length of the certificate application process depends upon both the quality of the applications submitted as well as the responsiveness of the applicants to questions and concerns raised by WHD. Importantly, as WHD works to consider timeliness goals, WHD must balance efficiency with quality and the need for a careful review of applications.

Recommendation 2: *The Administrator of the Wage and Hour Division should externally communicate its goals for processing 14(c) applications to employers and other program stakeholders, and its progress toward meeting these goals.*

**Appendix III: Comments from the Department
of Labor**

WHD agrees with the recommendation that WHD should externally communicate its goals for processing 14(c) applications to employers and other program stakeholders. As recognized by GAO, WHD regularly communicates with section 14(c) certificate holders and other stakeholders, for example, through public webinars providing technical assistance, publication of guidance materials, and direct letters to certificate holders which are [published on our website](#), along with the current certificate holder list. As recommended by GAO, WHD will develop a plan for communicating 14(c) application processing goals and agency progress taken toward meeting these goals.

Recommendation 3: *The Administrator of the Wage and Hour Division should solicit feedback from 14(c) employers regarding the online application and take appropriate action to address any limitations to help improve the overall timeliness of certificate application procession.*

WHD agrees with this recommendation. As we previously mentioned, prior to release of the online application system, WHD assessed interest and collected input from 14(c) certificate holders across the country during our 14(c) compliance seminars. In addition, WHD conducted focused conversations with sample users to collect “user stories” and input prior to system development. Since the release of the online application system, WHD has made updates to the system based on feedback from employers. While WHD invites comments at any time, we look forward to engaging with 14(c) employers regarding the online application and implementing system modifications as appropriate to enhance our online certificate application process. Of course, WHD must balance stakeholder input with resource constraints, application quality, and efficiency gains.

Again, thank you for the opportunity to comment on this report. If you have any questions, please do not hesitate to contact us.

Sincerely,



Jessica Looman
Principal Deputy Administrator

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact:

Elizabeth Curda at (202) 512-7215 or curdae@gao.gov

Staff**Acknowledgments:**

In addition to the contact named above, Michele Grgich and Rachael Chamberlin (Assistant Directors), Claudine Pauselli (Analyst-in-Charge), Liz Hartjes, Carl Nadler, and Amy Sweet made key contributions. Also contributing to this report were Lucas Alvarez, Carl Barden, Sherwin Chapman, Suellen Foth, Alex Galuten, Cynthia Grant, Nisha Hazra, Monica Savoy, Joy Solmonson, and Curtia Taylor.

Related GAO Products

Subminimum Wage Program: Factors Influencing the Transition of Individuals with Disabilities to Competitive Integrated Employment. [GAO-21-260](#). Washington, D.C.: March 4, 2021.

Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers with Disabilities, But Labor Should Improve Oversight. [GAO-01-886](#). Washington, D.C.: September 4, 2001.

Stronger Federal Efforts Needed for Providing Employment Opportunities and Enforcing Labor Standards in Sheltered Workshops. HRD-81-99. Washington, D.C.: September 28, 1981.

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