

Via Email ofccp_guidance@dol.gov

And filed at <https://www.federalregister.gov/documents/2025/07/01/2025-12233/modifications-to-the-regulations-implementing-section-503-of-the-rehabilitation-act-of-1973-as>

Catherine L. Eschbach
Director, OFCCP
200 Constitution Avenue NW
Washington, DC 20210

RE: Docket No. OFCCP-2025-0003, Modifications to the Regulations
Implementing Section 503 of the Rehabilitation Act of 1973, as Amended
– **OPPOSE**

Dear Director Eschbach:

I am writing on behalf of Disability Rights Education and Defense Fund. DREDF is a national nonprofit law and policy center dedicated to advancing and protecting the civil and human rights of people with disabilities. Founded in 1979 by people with disabilities and parents of children with disabilities, DREDF remains board- and staff-led by members of the communities for whom we advocate. DREDF pursues its mission through education, advocacy, and law reform efforts, and is nationally recognized for its expertise in the interpretation of federal civil rights laws protecting persons with disabilities.

DREDF opposes the proposed rescissions to the rules of the Office of Federal Contract Compliance Programs to its regulations implementing Section 503 of the Rehabilitation Act of 1973. To improve the lives of people with disabilities, federal contractors – the entities that employ one quarter of the workforce – must take affirmative steps to recruit, hire, retain, and promote qualified people with disabilities.

[Congress Has Repeatedly Directed Federal Contractors to Take Affirmative Action to Employ and Advance Qualified Individuals with Disabilities.](#)

Section 503 states that employers with federal contracts worth more than \$15,000 “shall take affirmative action to employ and advance in employment qualified individuals with disabilities.” 29 U.S.C. § 793(a). Congress has repeatedly issued this directive – to take affirmative action to employ and promote qualified disabled people – by enacting and reenacting Sections 503 of the Rehabilitation Act of 1973. 93 P.L. 112; 87 Stat. 355, sec. 503 (Sept. 26, 1973); 95 P.L. 602; 92 Stat. 2955, sec. 122 (Nov. 6, 1978); 99 P.L. 506; 100 Stat. 1807, secs. 103, 1001, 1002 (Oct. 21, 1986); 100 P.L. 630; 102 Stat. 3289, sec. 206 (Nov. 7, 1988); 102 P.L. 569; 106 Stat. 4344 (Oct. 29, 1992). Congress has similarly ordered federal agencies to adopt “an affirmative action program plan for

the hiring, placement, and advancement of individuals with disabilities.” 29 U.S.C. § 791(b).

Congress’s statutory purposes in enacting Section 503 (and the analogous Section 501) show a demand for concrete and action-oriented steps. The 1973 act was adopted to “authorize programs ... to promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment.” 87 Stat. 355, sec. 1 (Sept. 26, 1973); *accord* 92 Stat. 2955, sec. 122 (Nov. 6, 1978) (“The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living.”); 106 Stat. 4344, sec. 101 (Oct. 29, 1992) (“Congress finds that ... disability is a natural part of the human experience and in no way diminishes the right of individuals to ... pursue meaningful careers ... [and] increased employment of individuals with disabilities can be achieved through the provision of ... meaningful opportunities for employment in integrated work settings’[.]”).

Congress’s directive to federal contractors was and is well supported by data regarding people with disabilities. People with disabilities are far less likely than people without disabilities to be in the labor force. About 41% of working-aged (aged 16 to 64) people with disabilities participate in the labor force, compared to about 75% of people without disabilities. Similarly, working-aged people with disabilities in the labor force are twice as likely to be unemployed. More than 8% of disabled people are unemployed, compared to 4% of people without disabilities. See Department of Labor, Bureau of Labor Statistics, “Employment status of the civilian noninstitutional population by disability status and age, 2023 and 2024 annual averages” (Feb. 25, 2025), <https://www.bls.gov/news.release/disabl.a.htm>.

The exclusion of people with disabilities from the labor force and employment is closely linked to the higher rate of poverty experienced by people with disabilities. More than 24% of people with disabilities aged 18 to 64 live in poverty, compared to 9.9% of nondisabled people. Center for Research on Disability, 2025 Compendium (2025), <https://www.researchondisability.org/annual-disability-statistics-collection/2025-compendium-table-contents/section-6-poverty-compendium-2025>.

The OFCCP cited such disparities in its 2011 Notice of Proposed Rulemaking and its 2013 Final Rule. OFCCP, Advance Notice of Proposed Rulemaking, 75 Fed. Reg. 43116 (July 23, 2010), <https://www.federalregister.gov/d/2010-18104/p-18>; Notice of Proposed Rulemaking, 76 Fed. Reg. 77056 (Dec. 9, 2011), <https://www.federalregister.gov/d/2011-31371/p-15>; Final Rule, 78 Fed. Reg. 58682 (Sept. 24, 2013), <https://www.federalregister.gov/d/2013-21228/p-268> (21.8% of people with disabilities aged 16 and older in labor force in 2010, compared with 70.1% of individuals without disabilities aged 16 and older).

