DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60–30 and 60–741

[Docket No. OFCCP–2025–0003]

RIN 1250–AA18

Modifications to the Regulations Implementing Section 503 of the Rehabilitation Act of 1973, as Amended

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor is revising its implementing regulations for Section 503 of the Rehabilitation Act of 1973, as amended (Section 503). The revisions align the regulations with applicable law and recent executive orders, including Executive Order 14173, ''Ending Illegal Discrimination and Restoring Merit-Based Opportunity,'' and Executive Order 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative.''

DATES: This rule is effective September 21, 2026, except for amendatory instruction 1 (amendment to 41 CFR part 60–30) which is effective on December 21, 2026.

FOR FURTHER INFORMATION CONTACT: Kenneth Wolfe, Director, OFCCP, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0101. Email: *ofccp_guidance@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The U.S. Department of Labor (DOL) enforces Section 503, which prohibits covered Federal contractors and subcontractors (''contractors'') [1] from discriminating against employees and applicants because of their disability status and also requires certain contractors to take ''affirmative action'' to employ and advance in employment qualified individuals with disabilities. 29 U.S.C. 793. The Section 503 implementing regulations include specific affirmative action requirements at 41 CFR part 60–741, subpart C.

On July 1, 2025, DOL published a Notice of Proposed Rulemaking (NPRM) for the Section 503 implementing regulations. 90 FR 28494 (July 1, 2025). In the NPRM, DOL proposed removing the implementing regulations' cross-references to Executive Order (E.O.) 11246, ''Equal Employment Opportunity,'' which was revoked by E.O. 14173, ''Ending Illegal Discrimination and Restoring Merit-Based Opportunity,'' on January 21, 2025. For the reasons described in the background section below, DOL also proposed rescinding (1) the regulations at 41 CFR 60–741.42, which required contractors to ask applicants and employees to identify their disability status; (2) the related data collection requirements at 41 CFR 60–741.44(k); and (3) the utilization requirements at 41 CFR 60–741.45.[2]

DOL has carefully reviewed public comments on these proposed changes. As set forth in the preamble below, DOL is largely adopting its NPRM revisions, with a clarification related to the requirement to measure the effectiveness of affirmative action efforts. Additionally, the final rule makes several necessary technical corrections to the regulations. Specifically, since the publication of the NPRM, the basic coverage threshold for Section 503 increased from $15,000 to $20,000 in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025). Therefore, in the final rule, DOL is making technical revisions to the basic coverage threshold throughout the Section 503 regulations. The final rule also includes additional technical revisions, such as corrections to typographical errors in the existing regulations and updates to website addresses, as several of the web pages have moved or are no longer available at the listed website addresses.

II. Background

A. The Section 503 Implementing Regulations and 2013 Revisions

The Section 503 regulations' basic nondiscrimination and recordkeeping requirements apply to contractors with a government contract in excess of $20,000.[3] Regulations at 41 CFR 60–741.40(b) further require contractors with 50 or more employees and a Federal contract or subcontract of $50,000 or more to develop and maintain an affirmative action program (AAP), where they must implement and document their affirmative action efforts on an annual basis.

In 2013, DOL made extensive revisions to the regulations implementing Section 503, including major changes to the affirmative action provisions in 41 CFR part 60–741, subpart C. *See* 78 FR 58682 (Sept. 24, 2013). Notably, the 2013 rule revised the regulations to include, at 41 CFR 60–741.45, a 7 percent utilization goal for individuals with disabilities.[4] Additionally, in the 2013 rulemaking, DOL added a utilization analysis provision at 41 CFR 60–741.45(d), which requires contractors to annually evaluate their utilization of individuals with disabilities against the 7 percent utilization goal. If a contractor's utilization is less than the 7 percent utilization goal, the regulations at 41 CFR 60–741.45(e)–(f) require the contractor to take steps to determine ''whether and where impediments to equal employment opportunity exist'' and to develop and execute ''action-oriented programs'' designed to correct any identified problem areas.

