

Government Performance and Results Act Annual Report to the President and Congress Fiscal Year 2006



National Council on Disability

March 21, 2007

National Council on Disability

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Government Performance and Results Act Annual Report to the President and
Congress—Fiscal Year 2006

This report is also available in alternative formats and on NCD's award-winning Web site
(<http://www.ncd.gov>).

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The views contained in this report do not necessarily represent those of the Administration, as
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In accordance with 31 USC Sec. 1116 (f), this program performance report was prepared solely
by federal employees.

Letter of Transmittal

March 21, 2007

The President
The White House
Washington, DC 20500

Dear Mr. President:

The National Council on Disability (NCD) is pleased to submit its *Government Performance and Results Act Annual Report to the President and Congress—Fiscal Year 2006*, as required by the Government Performance and Results Act (31 U.S.C. Sec. 1116).

As a unique independent federal agency and leader in the development and analysis of disability policy, NCD conducted a vast array of activities in Fiscal Year (FY) 2006, with an authorized budget of \$3,112,560.

This report compares actual performance with the projected levels of performance set out in NCD's annual performance plan. As a public policy agency making recommendations to the President and Congress, NCD is pleased to inform you that the findings of this report show a positive link between the allocated resources and NCD's performance. NCD's assessment review showed that it was successful in meeting its goals and achieving its intended results.

NCD's FY 2006 activities promoted the full participation of people with disabilities in all areas of society by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, and promoting increased access into daily community life—the core of your New Freedom Initiative. These efforts were based on NCD's strategic goals: 1) Make evidence-based public policy recommendations that can enhance the lives of people with disabilities of all ages and backgrounds; 2) Educate the public and elected officials on disability issues; 3) Promote effective delivery of federal services and programs to all people with disabilities, particularly unserved and underserved populations, such as people from diverse cultures, rural residents, and youth; and 4) Maintain NCD's status as a high performance organization.

Through its efforts, NCD had a significant impact on the lives of people with disabilities and their families all over the world. Today, there are more than 50 million Americans with disabilities, 20 percent of the U.S. population. About half of these individuals have a severe disability, affecting their ability to see, hear, walk, or perform other basic functions of life.

With your support, NCD will make recommendations that enhance the quality of life for all Americans with disabilities and their families, promote economic opportunity, support a compassionate society, and provide assistance to the most vulnerable among us.

Sincerely,

Martin Gould
Acting Co-Executive Director

Mark S. Quigley
Acting Co-Executive Director

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives)

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Executive Summary

Background

The National Council on Disability (NCD) is an independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities. NCD is composed of 15 members appointed by the President and confirmed by the U.S. Senate.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (Public Law 95-602). The Rehabilitation Act Amendments of 1984 (Public Law 98-221) transformed NCD into an independent agency.

Consumers Served and Current Activities

While many government agencies deal with issues and programs affecting people with disabilities, NCD is unique in that it is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, status as a veteran, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, it was NCD that originally proposed what eventually became the Americans with Disabilities Act (ADA). NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation and enforcement of ADA, improving assistive technology, and ensuring that people with disabilities from culturally diverse backgrounds fully participate in society.

In its 1986 report, *Toward Independence*, NCD first proposed that Congress should enact a civil rights law for people with disabilities.

In 1990, the Americans with Disabilities Act (ADA) was signed into law by President George H. W. Bush. Since that time, the ADA has been instrumental in guaranteeing equal opportunity for people with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. In 1992, Congress modified NCD's authorizing legislation, Title IV of the Rehabilitation Act of 1973, giving NCD a monitoring role in the enforcement, implementation, and effectiveness of the ADA.

In FY 2006, NCD continued its review and evaluation of new and emerging policy issues that affect people with disabilities. NCD continued to identify the overall needs and concerns of

people with disabilities by conducting hearings, forums, and conferences throughout the country, and by responding to thousands of telephone, e-mail, and written inquiries on the ADA and other disability civil rights issues.

Major activities for FY 2006 included publishing several significant reports and papers such as:

- *The Social Security Administration's Efforts to Promote Employment for People with Disabilities: New Solutions for Old Problems* (November 2005)
- *The State of 21st Century Long-Term Services and Supports: Financing and Systems Reform for Americans with Disabilities* (December 2006)
- *The Needs of People with Psychiatric Disabilities During and After Hurricanes Katrina and Rita* (July 2006)
- *The Impact of Hurricanes Katrina and Rita on People with Disabilities: A Look Back and Remaining Challenges* (August 2006)

In addition, NCD's Web site received approximately 13 million hits in FY 2006, an increase of 1 million hits over FY 2005. Nearly 500,000 reports were downloaded from the NCD site during the fiscal year, producing huge savings to the taxpayer in lower printing costs, postage, handling, storage, etc.

NCD's FY 2006 activities promoted the full participation of people with disabilities in all areas of society by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, and promoting increased access into daily community life—the core of President Bush's New Freedom Initiative. These efforts were based on NCD's strategic goals: 1) Make evidence-based public policy recommendations that can enhance the lives of people with disabilities of all ages and backgrounds; 2) Educate the public and elected officials on disability issues; 3) Promote effective delivery of federal services and programs to all people with disabilities, particularly unserved and underserved populations, such as people from diverse cultures, rural residents, and youth; and 4) Maintain NCD's status as a high performance organization.

Through its efforts, NCD was able to have a significant impact on the lives of people with disabilities and their families all over the world

NCD Authorizing Statute

TITLE IV, REHABILITATION ACT OF 1973, AS AMENDED--NATIONAL COUNCIL ON DISABILITY

Establishment of National Council on Disability

Sec. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the “National Council”), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

(i) organizations representing a broad range of individuals with disabilities; and

(ii) organizations interested in individuals with disabilities.

(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

(B) As used in this paragraph, the term “full term” means a term of 3 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was appointed shall be appointed only for the remainder of such term.

(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

Duties of National Council

Sec. 401. (a) The National Council shall—

(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

(5) review and evaluate on a continuing basis—

(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or

assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act of 2000; and

(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities; in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

(b)(1) Not later than October 31, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled *National Disability Policy: A Progress Report*.

(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

Compensation of National Council Members

Sec. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Staff of National Council

Sec. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

(2) The National Council may—

(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

Administrative Powers of National Council

Sec. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

Authorization of Appropriations

Sec. 405.

There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1999 through 2003.

Strategic Plan

Vision

The United States of America will be a stronger country when its 54 million citizens with disabilities are fully integrated into all aspects of American life. The United States has made significant progress in recent years in furthering opportunities for education, employment and independent living for people with disabilities through a broad range of programs that protect the rights of individuals with disabilities from discrimination in education, employment, housing and transportation. Yet significant barriers to achieving the goals of independence, inclusion and empowerment for all persons with disabilities still remain. Conflicting, poorly designed or outdated government programs and policies combine with service gaps and continued negative attitudes toward people with disabilities to marginalize the 54 million Americans with disabilities.

The effects of these barriers on both people with disabilities and society are enormous. Physical and spiritual isolation rob individuals of energy, creativity and productivity. Society loses by not enjoying the benefits of their talents and by incurring large costs to support them.

Through collaboration with its stakeholders, the National Council on Disability (NCD) will pursue a focused agenda that will promote government programs and policies in support of full inclusion of all people with disabilities into the educational, economic and social fabric of the American community. NCD will use the expertise of its diverse membership and well-trained and well-managed staff to identify barriers to inclusion and independence and to develop solutions. NCD will listen to people with disabilities across the country to identify emerging issues that need a response.

As the only agency in the Federal Government that addresses the issues of all people with disabilities, regardless of type or severity, NCD will be aggressive and resolute until the day arrives when people with disabilities in every corner of the land no longer are distinguished by a disability label, but are known as students, workers, parents, neighbors and friends.

Mission Statement

NCD's mission is to promote the full inclusion, independent living and economic self-sufficiency of people with disabilities of all ages and backgrounds by providing advice, analysis, and recommendations on disability policy to the President, Congress, and other federal entities.

Strategic Goals and Objectives

I. Make evidence-based public policy recommendations that can enhance the lives of people with disabilities of all ages and backgrounds.

