



AMERICAN ASSOCIATION FOR ACCESS, EQUITY AND DIVERSITY

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**VIA ELECTRONIC UPLOAD FEDERAL ERULEMAKING PORTAL**

Ashley Romanias  
Director  
U.S. Department of Labor  
Office of Federal Contract Compliance Programs  
200 Constitution Avenue, NW  
Washington, DC 20210

**RE: Comments by the American Association for Access, Equity and Diversity in Response to OFCCP's Proposed Changes to Agency Information Collection Activities**

The American Association for Access, Equity and Diversity ("AAAED") submits the following in response to the U.S. Department of Labor's Office of Federal Contract Compliance Programs' ("OFCCP") invitation for comments on its Notice of Proposed Changes to Agency Information Collection Activities; proposals, submissions, and approvals: Section 503 of the Rehabilitation Act of 1973, as Amended.

**BACKGROUND ON AAAED**

Founded in 1974, AAAED is the longest-serving national organization of professionals who engage in the important work of leading, directing and managing affirmative action and equal opportunity, and diversity programs. AAAED's mission is to enhance the tenets of access, inclusion and equality in employment, economic and educational opportunities. Its members include Institutional Equity professionals, Equal Employment Opportunity (EEO) and Affirmative Action practitioners, Title IX Coordinators, Diversity and Inclusion staff, company presidents, CEOs, partners, principals, deans and Chief Diversity Officers, students and retirees. Approximately one-half of our members represent institutions of higher education. At the core of its collective work, AAAED is engaged in advocacy to promote and protect policies that are meant to ensure equity and inclusion in all spheres of opportunity.

AAAED is committed to advocating for an inclusive workplace and providing equal employment opportunities for individuals with disabilities. As an organization with a longstanding history of compliance and advocacy in this area, we appreciate the opportunity to provide comments on the proposed revisions to Section 503 of the Rehabilitation Act regulations. To that end, we fully support OFCCP's role in ensuring nondiscrimination and promoting equal employment opportunity in addition to supporting required compliance by federal contractors and subcontractors.

## INTRODUCTION

AAAED believes that OFCCP's proposed revisions to the implementing regulations for Section 503 of the Rehabilitation Act of 1973 ("Section 503") (found at 41 CFR § 741) significantly undermine the purpose behind Section 503 and will disadvantage the disability community. Without access to data related to disability status, neither contractors nor OFCCP will be able to effectuate the mandates of Section 503. In line with this view, AAAED submits the following comments specifically in response to OFCCP's questions related to the collection of disability data as currently required in 41 C.F.R. § 60-741. It is AAAED's view that the current form and process for collection of data should remain unchanged.

### **The Importance of 41 CFR § 60-741.42: Invitation to Self-Identify**

41 CFR § 60-741.42 requires federal contractors to invite applicants and employees to self-identify as individuals with disabilities, both at the pre-offer and post-offer stages and periodically during employment. This regulation is not merely a bureaucratic requirement—it is a foundation for data-driven self-evaluation and progress. The invitation to self-identify empowers individuals with disabilities, affirms their right to workplace inclusion, and provides employers with the necessary information to evaluate and improve their efforts to conduct all employment transactions on the basis of merit. The data collected through the self-identification process also allows OFCCP to more effectively evaluate contractor compliance with their legal responsibilities. With this background in mind, AAAED offers feedback to OFCCP on the four (4) specific topics the agency has sought comments.

#### **1. Whether Data on Disability Status Is Necessary for the Proper Performance of OFCCP**

As the agency responsible for enforcing contractor obligations under Section 503, OFCCP must be able to effectively evaluate contractor compliance with 41 CFR § 60-741. Section 503 and its implementing regulations contain a dual mandate for contractors – ensure nondiscrimination and equal employment opportunity for individuals with a disability AND undertake affirmative action to employ and advance in employment individuals with a disability. Without information on applicants and employees with a disability, OFCCP cannot effectively determine if contractors are adhering to these mandates. For example, without data on how many applicants with a disability applied, OFCCP could not assess the effectiveness of a contractor's targeted outreach to individuals with a disability. Similarly, without data on the number of individuals with a disability a contractor hired, the agency would be unable to assess whether any barriers to equal employment exist in the hiring process.

Contractors would not be able to assess their own compliance with these mandates either. Without such a requirement, employers would lack reliable data on the representation of individuals with disabilities in their applicant pool and workforce. This would, in turn, inhibit their ability to identify barriers to equal employment opportunity, track progress toward goals, and develop effective strategies for improvement. The self-identification process is confidential and

voluntary, respecting employee privacy while enabling critical insights essential for compliance and program effectiveness. Rescinding this section would erode the very basis upon which meaningful inclusion efforts are built.

## **2. Accuracy of OFCCP's Estimate of the Burden Related to the Data Collection**

AAAED does not offer an opinion on the methodology used by OFCCP in determining the burden related to collecting disability status from applicants and employees. However, as its members can attest to, the burden on both contractors and respondents is minimal at this point. When the Section 503 regulations were updated to include the self-identification requirement, contractors had a one-time burden associated with building out an infrastructure for the collection of such data, including modifying applicant tracking and HRIS systems. However, the burden associated with that process has ceased. In fact, there would be a greater burden on contractors to modify their systems to cease the data collection.

## **3. Methods to Enhance the Quality, Utility, and Clarity of the Information Collected**

AAAED recognizes that contractors have experienced challenges with response rates to the self-identification process. At times, applicants and employees have shown a reluctance to share such information for concern that the information might be used inappropriately. While some progress had been made over the past several years, additional resources from OFCCP to encourage higher response rates would help with the quality of the data used by both contractors and OFCCP.

## **4. Ways to Minimize the Burden of the Information Collection on Respondents**

OFCCP sought comments on how to minimize the burden of self-identification on potential respondents. However, there is virtually no burden on respondents, as most contractors have implemented electronic processes for data collection and the time needed to answer the self-identification questions is minimal. If anything, the form could be shortened so it takes less time to read by potential respondents.

## **CONCLUSION**

Equity and Access are literally in our name. The proposed regulatory changes and potential elimination of self-identification are a step back for both of those causes. Absent these obligations, many contractors will stop performing effective outreach to individuals with disabilities - not because they don't care, but because they are short on time and resources, and this will be one less thing they "have" to do. The result will be fewer partnerships with disability focused organizations, like rehab centers, and less of a pipeline for qualified applicants with disabilities.

AAAED, an organization of Equal Opportunity Professionals founded in 1974, strongly supports the mission of the OFCCP. We strongly urge OFCCP to reconsider its proposed rescission of

requiring contractors to invite applicants and employees to self-identify as individuals with disabilities. This proposed rescission will harm employees and disadvantage businesses by depriving them of the benefits of a diverse talent pool. By holding contractors to measurable standards and encouraging continuous improvement, employers benefit from the full talents of the workforce, which include individuals with disabilities, and will continue to affirm equity, accountability, and opportunity.

AAAED sincerely appreciates the opportunity to provide feedback to the OFCCP regarding the proposed changes to Agency Information Collection Activities. We thank the OFCCP in advance for its consideration of our comments and suggestions. Please let AAAED know if you would like us to submit any additional information that may be helpful in your evaluation of these comments.

Respectfully submitted,  
AAAED Board of Directors