The 2013 rule also modified the Section 503 regulatory requirement for contractors to inquire about an applicant or employee's disability status (hereinafter referred to as the ''disability inquiry requirement'').[5] Prior to the 2013 rule, the regulations required contractors to inquire about an individual's disability status after making an offer of employment to a job applicant, but before the applicant began his or her employment. 78 FR 58682, 58690–95 (Sept. 24, 2013). The 2013 rule expanded the scope of this requirement. Specifically, the 2013 rule added the requirement at 41 CFR 60–741.42(a) that contractors inquire about whether an applicant believes that he or she is an individual with a disability at

[1] Hereinafter, the terms ''contractor'' or ''Federal contractor'' are used to refer collectively to Federal contractors and subcontractors that fall under OFCCP's authority, unless otherwise expressly stated. This approach is consistent with OFCCP's regulations, which define ''contract'' to include subcontracts and ''contractor'' to include subcontractors. *See* 41 CFR 60–741.2.

[2] Hereinafter, ''utilization requirements'' refers to the utilization goal and utilization analyses set forth in 41 CFR 60–741.45, unless otherwise stated.

[3] Effective October 1, 2025, the basic coverage threshold under Section 503 increased from $15,000 to $20,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

[4] The 7 percent utilization goal applies to each of the job groups in the contractor's workforce. However, if a contractor has a total workforce of 100 or fewer employees, the regulations provide the option to measure the representation of individuals with disabilities in a contractor's entire workforce, rather than in each job group. The Section 503 regulations require contractors to conduct the utilization analysis using the same job groups established for their analyses under E.O. 11246. As discussed in more detail below, this requirement is now unworkable due to the revocation of E.O. 11246.

[5] The regulations frame these requirements as an ''Invitation to self-identify.'' *See* 41 CFR 60–741.42. However, as discussed in section III(A)(2) below, this ''invitation'' amounts to an employer-initiated disability inquiry that is impermissible under the Americans with Disabilities Act (ADA).

the pre-offer stage of the hiring process. The 2013 rule also added the requirement at 41 CFR 60–741.42(c) that contractors inquire about whether an employee believes he or she is an individual with a disability every 5 years and provide a reminder at least once during the 5-year period that each employee may ''voluntarily'' update his or her disability status. In conjunction with the 2013 rule, DOL created a prescribed form (the CC–305 form) for contractors to use when making disability inquiries. The most recent version of the CC–305 form provides three response options: (1) Yes, I have a disability or have had one in the past; (2) No, I do not have a disability and have not had one in the past; and (3) I do not want to answer.[6]

The 2013 rule also created additional data collection requirements at 41 CFR 60–741.44(k), which require contractors to document and maintain specific computations or comparisons pertaining to applicants and hires with disabilities. Additionally, the 2013 rule made several changes to conform the regulations with the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. *See* 78 FR 58682, 58687–58712 (Sept. 24, 2013) (describing changes necessitated by the ADAAA such as revisions to the definition of ''disability'').

B. Need for the Rulemaking

In the NPRM, DOL proposed rescinding the disability inquiry requirement at 41 CFR 60–741.42 and the related data collection requirements at 41 CFR 60–741.44(k). DOL also proposed rescinding the utilization goal requirements at 41 CFR 60–741.45. Consistent with these proposed changes, DOL also proposed removing various cross-references and language related to these requirements.

DOL also proposed removing the Section 503 regulations' cross-references to E.O. 11246, which was revoked by E.O. 14173 on January 21, 2025. For example, the Section 503 regulations, at 41 CFR 60–741.65(b), incorporated the E.O. 11246 administrative proceeding procedures at 41 CFR part 60–30. With the revocation of E.O. 11246, DOL proposed removing these cross-references and adding the administrative proceeding provisions directly into the Section 503 regulations. In a separate rulemaking, DOL proposed similar changes to the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) regulations. 90 FR 28485 (July 1, 2025). As the administrative proceeding procedures would be incorporated directly into the Section 503 and VEVRAA regulations, the 41 CFR part 60–30 regulations would be duplicative and unnecessary. Therefore, DOL also proposed rescinding 41 CFR part 60–30 using a delayed effective date.[7]

