



EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Shirley J. Wilcher
Deputy Assistant Secretary

200 Constitution Ave., N.W.
Washington, DC 20210

Telephone: (202) 693-0101
Fax: (202) 219-6195
E-mail: sjw@fenix2.dol-esa.gov



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OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

James I. Melvin
Director
Division of Policy, Planning & Program Development

Room N3424
200 Constitution Avenue, N.W.
Washington, DC 20210

Telephone: (202) 693-0102
Fax: (202) 219-6195
E-mail: jmelvin@fenix2.dol-esa.gov



Cynthia A. Rice

10/21/99 04:57:46 PM

Record Type: Record

To: Edward W. Correia/WHO/EOP@EOP
cc: lisa m. brown/ovp@ovp
bcc:
Subject: Re: Follow-up to 503 Enforcement Discussion -Forwarded

These ideas seem promising. Lisa if you have trouble reading the attachment (I did) I've pasted it below

Date: 10/15/1999 05:29 pm (Friday)
Subject: Follow-up to 503 Enforcement Discussion

Eddie, Lisa, Becky --

Instead of, or in addition to, OFFCP's emphasis on increasing investigation of individual complaints we have another idea to propose:

1) Distill the OPM Model Plan guidance into a technical assistance document that will be useful to private sector employers. (We (CRT/DOJ) would be willing to take a cut at this).

2) Have OFFCP send this distilled document to all of its federal contractors (with an appropriate cover letter stating that :

- a) it is a technical assistance document (that avoids any PRA problem);
- b) it provides a good framework for addressing the employment of people w/disabilities;
- c) OFFCP will be conducting compliance reviews over the next years.

3) OFFCP should do compliance reviews to look at :

- a) outreach efforts on disability;
- b) whether the employer has an appropriate policy on providing reasonable accommodation;
- c) how many disabled employees they have (if they know)

These reviews could be either part of their current reviews or could be a separate initiative (i.e. 500-1000 reviews limited to disability issues). It seems that site visits would not be required for most reviews -- therefore the cost should be limited.

Next steps
② Doc meets w/ OFFCP
③ DOJ will check 503 requirements

⑤ Need Melina

① Who issues
② OFFCP?

② cover letter announces transition and compliance review

③ Double check what 503 reqs require (DOJ)
④ Will OFFCP want to vet w/ ~~the~~ employers?

DOC
OFFCP asked for additional resources in FY '01 budget

Clarify how different from current?

can we ask who PRA?

4) Report on results of compliance reviews publish in useful form

(FYI - we used a similar process for our
ADA compliance reviews of 9-1-1
emergency centers)

--Liz and Mark
Edward W. Correia

Edward W. Correia

10/21/99 03:41:20 PM

Record Type: Record

To: Lisa M. Brown/OVP@OVP, Cynthia A. Rice/OPD/EOP@EOP

cc:

Subject: Follow-up to 503 Enforcement Discussion -Forwarded

Becky Ogle would like to meet to discuss Liz Savage's recommendations regarding Section 503.
(See attached) That's fine with me. I think Becky will be calling you.

----- Forwarded by Edward W. Correia/WHO/EOP on 10/21/99 03:40 PM -----



Liz Savage <Liz.Savage@usdoj.gov>

10/21/99 02:55:00 PM

Record Type: Record

To: Edward W. Correia/WHO/EOP

cc:

Subject: Follow-up to 503 Enforcement Discussion -Forwarded

Eddie -

The msg we sent lastweek is attached. liz



- ENCLOSURE

19/20

Disability / contractor ideas

Diore Lee Office of Federal Procurement Policy, OMB

Federal Acquisition Regulation

(FAR) - implements statutory language re =

- do not apply to grants
but to other appropriated funds

Currently have proposed rule

defining "responsible contractor"

→ before contracting officer

: says you are eligible for award, has to determine if contractor is responsible

→ proposed rule amends one piece of this.