Objectives:

- 1.1 Develop and refine policy recommendations at least annually.
- 1.2 Gather and record information on policy matters affecting people with disabilities through the use of forums, hearings, teleconferences, the Internet, independent studies, and interagency information sharing.
- 1.3 Monitor the effectiveness of the implementation of the Americans with Disabilities Act and other civil rights laws.

II. Educate the public and elected officials on disability issues.

Objectives:

- 2.1 Strengthen NCD's communication plan, drawing upon new technologies and reaching targeted underrepresented populations.
- 2.2 Disseminate newsletters and reports on disability policy issues.
- 2.3 Hold federal partners meetings with Cabinet secretaries, appointees, and other key individuals to review and promote NCD's disability policy recommendations.
- 2.4 Participate in interagency working groups with federal partners on priority issues.
- 2.5 Serve as the focal point for international activities around the dissemination of information on disability policy in the United States of America and throughout the world.

III. Promote effective delivery of federal services and programs to all people with disabilities, particularly unserved and underserved populations, such as people from diverse cultures, rural residents, and youth.

Objectives:

- 3.1 Monitor federal agencies having civil rights responsibilities to evaluate their efforts to serve underserved populations, such as people from culturally diverse backgrounds, rural residents, and youth with disabilities, and develop recommendations to enhance services to these populations.

- 3.2 Promote best practices programs of education and empowerment regarding disability rights for people from culturally diverse backgrounds, rural residents, and youth with disabilities.
- 3.3 Provide an opportunity for leadership development for youth with disabilities.
- 3.4 Establish relationships with national organizations serving these underrepresented populations.

IV. Maintain NCD's status as a high performance organization.

Objectives:

- 4.1 Provide the necessary tools and training to achieve a highly skilled and high-performing work force.
- 4.2 Provide a physical environment that promotes the health and well-being of employees.
- 4.3 Prepare budget testimony.
- 4.4 Provide support to NCD teams.
- 4.5 Maintain accurate accounting of all NCD obligations and expenditures.
- 4.6 Arrange for NCD quarterly meetings.
- 4.7 Conduct personnel evaluations.
- 4.8 Produce weekly news clips.

PERFORMANCE RESULTS

Aligned with the President's Management Agenda (PMA), several key disciplines were highlighted in NCD's work during Fiscal Year 2006.

NCD identified the agency-wide results that were desired, outlined strategies to achieve them and worked assertively to realize those defined goals. A focus on results was not new for NCD; however, self-assessment and accountability with respect to specific and measurable outcomes were given more conspicuous positions.

Based on work plan goals and needs, NCD identified necessary additional knowledge, skills and abilities within its own small staff and began to look at ways to make greater and more efficient use of its personnel. Policy team staff leaders were more actively engaged in development of the agency work plan and related activities. Efforts were made to capitalize on the strengths that individuals brought to the workplace. These efforts included regular staff as well as contractors and unpaid interns who contributed commendably to the work of policy team research, related projects and agency advisory committees. NCD's outreach to gather perspectives from underserved and unserved citizens (e.g., youth and people from diverse cultures) continued in the agency's ongoing efforts to make broadly informed public policy recommendations. Collaboration and team work across policy and administrative staff also saw a level of improvement and support through training opportunities, flexible assignments and alternate work locations. Policy team meetings also were open routinely to administrative personnel who were encouraged to participate in discussions.

NCD continued its long-standing and successful practice of determining when services outside the Federal Government were beneficial for reaching the agency's identified goals. Strides also were made in the ongoing evaluation of how work (e.g., research and related projects) progressed toward the stated agency goals and written cooperative agreements with outside contractors. The improvements in this area resulted in recognizing, and aggressively taking steps to remove, low-performing contractors in a timely manner. Outreach was expanded to solicit and continue to attract highly qualified vendors.

Management and implementation of NCD's work plan and related activities were enhanced by greater collaboration among members of the agency's policy and administrative teams. The effectiveness of this practice was shown in improved procedures for justifying and allocating funds within a small budget. Other staff input from policy and administration aspects also resulted in a number of practices and systems developed and implemented as checks and balances. The policy team also developed a process for in-house collection of impact indicators related to NCD's work products and related activities. Continued self-assessment will aid ongoing improvements in how the agency carries out its mission.

Many NCD project and program objectives reflect the expectation that the policy work supported at NCD will and should influence and have an impact on the policy process. Within projects and programs, for example, NCD staff promote various means of linking research to

policy, and research supported is often reported to have enhanced decision makers' awareness of policy options or to have been otherwise taken into account in policy processes.

NCD's activities and their impact for FY 2006 are broken out under the four categories of the President's New Freedom Initiative: increasing access through technology; expanding educational opportunities for youth with disabilities; integrating Americans with disabilities into the workforce; and promoting full access to community life.

Increasing Access through Technology

Accessible Airline Self-Service Kiosk Systems

On May 17, NCD released *NCD Position Paper on Access to Airline Self-Service Kiosk Systems* (<http://www.ncd.gov/newsroom/publications/2006/kiosk.htm>), calling on the U.S. Department of Transportation (DOT) to adopt an updated Air Carrier Access Act (ACAA) standard for accessible design applicable to these kiosk systems. The position paper also calls on DOT to initiate settlement negotiations with covered air carriers and airports to bring their kiosk systems into full compliance.

U.S. air carriers and airports have obligations under federal accessibility laws and regulations to provide cross-disability access to their kiosk systems. Those carriers and airports operating kiosk systems not in conformity with the Americans with Disabilities Act's standard for accessible design, which is also ACAA's standard, are out of compliance.

Advances in information technology (IT) have enabled the airline industry to improve the quality and efficiency of its services delivery while reducing operating costs. But the airlines have left travelers with disabilities out of the IT loop, failing to offer them the same benefits and convenience of service available to other travelers. The airlines' resistance to providing customer services through fully accessible kiosks and Web sites disregards the capacity of accessible IT to empower people with disabilities to do for themselves.

Kiosk technology is an essential component of the IT-based customer self-service business model that is pervading the air-travel industry. Automated kiosks employed by the industry (frequently called self-service or check-in kiosks) are networked peripheral IT devices whose interfaces give consumers direct access to companies' centralized customer-service systems.

The air carrier industry has failed to acknowledge its legal obligations to provide equal access to passengers with disabilities, advances in access technology, and the significant economic benefit the industry derives from air travelers with disabilities.

Although no airline-kiosk vendor serving the U.S. market has included accessibility among its product features, vendors confirm that they foresee no significant technical obstacles to development and deployment—using existing access technology—of fully accessible kiosk systems. A leading authority on accessibility technology estimates that the costs of access hardware and software modifications for a fully accessible system would not exceed 1 to 2

percent of the overall cost. However, the airline industry has yet to acknowledge the need for such a product.

Voluntary Voting System Guidelines

On June 23, NCD issued a statement on voluntary voting system guidelines.

Consistent with its legislative mandate as an independent federal agency, NCD provides advice to the President and Congress by making recommendations on how to enhance the quality of life for all Americans with disabilities and their families. In *Inclusive Federal Election Reform*, NCD made recommendations to Congress and the President on how to improve the accessibility of voting systems. This NCD statement shows alignment of those recommendations with the current efforts of the U.S. Election Assistance Commission (EAC), established under the Help America Vote Act of 2002 (HAVA), to establish guidelines for accessible voting systems. As more fully described below, NCD calls on the EAC to make voting systems more accessible to people with disabilities by requiring privacy protections for paper ballots, comprehensible audio for electronic voting machines, and paper ballots that are accessible to voters with poor vision.

Dual Roles of HAVA: Promote Access and Enhance Integrity

In 2002, Congress passed the Help America Vote Act (HAVA), which guarantees by law the opportunity for people with disabilities to privately and independently cast an accurate and secure ballot in every polling station throughout the country. While HAVA implementation continues to be a "work in progress," it already has had a positive impact on voters with disabilities. For example, accessible electronic voting equipment allowed a Montana voter, who is blind, to vote without assistance and in privacy for the first time in almost 30 years. That same voter told a reporter, "[Accessible voting equipment] is like manna from heaven.... But it's going to come to a point where that's what we just learn to expect. When that day comes, being blind will be a whole lot easier."