In the NPRM, DOL identified several reasons for the proposed changes. Specifically, DOL provided that while the Section 503 regulations state that the use of quotas is prohibited, contractors may, in practice, be induced to use quotas to meet the utilization goal. DOL also detailed concerns that the disability inquiry requirement at 41 CFR 60–741.42 and utilization goal requirements at 41 CFR 60–741.45 were inconsistent with the ADA. *See* 90 FR 28494 (July 1, 2025); *See also* ADA Discussion at Section III(A)(2) below.

Further, DOL noted that the Section 503 utilization analysis requirements are now unworkable, as they are dependent on requirements promulgated under E.O. 11246, which was revoked. Specifically, 41 CFR 60–741.45(d)(2) requires contractors to conduct the utilization analysis using the same job groups established for their analyses under E.O. 11246. The utilization goal also requires knowledge of disability status, which results in impermissible disability inquiries under the ADA. In addition, the utilization analysis and disability inquiry requirements are not required by the statutory text of Section 503. *See* 29 U.S.C. 793 (which refers to ''affirmative action'' generally but does not statutorily prescribe specific efforts or methods to achieve affirmative action).[8]

By rescinding these burdensome requirements, DOL is also fulfilling E.O. 14219's mandate to rescind regulations that are not authorized by clear statutory authority. *See* E.O. 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' 90 FR 10583 (Feb. 25, 2025).

III. Discussion

A. Public Comments

On July 1, 2025, DOL published an NPRM in the **Federal Register** (90 FR 28494) proposing to revise the Section 503 implementing regulations. DOL invited written comments on the NPRM through September 2, 2025. DOL received requests from some commenters to extend the comment period. In response, DOL extended the comment period through September 17, 2025. *See* 90 FR 42712 (Sept. 4, 2025).

DOL received 651 comment submissions in response to the NPRM.[9] DOL received some comments in favor of the NPRM and some comments against the NPRM. Commenters represented a wide range of stakeholders including individuals, employer associations, consultants, law firms, governmental entities, education and research centers, political organizations, public policy organizations, and various disability and disabled veteran organizations. DOL addresses the public comments by topic in the sections below.

1. Public Comments Addressing the Need for the Rulemaking

DOL received numerous comments addressing the need for the rulemaking. Some commenters questioned the need for the rulemaking, asserting that DOL's concerns about the disability inquiry and utilization goal requirements were speculative or unsupported by evidence. For example, several commenters disagreed with DOL's assertion that the utilization goal could, in practice, induce the use of quotas. Commenters cited the current regulations' express prohibition on quotas found at 41 CFR 60–741.45(h) and past agency guidance that highlighted the prohibition against quotas. Commenters also stated that contractors were not penalized for failing to meet the goal and asserted that even if the goal resulted in a quota, a person without a disability would not have standing to challenge the goal.

[6] *See* Form CC–305, available at *https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202306-1250-001&icID=200170.*

[7] As noted above, DOL also proposed correcting typographical errors in the regulations. For example, DOL proposed correcting a typographical error in 41 CFR 60–741.46(d) (correcting the spelling of ''Veterans'''). As noted in the executive summary, the final rule is also updating outdated jurisdictional thresholds and other information such as outdated web addresses.