Currently

→ contractor have to be

EEOC compliant

→ 112.46 - all ^{federal} contractors must

have affirmative action

plan w/ at least \$10K in contracts

must comply w/ EEOC class

→ will not discriminate

→ will take aff action

→ as part of that
establish goals

→ must make "good
faith effort" to meet

~~Companies~~

Companies submit annual
workforce profile (set out
in EO)

To establish goals - what is
proportion of women + minorities
who has requisite skills

Next steps

Don't have data on people with disabilities

Developing Data

1) What % in population have forgotten disabilities

9 months

National Health Interview Survey
→ main use for fed work force gov (EEOC comfortable)

2) Need to know what % of, gov, commercial lawyers, are female

US gov = 10%

gen pop = 40%

→ BLS or other devise employment rate for people w/ disabilities - began field testing early 2000

3) Gather data from contractors

→ various EO/statutes

→ Sec 503 gives authority to collect data from employers/contractors but don't have data to compare to

OFCCP could reverse way
for 503 as bad data
(has statutory authority)

Possible Next Steps

① OFCCP could reach out to
employers + disabilities
community → prepare to
begin writing regs.

② While Task Force works on data
→ National Health Interview Survey
→ BLS

③ First step w/ Fed govt

Current enforcement of ADA

→ investigate complaints

→ complaints must have
aff. action plan

~~persuasive consent~~

→ Review archy.

6,000 out of 60,000

→ state programs to
ensure they don't
discriminate

→ have you provided
accommodations

→ have you done outreach

Could tell us - with some work -
what % have had how many
people w/ disabilities

Things OFCCP want

- ① more complaints can come to them → they have staff
- ② should remember to announce staff who did succeed when contracts expire (press releases of the same kind out)

For grantees - grant making agencies play some roles as OFCCP does for contractors

What should I ask for re

OFCCP should explore wrap up before BLS does employment data

** FY 2001 budget - include \$\$\$ for data

Rec

→ Admin develop Instn

→ Offer exp-52 who can do
community way to
increase hiring

→ could we reduce Instn
from 6000?

EEO 1 -

TASK FORCE DIRECTIVES

The Task Force recommends that:

The President convenes a White House Conference on Employment of Adults with Disabilities to coincide with the tenth anniversary of the ADA that will include representatives from the Administration, Congress, elected officials from state and local governments, Fortune 500 companies, the National Federation of Small Businesses, the U.S. Chamber of Commerce, the disability community and other related entities regarding employment of people with disabilities.

Justification

This Conference will provide visibility to the issue of employing persons with disabilities and build partnerships between public and private sectors.

The Task Force recommends that:

The President directs the Department of Labor to develop the proposals needed to create the Office of Disability Policy, Evaluation and Technical Assistance (ODPET), including the consolidation of the President's Committee on Employment of People with Disabilities (PCEPD). The new Office will assist the Presidential Task Force on Employment of Adults with Disabilities in implementing a coordinated and aggressive national employment strategy for persons with disabilities.

Justification

ODPET will provide a needed complement to the Presidential Task Force in ensuring the effective implementation of the coordinated effort necessary to eliminate barriers to employment, and to significantly expand employment of people with disabilities to a rate comparable to that of individuals without disabilities. The Presidential Task Force will continue to be responsible in the short-term for developing, refining and monitoring the implementation of an aggressive, national employment strategy for persons with disabilities. The new ODPET office will provide a long-term, permanent force to continue the work needed to ensure that persons with disabilities are integrated with the mainstream employment and training programs within the Labor Department. Without such a force, many initial barriers to employment for persons with disabilities are unlikely to be removed, the patterns and practices of the past are likely to re-emerge, and people with disabilities will continue to be relegated to lives of poverty and dependency on public benefits.

The Task Force recommends that:

The President directs the Presidential Task Force on Employment of Adults with Disabilities to coordinate a *Youth to Work Initiative* with the Department of Labor, Department of Education, Social Security Administration, the Department of Health and Human Services and other members of the Task Force for inclusion in the President's FY 2001 budget.