To help fulfill HAVA's mandate to provide accessible voting with enhanced voting system integrity, Congress created the Election Assistance Commission (EAC), the EAC Standards Board, the EAC Board of Advisors, and the Technical Guidelines Development Committee. Congress authorized the EAC to disburse \$3.9 billion to the states to replace old voting equipment and to adopt other election reform measures. To help states that receive these funds comply with HAVA, one of the EAC's functions is to establish voluntary guidelines for voting equipment and to provide technical guidance to the states on implementing election technologies. With the help of the National Institute of Standards and Technology (NIST), the EAC produced Voluntary Voting System Guidelines (VVSG) to help states comply with HAVA. The VVSG provides technical specifications for HAVA-compliant voting systems.

History of the Voluntary Voting System Guidelines

The EAC submitted the first draft of the VVSG for public comment in early 2005 and promised that the EAC would improve the guidelines based on the feedback about accessibility issues. The EAC received considerable feedback to its first draft version. In addition to concerned individual

voters who responded to the EAC's call for suggestions, organizations such as the American Council of the Blind (ACB), the Consortium for Citizens with Disabilities (CCD), Paralyzed Veterans of America (PVA), and others offered numerous suggestions for modification. Many of the changes adopted in the final version of the VVSG are aligned with NCD's 2001 *Inclusive Federal Election Reform* report, and are the result of dialogue with the disability community. The EAC often adopted word-for-word the language suggested by various advocacy groups.

Perhaps the most critical category of changes to the VVSG was the adoption of "shall" language rather than "should" language for many of the voting system features. The VVSG states that a "should" statement is equivalent to a suggested feature, whereas a "shall" statement indicates a mandatory feature. CCD observed in its letter to the EAC: "HAVA funds are provided for a one-time purchase... ["should"] requirements will have little impact on what is available to consumers for years to come... a guideline or standard with a "should" is not part of what is required to meet the legal requirement and will have little impact on the market buying decisions." At the suggestion of many disability advocates, the EAC changed much of the "should" language that made a feature only a "suggestion" or "recommendation" for a state to the stronger "shall" language, which denotes a requirement. NCD concurs with the changes.

In December of 2005, the EAC officially adopted the VVSG and effective December 2007, voting systems will be tested against the VVSG. The EAC anticipates further modifications to the VVSG prior to the 2008 election. The EAC should continue to recognize voters with disabilities as key stakeholders when making further modifications to the VVSG.

In August of 2005, NCD issued a paper entitled *Enjoyment of the Right to Participation in Political and Public Life by Persons with Disabilities - Illustrations of Implementation from the United States* which praised the EAC for providing informational resources to states that highlighted accessibility for people with disabilities. NCD commends the EAC for its work on the VVSG since 2005 and for responding to feedback from NCD and advocacy groups for disenfranchised citizens, including people with disabilities.

Recommendations for Improving the VVSG and HAVA Implementation

Despite recognizable improvements in the latest version of the VVSG, the EAC failed to address some of the concerns previously expressed by the disability community. NCD reiterates the suggested improvements as follows:

- **Privacy:** When a voter uses an alternate ballot with accessible features to cast an electronic vote, the VVSG requires voting systems to protect the privacy of that voter by not displaying information that would indicate the voter used an alternate voting format. However, the VVSG does not require privacy protections for accessible paper ballots. Yet the VVSG requires the privacy of both paper and electronic ballots when the voter uses alternate language features. The VVSG needs a parallel privacy requirement for paper ballots cast in an alternate accessible format.
- **Audio:** The VVSG does not require that audio be "readily comprehensible" or that candidate names be correctly pronounced. Voters with visual impairments often are

accustomed to only hearing candidate names and these voters need voting machines with intelligible speech. Voting systems that provide digitized human speech are preferable to systems with synthesized speech because digitized speech is "more readily comprehensible" and more likely to contain the correct pronunciation of candidate names. "Shall" language would convey the necessity for "readily comprehensible speech" and for normal pronunciation of candidate names.

- Accessible Paper Ballots: The VVSG fails to ensure accessibility for voters with the full range of visual impairments. Voting systems that use paper ballots need to make provisions for voters with poor reading vision.

Finally, we encourage the EAC to use NCD's work as a reference point and as a basis for further examination of voting issues that impact the lives of citizens, including people with disabilities. NCD stands ready to work with the EAC, Administration, Congress and the public to ensure that public policy is shaped so it will provide the greatest possible opportunities for all Americans to have an equal opportunity as they strive to be fully productive, contributing citizens.

Expanding Educational Opportunities for Youth with Disabilities

Supreme Court and IDEA

NCD released a statement regarding the U.S. Supreme Court's April 19 oral arguments in *Arlington Central School District v. Murphy* (No. 05-18), a special education case about the award of fees for the use of experts at special education due process hearings.

The Arlington school district argues that the Individuals with Disabilities Education Act (IDEA), the federal special education law, does not authorize the award of fees for experts, because the law makes no explicit reference to them. The Murphys (parents) contend that since IDEA states that attorneys' fees may be awarded to parents as part of the costs of the dispute, such fees are not the only possible costs that can be awarded. The Murphys also state that it is nearly impossible for parents to win cases under IDEA unless they have experts on their side, and that only the possibility of getting back some of their expenses for such help would allow parents to challenge school districts.

NCD is concerned that the Supreme Court's ultimate decision in *Murphy* could harm 6.5 million children and youths with disabilities. Requiring parents to shoulder the financial burden of expert fees at hearings would place parents at a tremendous disadvantage, and many may forego the services of experts because of the costs involved. Too many parents already have difficulty navigating the IDEA maze, from identification and evaluation of their children through hearings and court actions.

If parents believe, as the Murphys did, that the school district has failed to provide the free appropriate public education mandated by law, their only recourse is to pursue due process. At these hearings, school districts have their own expert witnesses, as well as lawyers. Parents often are unable to afford experts for due process hearings. In fact, many parents of children with disabilities live in difficult financial circumstances.

A decision supporting the parents in this case will not lead to a watershed of parent complaints, hearings, or court cases. Few parents even request due process hearings, and the Government Accountability Office reports that there are only 5 due process hearings per 10,000 students who receive special education (See GAO 03-897, 2003). In addition, a 2003 U.S. Department of Education study found that 94 percent of districts had no disputes that resulted in the need for a hearing.

Recent NCD information regarding IDEA issues includes the following: *Individuals with Disabilities Education Act Burden of Proof: On Parents or Schools?* <http://www.ncd.gov/newsroom/publications/2005/burdenofproof.htm>; *Lessons for All of Us: Protecting the Right to Education for Persons with Disabilities*, <http://www.ncd.gov/newsroom/publications/2005/lessons.htm>; *Improving Educational Outcomes for Students with Disabilities*, <http://www.ncd.gov/newsroom/publications/2004/educationoutcomes.htm>; *People with Disabilities and Postsecondary Education*, <http://www.ncd.gov/newsroom/publications/2003/education.htm>; *People with Disabilities on Tribal Lands: Education, Health Care, Vocational Rehabilitation, and Independent Living*, http://www.ncd.gov/newsroom/publications/2003/tribal_lands.htm; *School Vouchers and Students with Disabilities*, <http://www.ncd.gov/newsroom/publications/2003/vouchers.htm>; *Individuals with Disabilities Education Act Reauthorization: Where Do We Really Stand?* http://www.ncd.gov/newsroom/publications/2002/synthesis_07-05-02.htm; and *Back to School on Civil Rights*, http://www.ncd.gov/newsroom/publications/2000/backtoschool_1.htm

No Child Left Behind

In June of 2006, NCD sent letters to the House Committee on Education and the Workforce (http://www.ncd.gov/newsroom/correspondence/2006/mckeeon_06-13-06.htm) and to the Chair and Ranking Member of the Education Reform Subcommittee, to share NCD's views regarding No Child Left Behind (NCLB), and to help raise awareness of NCD's upcoming publication to be released in the spring of 2007. The publication will update the 2004 research from *Improving Educational Outcomes for Students with Disabilities*, and provide more formal, in-depth answers to the questions of how NCLB impacts students with disabilities. Similar NCLB letters later were sent to the House Committee on Education and the Workforce for the record of its July 12, 2006 hearing, "No Child Left Behind: Ensuring High Academic Achievement for Limited English Proficient Students and Students with Disabilities." The letters reiterated several key recommendations from NCD's 2004 research paper.