[8] The 93rd Congress both enacted Section 503 as an affirmative action statute and amended VEVRAA to include a similar affirmative action requirement. *Compare* 29 U.S.C. 793, *with* 38 U.S.C. 4212. A conference committee report issued in connection with the VEVRAA amendments explains that the 93rd Congress understood affirmative action to encompass ''goals and timetables'' under certain circumstances. S. Conf. Rep. No. 1240, 93rd Cong., 2nd Sess. 1974, *reprinted in* 1974 U.S.C.C.A.N. 6336, 6343–44, 1974 WL 11633. To the extent commenters argue this legislative history requires utilization goals under Section 503, DOL disagrees. DOL must interpret the statute based on ''what the statute means,'' not ''what the legislature meant.'' *Epic Sys. Corp.* v. *Lewis,* 584 U.S. 497, 523 (2018 (quoting *Schwegmann Brothers* v. *Calvert Distillers Corp.,* 341 U.S. 384, 397 (1951) (Jackson, J., concurring)). At their own discretion, contractors remain free to conduct utilization analyses. In doing so, contractors should ensure they are acting in accordance with all applicable laws and regulations, including the ADA.

[9] The ''comments received'' count on *regulations.gov* is higher, as some commenters counted their comment as more than one submission.

Some commenters also believed that the regulations already align with the administration's focus on promoting meritocracy.

DOL disagrees with these comments. As set forth in section III(A)(2) below, the current regulatory framework is not supported by the statutory text of Section 503, and conflicts with the plain text of the ADA's nondiscrimination standards, which are incorporated into the Rehabilitation Act. *See* 29 U.S.C. 793(d). OFCCP has an obligation to ensure agency action complies with the law independent of whether non-disabled individuals have standing to challenge the utilization requirements. The current requirements also impose significant burdens on and create confusion among contractors.

Further, while some commenters claimed that DOL's concerns over the disability inquiry and utilization requirements were speculative or unsupported by evidence, DOL's past enforcement of these requirements supports the need for the rulemaking. Since implementing the revised Section 503 regulations in 2013, DOL received numerous inquiries from stakeholders about the permissibility of the disability inquiry in light of privacy concerns. While failing to meet the utilization goal is not a violation in itself, DOL routinely issued violations if contractors failed to conduct the utilization analysis or failed to execute ''action-oriented programs'' to address underutilization of individuals with disabilities, as set forth in 41 CFR 60–741.45. Since fiscal year 2020, DOL issued over 75 violations related to these issues. Contractors therefore faced a non-speculative risk of enforcement if they did not conduct utilization analyses, which as a practical matter required employer-initiated inquiries into applicants' and employees' disability status. As explained above, DOL can no longer enforce a disability inquiry requirement—or utilization analysis requirement that relies on the data yielded from such inquiries—that it interprets as conflicting with the ADA.

DOL also received comments from various stakeholders who agreed with the need for the rulemaking. One commenter, who identified himself as an individual with a disability, stated that he had deep concerns about the way the current regulatory framework has been applied in practice. This commenter explained that the disability inquiry requirement has not created meaningful progress and believed that the disability data contractors obtained through this process was unreliable because many employees with non-obvious disabilities, including the commenter, often chose not to disclose their disability status for various reasons, including stigmatization or the fact that they did not trust the process to result in real change. This commenter also discussed the ineffectiveness of the utilization goal and stated that in practice, companies treat this requirement as a ''box-checking exercise.'' This commenter stated that ''the focus is on compliance paperwork, not dismantling the systemic barriers that keep people with disabilities from being hired, promoted, or retained equitably.''

In this same vein, another commenter, a lawyer, also believed that the disability inquiry requirement lacked utility. He also disagreed with the utilization goal. He believed that the goal was poorly constructed, as the goal applied uniformly to all job groups, even though individuals with disabilities are typically not distributed uniformly across job groups. The commenter also expressed concerns about the burden imposed by these requirements and the liability concerns pertaining to recruitment and hiring managers improperly using disability information.

Another commenter, a 501(c)(3) research and education foundation, urged adherence to the plain text of the ADA. This commenter agreed that DOL's proposed changes in the NPRM address ongoing conflicts between the Rehabilitation Act's goals and the privacy protections central to the ADA, and clarify compliance expectations, reduce administrative burdens on contractors, and ensure that protections for individuals with disabilities remain robust yet consistent with merit-based employment principles.