Justification

Each year, nearly 40,000 eighteen-year-olds become eligible for SSI cash assistance. On average, these young adults will remain on SSI for 27 years. Youth with disabilities spend a significant portion of their time in poverty, dependent upon public assistance programs and relegated to the margins of society. Compared to students without disabilities, students with disabilities drop out of school much more frequently and enrollment in post-secondary education is less frequent.

Barriers to employment for youth with disabilities include the following: low educational attainment, low educational and employment expectations, confusing governmental programs with conflicting eligibility criteria and goals, as well as the low expectations of society and, in many instances their parents; many of whom are poorly educated and face their own barriers to work. In effect, many youth with disabilities transition from youth welfare to adult welfare with no real chance of accessing education and training opportunities needed to make a transition to work.

The Task Force recommends that:

The President directs the Task Force members' departments and agencies to collaborate and implement a multimedia, inter-agency Public Awareness Campaign focusing on the benefits of employing people with disabilities, and eliminating the negative and erroneous stereotypes that exist.

Justification

The need for immediate leadership to attack the continued existence of these pervasive, negative attitudes and prejudices is great. President Clinton, the Task Force calls on you, the Vice-President, and leaders within the Administration to launch a massive public awareness campaign, in partnership with the disability community, businesses, and other influential entities. This campaign should address the need for attitudinal changes in order to eliminate erroneous and prejudicial thinking about disability that limits opportunities--stigmas that permeate all parts of American society.

The Task Force recommends that:

The President directs SSA and DOL to create an "Access America for People with Disabilities" web site targeting individuals with disabilities.

Justification

In February, Vice President Gore announced "Access America for Seniors," an Internet site providing a wide range of services to older Americans -- an example of his vision of one-stop Internet access to government services. A new web site, "Access America for People with Disabilities," will likewise provide information and services offered by virtually every major Federal government agency, civilian and the military by linking to an abundance of helpful federal agency sites, information, programs and services: WIA, IDEA, SSA, DOL programs, SAMSHA, the new EEOC information for small businesses and so on.

The Task Force recommends that:

The President directs all Federal Agencies to promote telecommuting from home for all types of work for people with disabilities.

Justification

Research has shown that the percentage of individuals with significant disabilities who are employed is among the lowest among disadvantaged groups in the nation. In terms of the Federal workforce, these individuals are employed at a lower rate than in the private sector. It is critical that we seek out as many strategies as possible to change this picture.

Cutting edge telecommunications technology has recently made it possible for Customer Service Centers to send voice and data to home-based customer service representatives who work just as if they were in a call center. The Federal Government expends significant resources in Customer Service Call Center activities. The purpose of this directive is to bring this cutting-edge technology into the Federal government and to increase the employment rate of individuals with disabilities as much as possible.

The Task Force recommends that:

The President directs the Department of Labor, in collaboration with the Equal Employment Opportunity Commission and the Presidential Task Force, to strengthen Federal contractor affirmative action requirements under Section 503 of the Rehabilitation Act of 1973. In order to achieve this objective, the Department of Labor shall take the steps necessary to require that Federal contractors set goals and timetables for the employment of persons with disabilities, as they currently are required to do for the employment of women and minorities. The Department, in conjunction with its relevant Federal partners, will: (1) assess the feasibility of using the 1990 and 2000 Census files to derive the local workforce availability data needed by Federal contractors to set employment goals for persons with disabilities; (2) take the steps needed to ensure that data on persons with disabilities are included in the 2000 Census EEO Detailed file; (3) initiate a dialogue with relevant employer groups to identify and develop solutions to issues associated with setting goals for Federal contractors with respect to employing adults with disabilities; and (4) take other steps necessary to strengthen OFCCP enforcement of Section 503, including the distribution of technical assistance guidance to Federal contractors by adapting the "Accessing Opportunities -- The Plan for Increasing Employment of Persons with Disabilities in the Federal Government" to meet the needs of private employers.

Justification

Federal contractors employ approximately 26 million or nearly 22% of the total civilian workforce. Based on a general analysis of employment data, the employment rate of people with disabilities in the Federal contractor sector (civilian work force) remains well below the employment rate of the general population. Under Section 503, Federal contractor affirmative action requires companies doing business with the Federal government to take pro-active measures that go beyond nondiscrimination requirements of the Americans with Disabilities Act.