Integrating Americans with Disabilities into the Workforce

Social Security Report

NCD released its report *The Social Security Administration's Efforts to Promote Employment for People with Disabilities: New Solutions for Old Problems* (<http://www.ncd.gov/newsroom/publications/2005/ssa-promoteemployment.htm>), on November 30, 2005, at a Capitol Hill briefing. The report calls on Congress and the Social Security

Administration to make immediate changes that will get more people with disabilities who receive Social Security benefits back to gainful employment. The report contains a total of 38 recommendations in the areas of beneficiary perspective and self-direction; income issues and incentives; and coordination and collaboration among multiple public and private systems.

Employment Study

On January 10, NCD published a presolicitation notice on the Federal Business Opportunities Web site (<http://www.fedbizopps.gov/>) for an employment study.

NCD is systematically reviewing both public and private policies and initiatives aimed at improving the employment of people with disabilities. NCD's employment study, to be released in 2007, includes the following major components: a) issue briefs examining the nexus between employment and the following areas: transportation; housing; reasonable accommodations; education; health care; technology and universal design; telecommunications; long-term services and supports, and corporate culture, disability, and diversity; b) the establishment of a business advisory committee and the conduction of public forums and focus groups to solicit information and input on employment issues and practices; c) the development of informational issue briefs that examine the status and impact of existing employment strategies at the federal, state and local level; d) an expert advisory panel; and e) a cohesive final report with information drawn from the environmental scan, business advisory committee, public forums and informational briefs along with recommendations aimed at improving the employment status of people with disabilities.

The BAC, an essential and integral component of this study, will serve several functions. The BAC will be a primary source of information on current and ideal employment practices regarding legal, economic, environmental, cultural, and other issues related to employing persons with disabilities. The BAC also will provide information on types of employment, including modalities such as contingent employment or telework. The BAC will identify current policies and recommend future policies that will help employers to hire and retain employees with disabilities. Employment for persons with disabilities tends to be clustered in a few areas, so the BAC will help identify possible future growth industries and occupations. The BAC will identify needs and supports for employees with disabilities that it perceives as essential for finding and maintaining employment, and also will identify gaps.

The first BAC meeting was held in New York City on March 23.

Employment Projects Follow-Up

In March, NCD met with representatives from the Social Security Administration, the Department of Labor's Office on Disability Employment Policy, Employment Training Administration, and the Rehabilitation Services Administration to discuss NCD's report *The Social Security Administration's Efforts to Promote Employment for People with Disabilities: New Solutions for Old Problems* (<http://www.ncd.gov/newsroom/publications/2005/ssa-promoteemployment.htm>). NCD's employment project and the project's Business Advisory Committee (BAC) also were discussed.

Promoting Full Access to Community Life

National Disability Policy

On November 17, 2005, NCD released its annual progress report (http://www.ncd.gov/newsroom/publications/2005/progress_report.htm) calling on the Federal Government to be more creative in program design; be more accountable in measuring the impact of civil rights compliance for people with disabilities; and provide greater cross-agency coordination in managing disability programs.

NCD's examination of the status of disability policy discloses that incremental progress made in some areas is clouded by other major barriers and challenges that continue to block paths available to the general population. Gaps in necessary services and supports remain to the extent that far too many Americans with disabilities are undereducated and unemployed.

NCD has identified several important and recurrent themes that need to be addressed.

1. Program Design for a New Century

In programs for people with disabilities, such as special education and vocational rehabilitation, the need for innovative program design has been recognized, but the means for carrying it out remain matters of debate. How tightly should these programs be tied, in procedures or expectations, to their mainstream counterparts—No Child Left Behind in the case of education, and the Workforce Investment Act in the case of employment?

The debate regarding the need for innovative approaches to program concept and design is taking place in a variety of ways. New program models; new definitions of services themselves and of target populations and stakeholder groups; new allocations of responsibility and authority among federal, state and private sector partners (including end-users and consumers themselves); and new criteria for measuring program outcomes and success—all of these can be seen to one degree or another in virtually every major piece of legislation discussed in this report.

2. Accountability

Perhaps no single word is heard more often in the discussion of domestic policy today than accountability. At the same time, perhaps nowhere is the meaning of accountability more critically at issue than in the area of civil rights. NCD believes that vigilant civil rights enforcement is an indispensable component of any balanced effort to achieve equality of opportunity in society. But if statistical evidence were needed to justify this belief, one would be hard-pressed to produce it. Evidence of the costs of compliance to industry and government can readily be produced, but comparable data demonstrating the value of a just society or tracking the impact of vigorous enforcement on public attitudes and behavior over time is hard to define, let alone to collect.

NCD supports the goal of extending accountability to as many programs and sectors as possible. While NCD believes that the costs of compliance with all laws should be minimized, NCD also

strongly believes that emphasis on the dollar costs of compliance to government and business is premature, unless accompanied by reciprocal attempts to ascertain the costs of noncompliance for individuals and for society as a whole.

3. Cross-Agency Coordination

In light of the concerns about program accountability noted before, it is gratifying to note that President Bush's New Freedom Initiative (NFI) recognizes the interconnection of programs and subjects.

In 2004, NCD published its Livable Communities report (<http://www.ncd.gov/newsroom/publications/2004/LivableCommunities.htm>). This report vividly showed how a variety of programs must work together efficiently in order to achieve a high quality of life for those they intended to benefit. As NCD's work and common experience make clear, it is no longer possible to look at housing in isolation from transportation, at employment separately from health care, or at income supports in old age apart from long-term services and non-cash supports. The challenge is to shape this growing awareness into processes that will fulfill the promise of coordinated planning and programming.

NCD does not underestimate the difficulties associated with such efforts. Throughout this report, readers will encounter these difficulties in illustrations of inconsistency or even conflict among programs, and in instances where the recognition of the need for coordination was sincere but achievement of the goal was largely lacking. Broadly speaking, as these examples show, the methods for implementing this next vital step in effective planning and budgeting are yet to be devised or put in place.

Long-Term Services and Supports

On December 15, NCD released *The State of 21st Century Long-Term Services and Supports: Financing and Systems Reform for Americans with Disabilities* (http://www.ncd.gov/newsroom/publications/2005/longterm_services.htm), calling on the Administration and Congress to create reforms that would immediately address long-term services and supports (LTSS) issues for people with disabilities and people who are elderly.

NCD broadly defines LTSS to reflect people's essential needs for maintaining a quality of life with maximum dignity and independence, including housing, transportation, nutrition, technology, personal assistance, and other social supports.

NCD undertook research for this report because it has grown increasingly concerned about the (a) lack of a coherent national LTSS public policy for all people with disabilities; (b) fragmented nature of service and support delivery systems, with uneven access and services provisions; and (c) LTSS costs of 22 percent or more of state budgets, which are fast becoming unsustainable. Additionally, NCD noted in undertaking research for this report that no single federal program, federal agency, or congressional committee is charged with the responsibility for the management, funding, and oversight of LTSS; however, 23 federal agencies are actively involved in LTSS using the NCD definition.

NCD's groundbreaking report includes recommendations for incremental reform and clean slate reform.

NCD believes that America needs a coherent and comprehensive framework for its LTSS policies, programs, and funding based on five interrelated assumptions. First, that people who are elderly and people with disabilities both desire and deserve choices when seeking assistance with daily living that maintains their self-determination and maximum dignity and independence. Second, the current financing mechanisms (public and private) will become unsustainable in the near future without significant reform. The system must be affordable to all Americans regardless of income levels and must consider opportunities to leverage public and private support in new ways without impoverishing beneficiaries. Third, there is an opportunity with the changing demographic picture of the United States to explore the possibilities of a universal approach to the design and financing of supports that is responsive to individuals under the age of 65, as well as Americans over 65 who may or may not have disabilities, without sacrificing individual choice and flexibility. Fourth, formal and informal caregiving must be sustained, including examination of family needs and workforce recruitment and retention challenges. Fifth, the approach to quality must examine consumer direction and control of resources in addition to traditional external quality assurance mechanisms.

NCD Research Opportunities

On January 6, NCD published a prerelease notice on Grants.gov (www.grants.gov) for a National Disability Performance Indicators and Data study.