2. Inconsistencies With the ADA

The NPRM expressed DOL's concerns that the disability inquiry requirement is inconsistent with the ADA and that the utilization goal, as structured, depends on that unlawful disability inquiry framework. After considering the comments related to these issues, DOL concludes that these concerns are well founded and that the NPRM reflects the best interpretation of the governing Section 503 framework.

a. Section 503's Existing Regulatory Structure Requires Disability Inquiries That Contravene the Plain Language of the ADA

The ADA's prohibitions apply directly to Federal contractors because as an employer a Federal contractor is a ''covered entity'' as defined by 42 U.S.C. 12111(2). With respect to job applicants, the ADA's text is clear: ''a covered entity shall not . . . make inquiries of a job applicant as to whether such applicant is an individual with a disability.'' 42 U.S.C. 12112(d)(2)(A). Yet, under section 60–741.42(a) of the Section 503 regulations, a contractor ''shall invite applicants to inform the contractor whether the applicant believes that he or she is an individual with a disability.'' Although ''shall invite'' frames the disability inquiry requirement as an ''invitation'' for applicants to ''self-identify'' disability status, this is a requirement imposed on the contractor. Describing the applicant's response as ''voluntary'' does not alter the legal character of these requirements. The inconsistency is plain. DOL's existing regulations require contractors to make disability inquiries that the ADA explicitly forbids.

With respect to employees, the ADA's text is once again clear: a ''covered entity shall not make inquiries of an employee as to whether such employee is an individual with a disability . . . unless such . . . inquiry is shown to be job-related and consistent with business necessity.'' 42 U.S.C. 12112(d)(4)(A). Yet, the Section 503 regulations at 41 CFR 60–741.42(c) require a contractor to invite employees ''to voluntarily inform the contractor whether the employee believes that he or she is an individual with a disability,'' without any limitation or caveat for the invitation to be job-related and consistent with business necessity.

Employers' invitations to applicants and employees to disclose disabilities under section 60–741.42(a) and (c) constitute ''inquiries'' prohibited by 42 U.S.C. 12112(d)(2)(A) and 12112(d)(4)(A). Labeling the disclosures as ''voluntary'' does not alter the mandatory nature of the employer's obligation to inquire about disability status. The ADA regulates the employer's act of asking, not the act of answering. Courts have distinguished between information voluntarily disclosed by an employee on their own initiative and information elicited by employer questioning—only the former falls outside the scope of 42 U.S.C. 12112(d). For example, in *EEOC* v. *C.R. England, Inc.,* the court explained that 42 U.S.C. 12112(d) ''does not apply to or protect information that is voluntarily disclosed by an employee unless it is elicited during an authorized employment-related medical examination or inquiry,'' and concluded that the provision did not apply because there was no evidence that the employer ''asked [the employee] a question likely to elicit'' disability information. 644 F.3d 1028, 1047–48 (10th Cir. 2011). By contrast, any disability information, even if ''voluntarily'' disclosed under 41 CFR 60–741.42(a) and (c), would be elicited by an employer's inquiry that is mandated under the regulation, and thus 42 U.S.C. 12112(d) applies.

Likewise, in *Cash* v. *Smith,* the court held that 42 U.S.C. 12112(d) and its regulations ''do not govern voluntary disclosures initiated by the employee.'' 231 F.3d 1301, 1307 (11th Cir. 2000). Disclosures under 41 CFR 60–741.42(c) are not initiated by the employee—nor are disclosures under 41 CFR 60–741.42(a) and (b) initiated by the applicant—because the regulations state that the ''contractor shall invite'' employees and applicants, respectively, to ''inform the contractor'' of their disability status. An invitation to voluntarily disclose disability information may be less coercive than other methods, but it remains a form of employer-initiated inquiry. Accordingly, this regulation is functionally a mandate that employers broadly inquire into disability status, which is unlawful under the ADA's plain text.

Although some commenters contended that the post-offer disability inquiry requirement for affirmative action purposes was consistent with the ADA's business necessity exception at 42 U.S.C. 12112(d)(4)(A), DOL agrees with other commenters who observed that it is difficult to characterize a general invitation to disclose disability status as universally ''job-related'' or for reasons of ''business necessity.''