More information on Section 503 compliance and effective practices is needed to inform Federal contractors about effective practices and to revise current technical assistance guides and training materials used to maintain compliance with Section 503. An immediate review of Federal contractor affirmative action legal obligations and current Federal contractor compliance evaluation and complaint investigative procedures will result in innovative investigative procedures related to Section 503 (such as desk audits, on-site focused reviews, and measures to identify disability discrimination.)

The Task Force recommends that:

The President directs DOL, HUD and SBA to bring all of their one-stop centers in compliance with the accessibility requirements of the Americans with Disabilities Act.

Justification

The one-stop career center systems being established under the Workforce Investment Act (WIA) provide an opportunity for adults with disabilities to fully participate in America's workforce. Further, one-stop centers for HUD and SBA services offer a valuable opportunity for persons with disabilities with to obtain livable housing and obtain assistance in starting their own businesses. In order for people with disabilities to benefit from these various services, all of the various one-stop systems must be fully accessible and in compliance with the requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

The Task Force recommends that:

The President directs HUD to take the steps needed to establish an earned income disregard for tenants with disabilities living in other-than-PHA housing who return to work and a provision which exempts any disability related expenses incurred when a tenant goes to work from the countable income used to determine rents.

Justification

HUD has promulgated rules and crafted legislation aimed at providing incentives for low-income individuals in public housing to work or work more. Current rules however, do not provide incentives for employment of people with disabilities who do not live in PHA housing. People with disabilities without any recent work history should not find that they are at risk for losing their housing or that they are immediately faced with an increased expenditure necessary to retain decent and affordable housing as a consequence of returning to the workforce.

The Task Force recommends that:

The President directs OMB to develop a proposal to provide additional funding to support new and expanded state loan programs to make assistive technology more affordable for Americans with disabilities.

Justification

Improving access to assistive technology is critical to the employment of adults with disabilities. This initiative builds upon the President's commitment made in 1999 that

provided 35 million dollars to increase employment of adults with disabilities to become competitive in the today's high- tech job market.

The Task Force recommends that:

The President directs the Department of the Treasury to develop a proposal for a tax credit to encourage voluntary new construction or renovations to housing properties that would allow homeowners to host visitors with disabilities in their homes.

Justification

The current IRS code provides little incentive for homeowners to make their housing accessible to visitors with disabilities. It allows a tax deduction for some renovations only if needed for the homeowner or a dependent with a disability who has shown medical necessity, based on a restrictive medical model. This existing tax incentive needs to be expanded to accommodate the general economic and social needs of the disability community.

The concept of "visitability" involves voluntarily making private homes accessible enough so that individuals with disabilities and their families can visit with the occupants of another home independently for meetings, social gatherings, etc. People who are aging or living with a disability face problems of inaccessibility on a daily basis that results in segregation and isolation. Further, many people with disabilities, or who are aging, often have low incomes, and may not have the means to move to an accessible residence. Instead they remain in inaccessible homes that are unsafe, restrictive and isolating.

More importantly, the economic price of segregation and isolation caused by inaccessible housing is enormous. The alternative to "aging in place", for example, quite often is a nursing home. In addition, one primary means by which people with disabilities gain employment is through word of mouth and social contact.

The Task Force recommends that:

The President directs the Social Security Administration to develop and implement the regulations needed to raise the Earned Income Exclusion for SSI recipients, both adults and students, in order to increase work incentives and encourage work effort.

Justification

SSI is a means tested program, but beneficiaries are able to have nominal earnings before experiencing any reduction in benefit amounts. Allowing such earnings not only increases overall income security, but also provides an incentive to work. The earned

income exclusions for both adults and students, however, have not been raised since the early 1970's, even though the SSI Federal benefit rate is indexed annually for inflation. The Earned Income Exclusion remains at \$65 per month for adults set in 1972 and at \$133 per month for students set in 1974. As a result, SSI beneficiaries with non-SSI income do not receive full indexing of their benefits, and work effort is less rewarded than it was previously .