NCD's primary interest in undertaking this research is to ensure that the Federal Government is in a position to effectively monitor and eventually evaluate programs and supports for people with disabilities, but not duplicate other work. A secondary interest is improvement of performance reporting for the Federal Government's major social programs for Americans with disabilities and their families. One of the chief mechanisms has been the use of indicator systems. Few of this nation's national indicator systems, however, are populated with meaningful (outcome) data related to people with disabilities. Additionally, the majority of indicator systems do not address the whole of people's lives but, rather, are domain-specific (e.g., health). In an effort to identify valid federal indicators and data and to describe the status of the U.S. population of Americans with disabilities, NCD will conduct research that results in a product titled "Americans with Disabilities: Key Indicators of Quality Lives."

The full announcement was available on February 6 on the NCD Web site at http://www.ncd.gov/resources_opportunities.htm.

On February 28, NCD published a research opportunity for an Educational Outcomes for Students with Disabilities study (http://www.ncd.gov/research_opportunity/outcomes.htm).

NCD is seeking researchers to conduct a formal evaluation of the implementation of both the No Child Left Behind Act (NCLBA) and the Individuals with Disabilities Education Act (IDEA). Thanks to IDEA and its push for increased access to education for students with disabilities, and NCLBA, with its push for improved student outcomes, educators across the United States are

reexamining their practices to find ways to close the achievement gaps between groups of students. Students with disabilities are a focus of this attention, as schools and states labor to improve the academic outcomes of these children. Policymakers are studying both the reauthorization of IDEA and the ongoing implementation of NCLBA to determine the most effective means for serving students with disabilities. Ample time has passed since the passage of NCLBA and the reauthorization of IDEA for this research to be undertaken.

The closing date for full proposals was May 1, 2006.

Supreme Court Hears ADA Cruise Ship Case

On February 28, the U.S. Supreme Court heard oral arguments in *Spector v. Norwegian Cruise Line Ltd.* (No. 03-1388), a case that will determine whether foreign-flagged cruise ships serving U.S. ports must comply with the public accommodations provisions contained in Title III of the Americans with Disabilities Act (ADA).

On February 8, NCD published a paper examining the *Spector* case in detail and concluded that the plain and expansive language of Title III evidences a congressional intent to require cruise ships to comply with Title III. Cruise ship owners and operators claim that they and their ships are exempt from ADA because all of their ships are, with few exceptions, foreign-flagged, and, historically under international law, a seagoing vessel need only comply with the laws of the flagging nation when it comes to the regulation of a ship's internal operations. The paper explains that compliance with Title III would not impinge on the internal management prerogatives of cruise lines or conflict with the United States' obligations under international law. Moreover, the contemporary practice of flying what is known as a "flag of convenience" is simply a business decision that only marginally implicates the sovereign interests of the flagging nation. In stark contrast, however, the United States has a significant interest in ending invidious discrimination against persons with disabilities by cruise lines—particularly when cruise lines are headquartered in the United States, base their ships in U.S. ports, draw their clientele almost exclusively from the United States, and advertise and solicit most of their passengers in the United States. In passing ADA, Congress sought to guarantee "full participation" by persons with disabilities in all aspects of American life. The Supreme Court has an opportunity in *Spector* to give force and effect to Congress' unequivocal intent by refusing to exempt foreign-flagged cruise ships from Title III of ADA. To do otherwise would place the Court's imprimatur upon the discriminatory practices of inaccessible cruise lines and write segregation on the basis of disability into American law.

NCD Conducting ADA Impact Forums

As a part of a year-long study, NCD sponsored five public forums around the country to gather testimony from people with disabilities, their families, and their advocates on the impact the Americans with Disabilities Act of 1990 (ADA) has had on their lives.

Fifteen years ago, ADA was hailed as a major civil rights law guaranteeing equal opportunity for Americans with disabilities to participate more fully in their communities, to have greater access to goods and services, and to enjoy more employment opportunities. To what extent ADA has achieved its goals of equality of opportunity, full participation, independent living, and economic

self-sufficiency for people with disabilities remains an open question, one the public forums will address.

Representing a diversity of regions, populations, and ethnicities, the five sites for the public forums (with dates) are: Iowa City, Iowa (March 25), co-sponsored by the Evert Conner Center on Rights and Resources and the University of Iowa's Law, Health Policy and Disability Center; Los Angeles, California (March 29), co-sponsored by Western Law Center for Disability Rights; Houston, Texas (April 8), co-sponsored by Independent Living Research Utilization Project; Savannah, Georgia (April 13), co-sponsored by Savannah-Chatham Council on Disability Issues, Savannah Association for the Blind, Inc., and Living Independence for Everyone, Inc.; and Washington, DC (May 3), co-sponsored by Mayor's Committee on Individuals with Disabilities.

Public forum participants may provide written as well as spoken testimony. Reasonable accommodations will be provided on request to ensure full participation by all individuals seeking to testify on the impact of ADA on their lives.

In addition to holding public forums, the NCD's ADA Study Team conducted focus groups and interviews with individuals with disabilities, employers, service providers, business and trade association representatives, and other stakeholders who have been directly affected by ADA. Rounding out the research activities, the ADA Study Team conducted an environmental scan to collect data on such ADA impact statistics as number of curb cuts, number of telephone relay calls, number of reasonable accommodations provided by employers, and other indicators to determine whether the law has brought about significant change in the past 15 years.

The ADA Study Team is being advised by a blue ribbon panel of nationally and internationally recognized experts on disability policy.

Institutionalization Hearing

NCD participated in an ADAPT-sponsored panel in Nashville, Tennessee, that heard testimony about institutionalization. The following NCD reports were distributed to attendees: *Olmstead: Reclaiming Institutionalized Lives* (<http://www.ncd.gov/newsroom/publications/2003/reclaimabridged.htm>), *Livable Communities for Adults with Disabilities* (<http://www.ncd.gov/newsroom/publications/2004/LivableCommunities.htm>), and *The State of 21st Century Long-Term Services and Supports: Financing and Systems Reform for Americans with Disabilities* (http://www.ncd.gov/newsroom/publications/2005/pdf/longterm_services.pdf).

NCD also sent a letter regarding Civil Rights of Institutionalized Persons Act (CRIPA) (http://www.ncd.gov/newsroom/correspondence/2006/davis_06-30-06.htm), incorporating information from NCD's August 2005 publication, *The Civil Rights of Institutionalized Persons Act: Has It Fulfilled its Promise?* to the House Committee on Government Reform for record of the June 16, 2006 hearing, "Disability Services in the District of Columbia: Who is Protecting the Rights of DC's Most Vulnerable Residents?"

Assisted Suicide

NCD submitted a statement on Assisted Suicide for the record of the May 25, 2006 hearing on assisted suicide and euthanasia in the Senate Committee on the Judiciary's Subcommittee on the Constitution, Civil Rights and Property Rights. The information shared included NCD's 2005 letter regarding reissuance of NCD's 1997 findings on assisted suicide and euthanasia.

Accessible Airline Self-Service Kiosk Systems

On May 17, NCD released *NCD Position Paper on Access to Airline Self-Service Kiosk Systems* (www.ncd.gov/newsroom/publications/2006/kiosk.htm), calling on the U.S. Department of Transportation (DOT) to adopt an updated Air Carrier Access Act (ACAA) standard for accessible design applicable to these kiosk systems. The position paper also calls on DOT to initiate settlement negotiations with covered air carriers and airports to bring their kiosk systems into full compliance.

U.S. air carriers and airports have obligations under federal accessibility laws and regulations to provide cross-disability access to their kiosk systems. Those carriers and airports operating kiosk systems not in conformity with the Americans with Disabilities Act's standard for accessible design, which is also ACAA's standard, are out of compliance.

Advances in information technology (IT) have enabled the airline industry to improve the quality and efficiency of its services delivery while reducing operating costs. But the airlines have left travelers with disabilities out of the IT loop, failing to offer them the same benefits and convenience of service available to other travelers. The airlines' resistance to providing customer services through fully accessible kiosks and Web sites disregards the capacity of accessible IT to empower people with disabilities to do for themselves.

Kiosk technology is an essential component of the IT-based customer self-service business model that is pervading the air-travel industry. Automated kiosks employed by the industry (frequently called self-service or check-in kiosks) are networked peripheral IT devices whose interfaces give consumers direct access to companies' centralized customer-service systems.