Further, as one commenter noted, eliminating the disability inquiry requirement and utilization goal would neither diminish a contractor's statutory obligations under Section 503 nor prevent a contractor from complying with those obligations. Contractors complied with Section 503's statutory requirements for affirmative action prior to the addition of the utilization goal in the 2013 rule, and they will be able to do so after DOL's rescission of this requirement.

Apart from mandatory disability inquiries, as commenters noted, contractors may still comply with their Section 503 obligations by using several measures that do not depend on knowledge of a particular applicant's or employee's disability status. For example, contractors could conduct skills-based barrier analysis and remediation in which the contractor reviews job position descriptions, vacancies, job requirements, and physical/mental standards in order to eliminate requirements and tasks that are not essential to performing the job (*e.g.,* lifting, standing, or driving a car). A contractor could also conduct structured outreach and recruitment by partnering with disability employment organizations (*e.g.,* vocational rehabilitation agencies, centers for independent living, and disability service providers) to share vacancies and job fair opportunities. Next, contractors can leverage accessibility and usability for hiring systems by ensuring that online applications, assessments, and hiring platforms are accessible to applicants using screen readers, voice-to-text, and other assistive technologies. The measure could focus on equal opportunity in the application process. Contractors can also be proactive about accommodations for applicants by offering all applicants clear and welcoming information about how to request an accommodation during any stage of the hiring process. Contractors can also provide examples of reasonable accommodations. This would remove functional barriers to employment without requiring data collection.

Further, if a contractor learns of an applicant's or an employee's disability without asking—for example, through unsolicited disclosure during the interview process or a request for reasonable accommodation—then the contractor may take additional affirmative action to ''employ or advance in employment'' that individual consistent with Section 503.

Some commenters claimed there was no conflict between the ADA and the disability inquiry and utilization requirements. But, as discussed above, DOL's authority under Section 503 must be governed by the ADA's nondiscrimination standards, which are expressly incorporated into Section 503. 29 U.S.C. 793(d). The ADA clearly provides that an employer may not, prior to an offer of employment, make any disability-related inquiries of job applicants, even if that inquiry is related to the job. 42 U.S.C. 12112(d)(2)(A). The ADA also clearly provides that, after an employee starts a job, an employer may make disability-related inquiries only if such inquiries are job-related and consistent with business necessity. 42 U.S.C. 12112(d)(4)(A). But, under 41 CFR 60–741.42, contractors must ask applicants and employees about their disability status. In order for a contractor to measure progress towards or achievement of a utilization ''goal'' under 41 CFR 60–741.45, the contractor must know or determine which employees have disabilities. These requirements create an unworkable framework under the ADA.

Some commenters argued that the ADA is ineffective in advancing the employment of individuals with disabilities. Even if true, this argument would not justify interpreting Section 503 to mandate disability inquiries that the ADA explicitly prohibits. DOL should not be requiring contractors to take actions that contravene the plain language of the ADA's statutory text.

Several commenters pointed to *Associated Builders & Contractors* v. *Shiu,* 773 F.3d 257 (D.C. Cir. 2014), as an obstacle to removing the disability inquiry requirement. That reliance is misplaced. First, *Shiu* upheld the 2013 final rule based on the then-controlling framework set forth in *Chevron, U.S.A., Inc.* v. *Natural Res. Def. Council,* 467 U.S. 837 (1984). At step one of the then-controlling *Chevron* framework, the *Shiu* court held that the challenger had not demonstrated that DOL's interpretation was unambiguously foreclosed by the statutory text of Section 503. *Id.* at 262–64. The *Shiu* court rejected the challenger's *Chevron* step two argument for the same reason. *Id.* The Supreme Court has since overruled *Chevron* and clarified that the ''best'' interpretation of a statute governs. *Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369, 391 (2024). *Shiu*'s analysis does not meet this standard because the D.C. Circuit explicitly required the plaintiff to ''do more than offer . . . even the best[ ] interpretation'' of the statute, 773 F.3d at 263 (citation omitted), and it did not examine the interaction between Section 503 and the ADA's restrictions on employer-initiated inquiries into applicants' and employees' disability status.