The Task Force recommends that:

The President directs the Department of Health and Human Services to develop the legislative proposal needed to require that the Maternal and Child Health Programs for Children with Special Needs provide services to youth with disabilities who are under the age of 16.

Justification

The Maternal and Child Health Programs for Children with Special Needs (Title V of the Social Security Act) provides services to youth with disabilities that are essential to preparing them for continued education and training, but are restricted to serving only youth 16 years and older. As a result, many youth with disabilities are ready to drop out of the education stream just at a time when they become eligible to receive services that would enable them to benefit from continued education. There is a clear need to provide these services to youth with disabilities at an earlier age.

The Task Force recommends that:

The President directs the Department of Defense to take the necessary steps to develop greater outreach and increased employment of persons with disabilities in appropriate support positions in the various Armed Forces.

Justification

The Armed Forces generally reject persons with disabilities as being unsuitable for military duty, despite the obvious capacity of many persons with disabilities to perform capably in various types of support jobs. At the same time, the various Armed Forces encountering difficulties in recruiting sufficient numbers of youth to enlist in the military. The solution to this disconnect is to get the Armed Forces to reach out and utilize the skills of persons with disabilities in appropriate positions.

The Task Force recommends that:

The President directs the Secretary of Health and Human Services to take the necessary steps to develop greater outreach and increased employment of persons with disabilities

in the Public Health Service.

Justification

The Public Health Service, like the Armed Services, rejects many persons with disabilities, as unsuitable for duty, particularly those with mental disabilities. Many persons with disabilities clearly have the skills needed to perform jobs in the Public Health Services. Like the Armed Forces, the Public Health Service should be taking steps to recruit and employ persons with disabilities who have the skills to perform jobs in the Service.



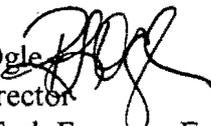
**PRESIDENTIAL
TASK FORCE ON
EMPLOYMENT
OF ADULTS
WITH
DISABILITIES**

200 Constitution Avenue, NW
Room S-2220
Washington, DC 20210
Main: 202-693-4939
Fax: 202-693-4929
TTY: 202-693-4920
www.dol.gov

September 17, 1999.

To: Deidre Lee
Administrator for Federal Procurement Policy and
Acting Deputy Director for Management, OMB

Shirley Wilcher
Deputy Assistant Secretary
Office of Federal Contract Compliance Programs

From: Rebecca L. Ogle 
Executive Director
Presidential Task Force on Employment of Adults with Disabilities

Subject: Procurement and Contracts

At Monday's meeting, we will discuss the attached recommendations made by the Task Force regarding procurement and contracts in the Federal government for people with disabilities. The meeting will be held at the OEOB - Room 472 at 5:00 p.m.

I would like to solicit your expert advice as we move forward with implementing these recommendations to directives. I would also like to learn more about the implications you may see coming out of the directives.

I look forward to working with you on this. If you need additional information, please contact me at 693-4939.

cc: Eddie Corriea
Cynthia Rice
Lisa Brown
Larry Matlack
Joanne Cianci
Jeanne Lambrew
Devorah Adler
Eugenia Chough
Eric Gould

Put Ability to Work!

DIRECTIVE

The PTFEAD recommends that

The President direct the Office of Management and Budget (OMB) to review the current contract/grant language used in the Federal regulatory procurement and nonprocurement process to ensure the proactive inclusion of people with disabilities, in particular minorities and women with disabilities. The review shall cover all aspects of Federal procurement and nonprocurement, and shall include contract bids and grant proposals solicited by all Federal departments and agencies.

Directive Justification:

Many Federal agencies enter into contracts with companies and/or provide grants to organizations that provide services to communities throughout the country. As recipients of Federal funds, these companies and organizations are required to comply with Federal civil rights laws governing Federal fund recipients, including the Rehabilitation Act, Title VI, and Title IX. In addition, other laws, including the ADA and Title VII, also may have applicable requirements. Often, violations of these statutes are addressed as after-the-fact enforcement issues. The PTFEAD seeks to change this approach. Instead, the Subcommittee is taking a proactive stance toward ensuring that all individuals, including minorities with disabilities, have full access to programs that enjoy Federal funds. To this end, the PTFEAD recommends that OMB draft contract/grant language to encourage potential grantees and contractors to institute program mechanisms that anticipate and avoid discrimination, as well as promote affirmative and equal access to the program's benefits.