These disparities are persistent and date back to the beginning of such data collection. See, e.g., Robert Bennefield and John McNeil, Labor Force Status and Other Characteristics of Persons with a Work Disability: 1981 to 1988 (July 1989), Tables C, F, <https://files.eric.ed.gov/fulltext/ED310240.pdf>; U.S. Bureau of the Census, Census of Population: 1970; Persons with Work Disability: Final Report (Jan. 1973), Table 4, <https://files.eric.ed.gov/fulltext/ED084356.pdf>.

Congress responded to these barriers when it enacted and reenacted Section 503. The mandatory directive of the law together with the gravity of the problem it seeks to address mark an *imperative* for continuing *affirmative steps* for the inclusion of people with disabilities in the workforces of federal contractors. The proposed rulemaking is wholly misguided.

The Office of Federal Contract Compliance Programs Adopted Reasonable and Effective Regulations Which Should Not Be Rescinded.

From 2010 to 2013, the Office of Federal Contract Compliance Programs (OFCCP) wrote and finalized common-sense and action-oriented rules to implement Section 503. Under the rules, large federal contractors – those with more than 50 employees and contracts over \$50,000 – must invite applicants and employees to voluntarily self-identify as people with disabilities so that the contractors have disability data about their workforce. The contractors must then analyze this data using a 7% goal. The 7% goal is a benchmark to measure progress. Contractors should try to reach a workforce with 7% qualified people with disabilities (including 7% in each job group for contractors with more than 100 employees). If the numbers show problem areas in the recruitment, hiring, retention, or advancement of qualified disabled workers, then the contractor should implement an action plan to correct the problems. The action plan could include modified personnel processes and alternative or additional outreach and recruitment efforts.

In finalizing the 2013 rules, OFCCP considered data and hundreds of comments throughout a rulemaking process that extended over three years. The 2013 rules were and are supported by the persistent significant disparities in labor force participation by people with disabilities and employment of people with disabilities. See OFCCP, Advance Notice of Proposed Rulemaking, 75 Fed. Reg. 43116 (July 23, 2010), <https://www.federalregister.gov/d/2010-18104/p-18>; Notice of Proposed Rulemaking, 76 Fed. Reg. 77056 (Dec. 9, 2011), <https://www.federalregister.gov/d/2011-31371/p-15>; Final Rule, 78 Fed. Reg. 58682 (Sept. 24, 2013), <https://www.federalregister.gov/d/2013-21228/p-268>.

The OFCCP adopted the modest 7% goal based on the Census Bureau's American Community Survey (ACS). The ACS shows that 5.7 percent of the civilian labor force has a disability as defined in that survey. The OFCCP added 1.7 percentage points based on ACS's count of disabled individuals who identified as having an occupation

but were not currently working, and then rounded the 7.4 number down to avoid a false impression of precision. 78 Fed. Reg. at 58705, <https://www.federalregister.gov/d/2013-21228/p-258>. Although based on the ACS, the OFCCP goal includes people with any disability as defined by the ADA. The ADA uses a broad definition of disability which is generally thought to encompass at least one in four people. Cf. Centers for Disease Control and Prevention, Disability and Health Data System (Apr. 8, 2025) (according to 2022 data, more than a quarter of adults in the United States (28.7%) report having a functional disability), <https://www.cdc.gov/disability-and-health/articles-documents/disability-and-health-data-now.html>. The 7% goal is lower than the 12% benchmark applied to federal employers.

The OFCCP rules for collecting disability data by inviting applicants and employees to voluntarily self-identify as people with disabilities are also well-founded. The federal government has long followed similar procedures in collecting voluntary demographic data about its own employees. See EEOC, Management Directive 715 (Oct. 1, 2003), <https://www.eeoc.gov/federal-sector/management-directive/section-717-title-vii>; Affirmative Action for Individuals With Disabilities in Federal Employment, 82 Fed. Reg. 654 (Jan. 3, 2017), <https://www.federalregister.gov/documents/2017/01/03/2016-31397/affirmative-action-for-individuals-with-disabilities-in-federal-employment>. Data collection is plainly needed to further Congress's direction and intent – there is no way to measure progress in the employment of people with disabilities without information about how many employees have disabilities. The data collection is voluntary and includes safeguards for workers. 41 C.F.R. § 60–741.42(d), (e). For the reasons stated in other comment documents, including in the letter submitted by members of the Consortium for Constituents with Disabilities (CCD), the data collection is lawful. See 42 U.S.C. § 12201(b).

