

9/2/2025

Catherine L. Eschbach
Director, OFCCP
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RE: Modifications to the Regulations Implementing Section 503 of the Rehabilitation Act of 1973, as Amended

Dear Director Eschbach,

The Northwestern Pritzker Law Center for Racial and Disability Justice (CRDJ) submits this comment in response to the U.S. Department of Labor’s proposed rule, “Modifications to the Regulations Implementing Section 503 of the Rehabilitation Act of 1973” (Federal Register Document [2025-12233](#)). As a disabled persons’ organization (DPO) dedicated to advancing racial and disability justice through legal scholarship, policy advocacy, and community mobilization, CRDJ is deeply concerned about the implications of this rule for disabled workers—particularly those who are multiply marginalized.

The proposed rule would eliminate key protections currently embedded in Section 503’s affirmative action framework for federal contractors. Specifically, it seeks to:

- Remove the pre-offer disability self-identification requirement.
- Eliminate the 7% aspirational utilization goal for hiring disabled workers.
- End the requirement for contractors to conduct utilization analyses and self-audits.
- Remove references to enforcement provisions under [Executive Order 11246](#).

While these changes are framed as deregulatory, in reality they amount to a significant rollback of civil rights protections for disabled people in federal contracting spaces.

CRDJ finds these changes deeply problematic. They would substantially reduce transparency, accountability, and the ability to track or remedy disability-based discrimination in employment—at a time when disabled workers continue to face disproportionately high rates of exclusion, poverty, and bias. Far from modernizing enforcement, the proposed rule undermines decades of progress toward inclusion and signals a retreat from the federal government’s commitments to fairness and accessibility in public contracting.

BACKGROUND

Section 503, part of the Rehabilitation Act of 1973, prohibits disability-based employment discrimination by federal contractors and requires these contractors to take affirmative action to hire and advance qualified individuals with disabilities. Its current implementing regulations, particularly in [41 CFR Part 60-741](#), establish several key mechanisms, including:

- Pre-offer voluntary self-identification of disability status
- A 7% aspirational utilization goal, alongside mandated utilization analyses, to assess whether hiring aligns with the goal
- Administrative enforcement procedures imported via cross-references to Executive Order (EO) 11246 procedures codified in [41 CFR Part 60-30](#)

These elements were added in a 2013 final rule, which became effective in [March 2014](#).

PROPOSED CHANGES

The proposed rule would significantly revise the regulations under Section 503, which prohibits disability discrimination by federal contractors and requires affirmative action. First, it eliminates all references to EO 11246, which was revoked in January 2025 by [EO 14173](#). Instead of relying on shared enforcement mechanisms, the rule inserts standalone administrative procedures into Part 60-741 of the Code of Federal Regulations.

Second, it proposes eliminating the requirement that contractors invite job applicants to self-identify as having a disability prior to receiving a job offer. OFCCP argues that this requirement may conflict with the Americans with Disabilities Act (ADA), which restricts pre-offer disability-related inquiries. This marks a major shift from the agency's earlier reliance on a 2013 EEOC opinion letter that supported pre-offer self-identification under certain circumstances.

Third, the proposed rule would abolish the existing 7% utilization goal for hiring disabled workers and the requirement that contractors conduct utilization analyses to track their progress. OFCCP claims these provisions are not legally required and were previously justified under the now-revoked EO 11246. In place of these accountability tools, the rule would codify procedural enforcement rules directly in Part 60-741, including requirements for hearings, records, appeals, and orders.

The proposal also removes redundant cross-references to self-identification and utilization goals across the regulations, while requesting public feedback under the Paperwork Reduction Act. OFCCP frames these changes as deregulatory, asserting they will clarify obligations and reduce burdens for federal contractors. However, the removal of data collection mechanisms, benchmarks, and accountability tools, particularly those promoting disability inclusion in hiring, raises significant concerns for civil rights advocates.

ELIMINATION OF PRE-OFFER SELF-IDENTIFICATION

Removing the requirement for federal contractors to invite applicants to voluntarily self-identify as disabled prior to a job offer would eliminate a vital mechanism for tracking disability representation in the hiring pipeline. Without this data, it becomes significantly harder to detect and address discriminatory practices in early-stage recruitment. This change undermines efforts to build evidence-based initiatives and impairs the ability to assess outreach effectiveness. The loss of self-ID data would disproportionately affect multiply marginalized disabled individuals, whose experiences are already underrepresented in employment data. Pre-offer self-identification has been a key tool for ensuring transparency and accountability in inclusive hiring. Its removal diminishes both visibility and opportunity for disabled jobseekers.