Provided below is an example of generalized language that might be used in Federal contract and grant applications. Since the criteria for grant and contract competitions are focused on the purposes of each particular program, the PTFEAD recommends that OMB work with Federal agencies to adapt language like that provided below.

"Describe how your program will ensure that individuals, especially racial and ethnic minorities, in the disability community will have full and fair access to your program; and how you will ensure full compliance with Federal civil rights and nondiscrimination requirements, including Executive Order 11246, Section 503 and 504 of the Rehabilitation Act and, if applicable, the ADA."

*especially
racial &
ethnic
minorities*

Agencies with authority to include such criteria should adapt the recommended language as part of the competitions used to select providers of Federally-funded service programs. For those agencies that award contracts and/or grants using a percentage point system, the PTFEAD suggests that agencies dedicate a percentage of the total available points to the specific "factor" of ensuring nondiscrimination, as well as program access by all groups, including racial and ethnic minorities with disabilities. This will require pro-active steps to eliminate artificial barriers to program participation and to enhance awareness of the program by these groups. To ensure that this "factor" is given appropriate consideration, the PTFEAD suggests that agencies might involve their civil rights and/or

EEO offices in the selection process. Finally, Federal agencies that do not currently have authority to do so should take steps toward obtaining the regulatory or legislative authority needed to consider an applicant's commitment to fairly serve individuals, especially racial and ethnic minorities, in the disability community as part of the selection process.

Directive:

The President directs the Department of Labor to strengthen Federal contractor affirmative action requirements under Section 503 of the Rehabilitation Act of 1973, as amended. The Department is directed to conduct the following activities: (1) identify, analyze, and disseminate promising practices in partnership with other Federal agencies; and (2) take immediate actions to strengthen the regulatory requirements and their enforcement.

Justification

Federal contractors employ approximately 26 million people, nearly 22% of the total civilian workforce. Based on a general analysis of employment data, the employment rate of people with disabilities in the Federal contractor sector (civilian work force) remains well below the employment rate of the general population. Working-age adults with disabilities haven't benefitted to the extent originally envisioned under Section 503.

Under Section 503, Federal contractors doing business with the Federal government must take pro-active measures that go beyond nondiscrimination requirements of the Americans with Disabilities Act. Federal contractors must demonstrate a good faith effort to recruit, retain and advance people with disabilities. Federal contractors are required to conduct outreach and engage in a self-analysis of their policies, practices and procedures.

The first activity is intended to assist the department to inform Federal contractors about effective practices and to revise current technical assistance guides and training materials used to maintain compliance with Section 503. The Department is directed to collaborate with the Department of Education's National Institute for Disability and Rehabilitation Research (NIDRR), and other appropriate agencies, to establish a Rehabilitation Research and Training Center (RRTC) on Section 503 Compliance and Effective Practices.

The second activity is intended to immediately strengthen the Office of Federal Contract Compliance Programs' enforcement of Section 503. The department is directed to establish a nationwide goal for enforcement. The department will also create a standard to measure Federal contractors' "good faith efforts" to fulfill their contractual obligations. The department will conduct an immediate review of Federal contractor affirmative action legal obligations, and the current Federal contractor compliance evaluation and complaint investigative procedures. The department will also develop new and innovative investigative procedures related to Section 503, such as desk audits, on-site focused reviews, and measures to identify disability discrimination.

what do we expect they would conclude?

The department is directed to review and analyze its current enforcement strategy, and provide a report, preliminary revision, and time lines for implementation for its enhanced enforcement procedures to the Secretary of Labor on December 1, 1999. An action plan, including policy recommendations and FY 2001 budget initiatives will be included.

Deadline severe UN possible