The air carrier industry has failed to acknowledge its legal obligations to provide equal access to passengers with disabilities, advances in access technology, and the significant economic benefit the industry derives from air travelers with disabilities.

Although no airline-kiosk vendor serving the U.S. market has included accessibility among its product features, vendors confirm that they foresee no significant technical obstacles to development and deployment—using existing access technology—of fully accessible kiosk systems. A leading authority on accessibility technology estimates that the costs of access hardware and software modifications for a fully accessible system would not exceed 1 to 2 percent of the overall cost. However, the airline industry has yet to acknowledge the need for such a product.

Voting Rights Act Reauthorization

On May 17, NCD released a statement (www.ncd.gov/newsroom/news/2006/r06-510.htm) supporting the reauthorization of the Voting Rights Act (VRA), which is set to expire in 2007.

NCD was aware of the April 27, 2006, hearing on Renewing the Temporary Provisions of the VRA in the Senate Judiciary Committee. The foundation of our democratic form of government is the right to vote. Voting is the most important tool Americans have to influence the policies the government adopts that affect every aspect of our lives—from tax policy, to preserving our environment, to protecting equal opportunity in housing and employment. To ensure that all Americans have this important tool, we must make sure that every American has an equal opportunity to cast an effective ballot. Unfortunately, even today, many eligible voters continue to face barriers that inhibit the exercise of this basic right. It is under these circumstances that NCD emphasizes the need for the reauthorization of the VRA.

NCD made four key recommendations in its 2001 paper *Inclusive Federal Election Reform* (www.ncd.gov/newsroom/publications/2001/electionreform.htm) that remain relevant to current deliberations surrounding reauthorization of the VRA: (1) The President and Congress must enact federal legislation that incorporates the use of modern technological concepts and systems capable of ensuring full participation by all citizens; (2) The President and Congress must address complex issues and concerns surrounding existing federal legislation [such as the VRA] and effective ways to improve those laws through amendments or regulatory action while maintaining current rights and protections; (3) Bipartisan national, state, and local voter registration and get-out-the-vote initiatives are encouraged for people with disabilities and other disenfranchised Americans; and (4) The President and Congress must contact key citizens from disenfranchised groups and include them on any commission or similarly named body to investigate the status of the full range of voting accessibility issues in America.

The VRA is still needed to ensure that all citizens, including people with disabilities, as well as seniors, people within lower socioeconomic levels, people from diverse racial and ethnic groups, and people with language needs, are provided an equal opportunity to participate in the political process. The existing VRA paved the way for more Americans to vote and set the stage for initial dialogue that resulted in the enactment of supplementary laws addressing the enfranchisement of people with disabilities. Since the VRA's enactment, the rise in voter registration has brought to the forefront a number of needs that should be considered at reauthorization, such as accessibility enforcement components and the coordination of new technologies, including universal design. In collaboration with other pertinent laws, reauthorization of the VRA can boost full participation in the political process by all citizens.

NCD urges our nation's leaders to respond in a timely manner to these recommendations in order to ensure full participation in the democratic processes. Full participation by all eligible citizens allows our society to harness the knowledge and resources of the community as a whole. Inclusion strengthens and enlivens America's political and public life, and our society at large will be the ultimate beneficiary.

Forced Drugging of a Texas Inmate

On May 2, NCD released a statement (www.ncd.gov/newsroom/news/2006/r06-509.htm) speaking out against the forced drugging of a Texas inmate with a psychiatric disability so he can be executed.

A state district judge in Texas has ordered inmate Steven Kenneth Staley to take psychiatric medication so that he can be declared mentally fit for execution. In 2003, the U.S. Circuit Court of Appeals permitted officials in Arkansas to forcibly administer medication to control an inmate's behavior, making him "competent" enough to be executed.

In the NCD's 2000 Report *From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves* (www.ncd.gov/newsroom/publications/2000/privileges.htm), NCD stressed that forced drugging should be viewed as inherently suspect and that practices that would often be illegal if administered to people without disabilities are routinely used on people with psychiatric disabilities in the name of "treatment." But the notion of administering psychiatric medication to someone so that he is considered "fit" for execution should shock the conscience of all Americans.

In *Atkins v. Virginia*, the U.S. Supreme Court ruled that executions of people with cognitive disabilities found guilty of a crime are "cruel and unusual punishments" prohibited by the Eighth Amendment. The Court reasoned that it was "not persuaded that the execution of mentally retarded criminals will measurably advance the deterrent or the retributive purpose of the death penalty." The Court also referred to the growing number of states prohibiting the execution of people with mental retardation as a reflection of society's view that those with cognitive disabilities are less culpable for their offense. The Supreme Court should take the *Atkins* decision one step further and weigh in on the unresolved issue of the constitutionality of medicating inmates to make them competent to be executed.

The forced treatment of Mr. Staley, particularly for purposes of execution, has severe implications for people with disabilities. NCD urges that in the absence of judicial clarity, a closer look be taken at death penalty legislation and the possibility of modification to establish forced treatment of inmates as cruel and unusual punishment and hence unconstitutional.

ADA Town Hall Meeting 2006

On July 26, NCD and its federal partners conducted this year's ADA town hall meeting to celebrate the 16th anniversary of ADA. The meeting, officially known as "A National Dialogue on the State of Disability," was held at the National Press Club in Washington, DC.

The agenda included a presentation by NCD Chairperson Lex Frieden on the current state of disability and a keynote address by Veterans Affairs Deputy Secretary Gordon Mansfield.

Three ADA panels and question-and-answer sessions were also conducted. The Equality of Opportunity and Full Participation panel included John H. Hager, Assistant Secretary, Office of Special Education and Rehabilitative Services, U.S. Department of Education; Loretta King, Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice; Sharon

D. Eller, Director, Office of Civil Rights, U.S. Department of the Interior; Dan Sutherland, Officer for Civil Rights and Civil Liberties, U.S. Department of Homeland Security; Gary Talbot, Member, U.S. Access Board; Thomas Chandler, Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau, Federal Communications Commission; and Gina Semenza, Chair, NCD Youth Advisory Committee.

The Independent Living panel included Olegario D. Cantos VII, Esq., Associate Director on Disabilities, Domestic Policy Council, The White House; Kim Kendrick, Assistant Secretary, Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development; Tyler Duvall, Assistant Secretary for Policy, U.S. Department of Transportation; Margaret J. Giannini, M.D., F.A.A.P., Director, Office on Disability, U.S. Department of Health and Human Services; Bobby Coward, Member, NCD Cultural Diversity Advisory Committee; and Betsy Valnes, Executive Director, National Youth Leadership Network.

The final panel, Economic Self-Sufficiency, consisted of Cari M. Dominguez, Chair, U.S. Equal Employment Opportunity Commission; W. Roy Grizzard, Jr., Ed.D., Assistant Secretary, Office of Disability Employment Policy, U.S. Department of Labor; Martin H. Gerry, Deputy Commissioner, Disability and Income Security Programs, Social Security Administration; Berthy De la Rosa-Aponte, Chair, Ticket to Work and Work Incentives Advisory Panel, Social Security Administration; Rebecca Hare, Project Coordinator, National Consortium on Leadership and Disability for Youth, Institute for Educational Leadership; and Djuna Parmley Mitchell, Consumer Legal Affairs, ENDependence Center of Northern Virginia, Inc.

This year's federal partners included the U.S. Department of Defense; U.S. Department of Education, Office of Special Education and Rehabilitative Services; U.S. Department of Health and Human Services, Office on Disability; U.S. Department of Homeland Security; U.S. Department of Housing and Urban Development; U.S. Department of the Interior; U.S. Department of Justice; U.S. Department of Labor, Office of Disability Employment Policy; U.S. Department of Transportation; U.S. Access Board; U.S. Equal Employment Opportunity Commission; Federal Communications Commission; and Ticket to Work and Work Incentives Advisory Panel.

Federal sponsors included the U.S. Department of Defense; U.S. Department of Health and Human Services; U.S. Department of Labor; U.S. Department of Transportation; U.S. Access Board; Federal Communications Commission; and Social Security Administration.