ELIMINATING THE 7% UTILIZATION GOAL

The proposed elimination of the 7% utilization goal would remove the only federal numeric benchmark encouraging proactive hiring of disabled people. Although aspirational, this goal provided a clear and consistent measure by which contractors could assess their progress and evaluate whether systemic barriers might be suppressing disabled representation. Without it, there is no baseline standard for inclusion—contractors will no longer be expected to strive toward a measurable outcome. This change weakens enforcement and accountability, and signals a broader retreat from the understanding that employment disparities are structurally rooted rather than individually caused. By shifting the burden back onto disabled individuals to prove discrimination case-by-case, the rule undermines both civil rights enforcement and the core principles of disability justice.

REMOVING CONTRACTOR SELF-AUDITS

The proposed rule also eliminates the requirement for contractors to conduct self-audits of their hiring, promotion, and compensation practices to evaluate inclusion of people with disabilities. This means contractors will no longer need to examine whether their practices are producing discriminatory outcomes or take steps to address shortfalls. The loss of mandated self-assessment reduces both internal reflection and transparency. Many contractors may default to passive or superficial inclusion efforts, especially when no longer held to review their own data. This rollback would likely lead to stagnation or backsliding in disability employment, particularly in sectors with long-standing barriers to access.

WEAKENING ENFORCEMENT BY REMOVING EO 11246 CROSS-REFERENCES

Currently, the enforcement provisions of Section 503 rely on administrative procedures tied to EO 11246, which also governs race- and gender-based affirmative action. By removing these references, the proposed rule disentangles disability nondiscrimination enforcement from broader civil rights frameworks. This change could result in disability-related complaints being siloed or deprioritized, especially in intersectional cases where disability interacts with other protected identities. Legal protections for disabled workers will become more fragmented and potentially less robust, undermining solidarity and shared enforcement mechanisms across marginalized groups. The proposed rule effectively erases the intersectionality that defines the lived experiences of the majority of disabled people.

FRAMING OF CHANGES AS “DEREGULATION”

The framing of these proposed changes as “deregulatory” and a reduction of contractor burden reinforces an individualistic model of rights that shifts responsibility away from systemic actors. Rather than affirming disability inclusion as a civil rights imperative, the proposal casts it as a compliance burden. This rhetoric reflects and perpetuates ableist logic that views access and equity as optional or negotiable. If finalized, these changes would not only roll back decades of civil rights progress but also send a dangerous message: that disabled people’s rights can be deprioritized in the name of efficiency or cost-cutting.

CONCLUSION

The collective impact of these changes is far-reaching. Without self-identification data, disabled people become invisible in hiring systems. Without utilization goals, there is no standard or incentive to improve. Without self-audits, contractors are not held accountable for discriminatory practices. By

removing connections to EO 11246, enforcement becomes more fragmented and less intersectional. And by framing these changes as deregulatory, the administration signals a retreat from longstanding civil rights commitments. This represents a fundamental shift away from proactive inclusion toward a minimalist compliance model that is ill-equipped to address structural inequity.

Disabled jobseekers, particularly those attempting to enter large federal contractor industries, stand to be most harmed by these changes. Multiply marginalized disabled people are likely to face even greater exclusion. Disability rights advocates, policy researchers, and equity-focused coalitions will lose access to critical data used to identify and address disparities. And federal civil rights enforcement agencies will be left with fewer tools to compel meaningful compliance. Overall, the changes risk deepening systemic barriers at a time when bold, intersectional solutions are urgently needed.

The most urgent recommendation is to withdraw this rulemaking in its entirety. The proposed changes would dismantle critical components of Section 503, including disability self-identification, the 7% utilization goal, and self-auditing requirements, all of which are essential tools for advancing inclusion and detecting discrimination. Without them, enforcement is gutted and disability equity becomes functionally optional.

If you have any questions, please feel free to contact Dr. Kate Caldwell at kcaldwell@law.northwestern.edu.

Sincerely,

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