b. A Harmonious Reading of Section 503 and the ADA Supports DOL's Interpretation

Because Section 503 explicitly incorporates the ADA's standards, *see* 29 U.S.C. 793(d), and because the ADA was enacted against the backdrop of Section 503, these two statutes must be read together. A commenter who objected to the NPRM stated that when Congress passed the ADA, ''it was well aware that Section 501 of the Rehabilitation Act required federal agencies to develop and implement affirmative action plans for individuals with disabilities and Section 503 of the Rehabilitation Act mandated that Federal contractors and subcontractors take affirmative action to recruit, hire, and promote qualified individuals with disabilities.'' The commenter further stated, ''If Congress had intended to make it impossible for federal agencies or contractors to identify disabled applicants and employees in order to implement affirmative action plans, they would have done so explicitly.'' To the contrary, the ADA does not make express statutory exceptions for contractors covered by Section 503.

The district court in *Shiu* cited congressional committee reports that suggested that the ADA's ban on preemployment inquiries would not apply to data collected for Section 503 affirmative action purposes. *See Associated Builders & Contractors* v. *Shiu,* 30 F.Supp.3d 25, 37–38 (D.D.C. 2014). But legislative history cannot overcome the statute's plain meaning because ''legislative history is not the law.'' *Epic Sys. Corp.* v. *Lewis,* 584 U.S. 497, 523 (2018). DOL must interpret the statute based on ''what the statute means,'' not ''what the legislature meant.'' *Id.* (quoting *Schwegmann Bros.* v. *Calvert Distillers Corp.,* 341 U.S. 384, 397 (1951) (Jackson, J., concurring)). Therefore, legislative history cannot change what the ADA commands: a covered entity ''shall not'' make preemployment ''inquiries'' as to an applicant's disability status, except in only a few situations expressly enumerated in the ADA. 42 U.S.C. 12112(d)(2)(A)–(B). *See Milner* v. *Dep't of Navy,* 562 U.S. 562, 574 (2011). (''Legislative history, for those who take it into account, is meant to clear up ambiguity, not create it.'').

The structure of 42 U.S.C. 12112 reinforces this reading and forecloses an implied ''affirmative action'' exception. What is allowed or not depends on whether the inquiry is made pre-offer, post-offer, or after an individual begins employment. Subsections (2) and (4), covering pre-offer and post-employment inquiries, both begin with a statement of prohibited activities, followed by a set of exceptions. In paragraph (4)(B), an exception from the ban on post-employment inquiries and examinations is made for ''voluntary medical examinations . . . which are part of an employee health program.'' 42 U.S.C. 12112(d)(4)(B). There is no similar exception for pre-offer inquiries: the only exception is for ''inquiries into the ability of an applicant to perform job-related functions.'' 42 U.S.C. 12112(d)(2)(B). The mention of an exception for voluntary examinations in one section, but not the other, means Congress knew how to make such an exception, but chose not to. DOL therefore declines to read it into the statute by implication.

Regardless of the original objectives revealed through the legislative history of the Rehabilitation Act generally, and Section 503 specifically, and regardless of what interpretation of Section 503 might have been plausible if the ADA had never been enacted, Congress subsequently incorporated the ADA's Title I nondiscrimination standards into the Rehabilitation Act. *See* 29 U.S.C. 793(d). Accordingly, the ADA defines the permissible contours of employer inquiries into disability status under the nondiscrimination framework applicable to Section 503. Section 503 cannot be read to authorize or require what the incorporated portions of the ADA subsequently and expressly prohibit. The ADA's prohibition therefore constrains the scope of permissible regulation under Section 503.