The archived, captioned Web cast is available at www.AT508.com. It was sponsored by TV Worldwide and AT508.com channel sponsor TPG (The Paciello Group).

Psychiatric Disabilities and Katrina

On July 14, NCD released *The Needs of People with Psychiatric Disabilities During and After Hurricanes Katrina and Rita: Position Paper and Recommendations* (www.ncd.gov/newsroom/publications/2006/peopleneeds.htm), calling on federal, state, and local governments to enact sweeping changes.

The destructive forces of Hurricanes Katrina and Rita in fall 2005 wreaked an emotional as well as a physical toll on residents of the Gulf Coast region. Millions of Americans from across the country reached out to hurricane survivors, opening their homes and their hearts. Government employees at local, state and federal levels worked long and hard to help evacuate and rescue people in the Gulf Coast. Many of these workers are still in the Gulf Coast helping to rebuild communities. In the months since the hurricanes, media coverage of hurricane survivors has waned. However, for hurricane survivors with psychiatric disabilities, the hurricanes' destruction resulted in "trauma that didn't last 24 hours, then go away. ...It goes on and on." Some of these challenges were unavoidable. As one government official said, "No one ever planned for what happens when your social service infrastructure is completely wiped out." Nonetheless, many of the problems could have been avoided with proper planning.

As NCD predicted in its April 2005 report, *Saving Lives: Including People with Disabilities in Disaster Planning* (www.ncd.gov/newsroom/publications/2005/emergency_planning.htm), "[i]f planning does not embrace the value that everyone should survive, they will not." As a result of its research, NCD found that much pre-Katrina disaster planning did not contemplate the needs of people with psychiatric disabilities, and as a result, many people died or unnecessarily suffered severely traumatic experiences.

This paper includes major findings and recommendations, as well as specific recommendations for emergency management officials and policymakers at the local, state, and federal levels.

NCD Board Transition

On August 3, four new board members, who were appointed by President George W. Bush, were confirmed by the U.S. Senate. They are John R. Vaughn, who upon confirmation became NCD chairperson, Victoria Ray Carlson, Chad Colley, and Lisa Mattheiss.

Mr. Vaughn, a resident of Fort Myers, Florida, replaced outgoing NCD chairperson Lex Frieden.

Mr. Vaughn is a retired executive in the financial services industry. He is also a former commissioner of the Virginia Department of Rehabilitative Services and commissioner of the Virginia Department for the Blind and Vision Impaired. Mr. Vaughn was appointed to the Florida Rehabilitation Advisory Council for Blind Services by Governor Jeb Bush. He was also appointed to U.S. Department of Labor Secretary Elaine Chao's Working Committee on Work Place Issues in connection with President Bush's Twenty-first Century Work Force Initiative.

Victoria Ray Carlson, a resident of Naperville, Illinois, replaced outgoing NCD member Joel Kahn, Ph.D.

Ms. Carlson is a homemaker with three young girls. She was the executive director of the National Multiple Sclerosis Society Iowa Chapter. She has worked at the U.S. Departments of Energy and Housing and Urban Development and for Senator Robert Dole in the Republican Leader's Office. In addition, Ms. Carlson was the Iowa Organization Coordinator for Branstad for Governor and worked in the Iowa House of Representatives. Ms. Carlson was also a member of the Iowa Persons with Disabilities Commission.

Chad Colley, a resident of New Smyrna Beach, Florida, replaced outgoing NCD member David Wenzel.

Mr. Colley is a decorated Vietnam veteran who has been active in veteran and disability issues for over three decades. In 1984, he was selected the Handicapped American of the Year on behalf of President Ronald Reagan and is a past national commander of Disabled American Veterans. Mr. Colley's service includes positions as vice chair of the President's Committee on Employment of People with Disabilities and chairman of the Veterans Administration Advisory Committee on Rehabilitation, among others.

Lisa Mattheiss, a resident of East Ridge, Tennessee, replaced outgoing NCD board member Carol Novak.

Mrs. Mattheiss is the parent of a child with special needs. She is a Parents Advisory Council member/volunteer at TC Thompson Children's Hospital in Chattanooga. She is the founder and executive director of LifeLine Ministry of Hamilton Baptist Church. Mrs. Mattheiss is involved with the board of Tennessee's Parent Training and Information organization, STEP, Inc. (Support and Training for Exceptional Parents, Inc.), and she is part of the Tennessee Respite Coalition.

NCD Issues New Emergency Preparedness Paper

On August 3, NCD released *The Impact of Hurricanes Katrina and Rita on People with Disabilities: A Look Back and Remaining Challenges* (http://www.ncd.gov/newsroom/publications/2006/hurricanes_impact.htm).

This paper focuses on the effects of the hurricanes on people with all types of disabilities. NCD recently released another report that addressed in detail the specific challenges for people with psychiatric disabilities. Please refer to *The Needs of People with Psychiatric Disabilities During and After Hurricanes Katrina and Rita: Position Paper and Recommendations* (<http://www.ncd.gov/newsroom/publications/2006/peopleneeds.htm>) for a more detailed report about the population of mental health consumers affected by the hurricanes. Additionally, although the focus is on the emergency preparedness and response to Hurricanes Katrina and Rita, many of the problems addressed in this paper are systemic in nature and were not caused solely by the hurricanes. The challenges faced by people with disabilities during and after the hurricanes, while unique in scope and proportion, were similar to the challenges people with disabilities face on a day-to-day basis. Therefore, many of the findings and recommendations related to Hurricanes Katrina and Rita echo NCD's previous research on improving the daily quality of life of people with disabilities. When America embraces the twin principles of inclusion and accessibility for everyday programs, policies, and infrastructure, Americans with disabilities surely will be counted among the survivors of the next disasters. NCD made detailed recommendations for disaster preparedness in its 2005 report, *Saving Lives: Including People with Disabilities in Emergency Planning* (http://www.ncd.gov/newsroom/publications/2005/saving_lives.htm). Since Hurricanes Katrina and Rita, many interested policymakers and emergency planners have used NCD's research to make their emergency plans more inclusive of people with disabilities. Some of the key recommendations from that report, along with recommendations based on lessons learned from

Hurricanes Katrina and Rita, are included in this report under the Recommendations for Emergency Preparedness section.

On August 31 and September 1, NCD sent letters sharing recommendations from NCD's hurricane- related publications, *The Needs of People with Psychiatric Disabilities During and After Hurricanes Katrina and Rita: Position Paper and Recommendations* and *The Impact of Hurricanes Katrina and Rita on People with Disabilities: A Look Back and Remaining Challenges* to each Member of the Senate Health, Education, Labor and Pensions Committee (http://www.ncd.gov/newsroom/correspondence/2006/enzi_08-31-06.htm), the Chair and Ranking Member of the House Committee on Energy and Commerce's Subcommittee on Health (regarding its hearing on Mental Illness and Brain Disease), and the four Co-Chairs of the Bipartisan Disabilities Caucus, which they, in turn, distributed to entire Caucus.

ADA Restoration

On September 20, NCD chairperson John R. Vaughn wrote to the Subcommittee on the Constitution of the House Committee on the Judiciary to express appreciation for holding the September 13, 2006, Oversight Hearing, "The Americans with Disabilities Act: Sixteen Years Later." NCD is required by its authorizing statute to advise the Administration and Congress regarding laws and issues that affect people with disabilities. NCD also has the specific responsibility to gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (ADA). To further this statutory mandate, NCD submitted a letter, which included both a statement and a publications list, for inclusion in the hearing record.

The ADA is the most significant civil rights advancement for people with disabilities to date. The provisions of the ADA addressing architectural, transportation, and communication accessibility, for instance, have changed the face of American society in numerous concrete ways. The ADA has been the impetus for a revolution in the inclusion, integration, and empowerment of Americans with disabilities.

NCD played a key role in the ADA's inception and has continually reviewed the implementation and impact of the law since its enactment in 1990. NCD will soon add two new entries to this list. The ADA Impact Project entailed conducting a review of existing information about the impact of the ADA, gathering input from ADA stakeholders, and assessing the current state of research and knowledge about the impact of the ADA in an attempt to determine the extent to which the overarching goals of the ADA have been met. The ADA Implementation Project created a national dialogue of representatives from ADA stakeholder groups to develop recommendations for improving ADA implementation. The project also reviewed implementation best practices, litigation issues, and public awareness strategies. NCD will present the findings and recommendations from these projects in two separate reports, which will be made available in early 2007.