Rescission of the data collection and the benchmark analysis would decimate the force of the regulations and mark a cessation of federal leadership, contrary to Congressional intent. The changes should not be made.

The Section 503 Rules Have Already Shown Success in Advancing Congress's Purpose; They Should Not Be Rescinded.

The Section 503 rules have already shown success in strengthening employer commitment to the hiring, retention, and advancement of qualified people with disabilities. In 2017, researchers at the Cornell University School of Industrial and Labor Relations surveyed hundreds of federal contractors about the 2013 rules. They found that large majorities of federal contractors were using or planning to use the disability self-identification data to assess their progress toward the 7% utilization goal (90%), gauge success in outreach and recruitment (87%), assess progress in hiring (86%), assess progress in retention (66%), and review progress in advancement (61%). Hassan Enayati & Sarah von Schrader, "Initial Impact of Section 503 Rules: Understanding Good Employer Practices and the Trends in Disability Violations Among

Federal Contractors” (June 15, 2020), <https://ecommons.cornell.edu/items/8049263c-ab97-4437-b008-9f725be73f71>.

The National Organization on Disability (NOD) conducts surveys related to people with disabilities. Given this rulemaking, NOD shared with DREDF results across its 2019 to 2024 data, which included 266 firms, 71% of which were federal contractors. The results, adjusted for company size and year, include:

- Federal contractors hire an average of 386 people with disabilities each year, compared to 286 on average among non-contractors;
- Federal contractors hire twice as many (101% more) people with disabilities each year than do non-contractors;
- Within the company, federal contractors promote 87% more employees with disabilities each year than do non-contractors;
- Overall, federal contractors employ 21% more people with disabilities than do non-contractors;
- Federal contractors use an average of 8.04 disability-focused recruitment practices, compared to 6.10 among non-contractors, or a 32% higher average which is maintained when controlling for company size and year.

Email from Douglas Kruse, Ph.D., to Claudia Center (Aug. 20, 2025) (on file with DREDF). A 2020 report from the National Council on Disability (NCD) showed that between October 2018 to June 2020, a small but steadily increasing number of covered contractors who participated in Section 503 compliance reviews were meeting the utilization goal. NCD, 2020 Progress Report on National Disability Policy Increasing Disability Employment (July 24, 2024), <https://www.ncd.gov/assets/uploads/docs/ncd-progress-report-508-0.pdf>.

There is even more information about the similar requirement for federal agencies, implemented by the U.S. Equal Employment Opportunity Commission (EEOC). Federal employers must collect and maintain disability data and work toward a 12% goal for people with disabilities, including a 2% subgoal for people with targeted disabilities. According to the EEOC, between FY 2016 and FY 2020, the rate of participation of people with disabilities in the federal workforce increased by 8.5% and the rate of participation of people with targeted disabilities increased by 81.2%. EEOC, FY 2020 Annual Report on the Federal Workforce Part 2: Workforce Statistics and EEO Commitment, https://www.eeoc.gov/fy-2020-annual-report-federal-workforce-part-2-workforce-statistics-and-eeo-commitment#_Toc115091790; see also GAO, “Disability Employment: Hiring Has Increased but Actions Needed to Assess Retention, Training, and Reasonable Accommodation Efforts” (June 11, 2020) (from 2011 to 2015, 143,600 persons with disabilities were hired by federal agencies, exceeding goal of 100,000), <https://www.gao.gov/products/gao-20-384>; Kathleen E. Marchsteiner and Taylor N.

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Riccard, "Federal Hiring of Persons with Disabilities" (CRS, Nov. 28, 2022) (between 2016 to 2018, the 12% federal sector hiring goal for persons with disabilities was exceeded in 2014 and 2015 and the 2% hiring goal was reached in 2018), <https://www.congress.gov/crs-product/R47316>.

These data show that the hiring and retention goals work and should be retained. In the words of Patrician A. Shiu, former Director of OFCCP, "What gets measured gets done."

Conclusion.

It is critically important to keep the 7% goal and the requirement that contractors invite applicants and employees to voluntarily self-identify as having a disability. Without a benchmark, and without knowledge about the number of people with disabilities in the applicant pool and workforce, it would be nearly impossible for a contractor to conduct a meaningful affirmative action program to employ and advance people with disabilities.

Now is not the time to backtrack on the inclusion of qualified people with disabilities in the workforce. DREDF opposes the harmful proposed changes to the Section 503 regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Claudia Center". The signature is fluid and cursive, with a long horizontal stroke at the end.

Claudia Center
Legal Director