In a variety of ways, the ADA has lived up to the high hopes that accompanied its passage. However, challenges remain, particularly with respect to judicial interpretations of the law, which have limited implementation by severely curtailing the number of Americans able to

successfully utilize the law as Congress intended. Necessary changes include clarifying Congress' intent regarding the definition of disability to restore the ADA to its original status as broad and inclusive civil rights legislation. Congress should also work to increase resources for technical assistance and to help maximize effective dissemination of existing information to the public as a whole, and small businesses in particular, to facilitate voluntary ADA compliance. NCD's official statement for the hearing record, which spells out NCD's positions on several ADA-related issues, can be found at http://www.ncd.gov/newsroom/correspondence/2006/chabot_09-20-06.htm.

UN Update

The draft text of the United Nations Convention on the Rights of Persons with Disabilities was adopted by the 8th Ad Hoc Committee on Friday, August 26, 2006, in New York City and was adopted by the UN General Assembly on December 13, 2006. NCD issued statements commending the United Nations General Assembly, UN delegates, non-governmental representatives, and civil society for the hard work invested in this new convention on the rights of people with disabilities around the world. This momentous occasion marked the end of a five-year-long negotiation process that was unprecedented in its inclusion of non-governmental organizations made up of people with disabilities and is the first convention of this magnitude in this century that will further the human rights of millions of people with disabilities around the world, along with their families and the communities in which they live and work. The treaty will be open for signature and ratification on March 30, 2007.

NCD has played an important role in providing technical assistance throughout the Convention negotiation process. At the outset of negotiations, NCD published a document titled *Understanding the Role of an International Convention on the Human Rights of People with Disabilities* and *A Reference Tool: Understanding the Potential Content and Structure of an International Convention on the Human Rights of People with Disabilities* as well as an outreach tool explaining the process *An International Disability and Human Rights Convention: What you Need to Know about International Human Rights Law and Efforts to Gain Equality and Justice for People with Disabilities in the US and Abroad*. Midway through the negotiation process, we published *UN Disability Convention - Topics at a Glance: History of the Process* to continue to inform the disability community about the work being done. NCD also produced updates on the current status of the treaty negotiations, following each Ad Hoc Committee meeting.

At the 6th Ad Hoc Committee meeting, NCD held a side-event, at which we released several topical papers on the US experience to provide technical assistance in the drafting of specific articles. The topical papers addressed health; transportation; independent living and living in the community; employment; education; political and public life; and information technology. All are available at: <http://www.ncd.gov/newsroom/publications/2005/alltheseries.htm>. At the August, 2006 8th Ad Hoc Committee meeting, NCD held another side-event to begin discussions on the practical aspects of implementation of the Convention. NCD released a summary of these discussions, available at http://www.ncd.gov/newsroom/publications/2006/side_event.htm.

ADVISORY COMMITTEES

NCD has three advisory committees. They are the Cultural Diversity Advisory Committee, International Watch, and the Youth Advisory Committee. All NCD advisory committees are governed by the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, which was enacted to promote good government values such as openness, accountability and balance of viewpoints consistent with administrative efficiency and cost-containment.

Cultural Diversity Advisory Committee

The purpose of NCD's Cultural Diversity Advisory Committee (CDAC) (www.ncd.gov/newsroom/advisory/cultural/cultural.html) is to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee will help identify issues, expand outreach, infuse participation, and elevate the voices of underserved and unserved segments of this nation's population. This will help NCD develop federal policy that will address the needs and advance the civil and human rights of people from diverse cultures.

CDAC's charter was renewed for two years on January 12, 2007.

International Watch

The purpose of International Watch (IW) (www.ncd.gov/newsroom/advisory/international/international.html) is to share information on international disability issues and to advise NCD on the development of policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act. IW has two working groups: International Convention on the Human Rights of People with Disabilities; and Inclusion of People with Disabilities in Foreign Assistance Programs.

IW's charter was renewed for two years on September 21, 2006.

Youth Advisory Committee

The purpose of the Youth Advisory Committee (YAC) (www.ncd.gov/newsroom/advisory/youth/youth.html) is to provide advice to NCD on various issues such as NCD's planning and priorities. NCD is seeking this type of input in order to make sure NCD's activities and policy recommendations respond to the needs of youth with disabilities.

YAC's charter was renewed for two years on October 27, 2005.

INFORMATION DISSEMINATION

Information dissemination continued to grow at record levels for NCD, as it responded to thousands of telephone calls, e-mail messages, and letters from concerned people and organizations about disability issues. During the year, NCD also received thousands of news clips from its news clipping service, reflecting a high degree of interest by the media in NCD's

initiatives and activities. This symbiotic relationship between NCD and the media helps disseminate important disability-related information that affects all Americans with disabilities and their families.

In addition, NCD published its monthly newsletter, *NCD Bulletin*, which has the potential to reach millions of people and organizations by utilizing a wide distribution via U.S. Mail, listserv, NCD Web site, and by publishing on U.S. Newswire and PR Newswire. All NCD publications are available in alternative formats, such as Braille, large print, and audiocassette. This information is also available at NCD's award-winning Internet Web site (www.ncd.gov).

NCD WEB SITE

During FY 2006, NCD increasingly relied on its ability to provide cost-effective and efficient dissemination of its work through the use of information technology (i.e., its Web site). For example, during the fiscal year, NCD's Web site received in excess of 12 million hits, including an increasing number of first-time visitors.

An increasing number of visitors to NCD's Web site are interested in downloading copies of NCD's reports, policy briefs, and other pertinent outcomes. During FY 2006 approximately 500,000 reports were downloaded, saving thousands of dollars in printing and approximately \$60,000 in postage. This is another NCD fiscal year record and fully supports the President's expanded electronic government management initiative to improve the government's ability to serve its citizens. Some NCD documents are also available in Spanish, Chinese, and Vietnamese. All NCD Web documents can be roughly translated into multiple languages other than English with the use of a free Web translator.

NCD QUARTERLY MEETINGS

As required by Section 400 of the Rehabilitation Act of 1973, as amended, NCD met on four occasions during FY 2006:

October 5-6, 2005, San Francisco, CA
January 30-31, 2006, Washington, DC
March 13-14, 2006, Lake Buena Vista, FL
July 25-26, 2006, Washington, DC

Federal Managers' Financial Integrity Act Signed Assurance Statement

March 21, 2007

The Honorable Rob Portman, Director
Office of Management and Budget
Executive Office Building
17th Street and Pennsylvania Avenue, NW
Washington, DC 20503

Dear Mr. Portman:

On the basis of the National Council on Disability's (NCD) management control process, I am pleased to certify with reasonable assurance that NCD's systems of accounting and internal controls are in compliance with the internal control objectives in OMB's Bulletin Number 01-02. I also believe these same systems of accounting and internal controls provide reasonable assurance that NCD is in compliance with the provisions of the Federal Managers' Financial Integrity Act.

The Federal Managers' Financial Integrity Act requires agencies to provide an annual statement of assurance regarding management controls and financial systems. NCD is pleased to report continued progress in strengthening management controls. The continuous improvement of program and operational management process is ongoing. Agency financial management controls and systems, taken as a whole, provide reasonable assurance that accounting systems comply with appropriate federal requirements. This conclusion is based on the review and consideration of internal analyses, reconciliations, reports, and other information.

Prior to the enactment of the Accountability of Tax Dollars Act, NCD had established a policy to conduct an audit biannually. NCD conducted an audit of its FY 2004 financial statement in accordance with the Accountability of Tax Dollars Act. NCD received a clean opinion.

If there are any questions or additional information is needed, please contact the NCD office at 202-272-2004.

Sincerely,

Martin Gould, Ed.D
Co-Acting Executive Director

Mark S. Quigley
Co-Acting Executive Director

Conclusion

In conclusion, NCD continues to be a leader in the development and analysis of disability policy. The use of the *Annual Performance Report to the President and Congress Fiscal Year 2006*, as required by the Government Performance and Results Act, has greatly assisted NCD in carrying out its mission. The findings of this report clearly indicate that NCD has either met or exceeded the projected levels in its performance plan.