DOL agrees with a commenter who argued that ''since the Rehabilitation Act and the ADA both address discrimination against individuals with disabilities, the two statutes are *in pari materia* and should be construed'' together—although for the reasons stated above, DOL disagrees with the commenter's belief that the disability inquiry requirement and the utilization goal are consistent with the ADA. This conclusion is reinforced, as another commenter noted, by Congress's 2008 amendments, which harmonized the ADA and the Rehabilitation Act. *See* Public Law 110–325, 122 Stat. 3553.

c. ADA Regulations Do Not Generally Permit Disability Inquiries

Several commenters challenged DOL's interpretation of the Equal Employment Opportunity Commission (EEOC) regulations implementing the ADA. After considering those arguments, DOL continues to conclude that the NPRM sets forth the best interpretation of Section 503 in light of the ADA and its implementing regulations. The ADA establishes a comprehensive framework governing employer disability-related inquiries at different stages of the employment relationship. 42 U.S.C. 12112(d)(2)–(4). These provisions prohibit disability-related inquiries except in the narrow circumstances specified by the statute. *Id.* The ADA regulations at 29 CFR 1630.13 generally prohibit medical examinations or inquiries into disability status at the preemployment stage or prior to an offer of employment except in the circumstances laid out in 29 CFR 1630.14(b). The ADA regulations at 29 CFR 1630.14(b)(3) further provide that such medical examinations and inquiries ''do not have to be job-related and consistent with business necessity.'' However, if certain criteria are used to screen out an employee or employees with disabilities as a result of such an examination or inquiry, the exclusionary criteria must be job-related and consistent with business necessity, and performance of the essential job functions cannot be accomplished with reasonable accommodation as required in Part 1630 of the ADA regulations. *Id.* After employment begins, such examinations and inquiries are permissible only when job-related or consistent with business necessity. 29 CFR 1630.14(c).

Read together, 29 CFR 1630.13 and 1630.14 provide that: (1) except in narrow circumstances related to the reasonable accommodation process,[10] an employer may not conduct a medical examination or make a disability-related inquiry of a job applicant prior to receipt of a job offer; (2) medical examination or inquiry into disability status after a conditional job offer is permissible only so long as such request for information applies to all entering employees in the same job category and may not be used to ''screen out'' individuals with disabilities unless the exclusionary criteria is job-related and consistent with business necessity, and the essential job functions cannot be performed with reasonable accommodation; and (3) once employment begins, a medical examination or inquiry into disability status is allowed only where it is job-related and consistent with business necessity.

The Section 503 regulations at 60–741.42(a), however, require contractors to ''invite'' applicants to disclose whether they are individuals with disabilities at the pre-offer stage, thereby mandating an inquiry at a point where 29 CFR 1630.13 and 1630.14 permit none. Section 60–741.42(c) likewise requires contractors to ''invite'' current employees to disclose disability status on a recurring basis, without any requirement that such inquiry be job-related or consistent with business necessity. In both instances, the regulation compels employer-initiated disability-status inquiries at stages where the ADA regulations either categorically prohibit such inquiries or permit them only under conditions not incorporated into 41 CFR 60–741.42.

Given the ADA regulations' careful limitations on disability-related inquiries—particularly the categorical prohibition at the pre-offer stage and the business-necessity requirement for inquiries after employment begins, DOL agrees with the commenters who urged removal of the disability inquiry requirement. Rescission of this requirement ensures that the Section 503 regulations do not compel conduct

[10] ADA contemplates limited pre-offer disability-related inquiries when necessary to respond to applicant-initiated requests for reasonable accommodation. *See* 42 U.S.C. 12112(d)(2)(B), (d)(3); 29 CFR 1630.14(a).

that the ADA either prohibits outright or permits only in limited, narrowly defined circumstances. These narrowly defined circumstances are not incorporated into the Section 503 regulations.

One commenter asserted ''that the ADA regulations at 29 CFR 1630.15(e) already provide that employers are not liable for violations of the ADA for actions they are required to take by other federal statutes or regulations.'' But that provision does not eliminate the underlying statutory question. Rather, section 1630.15(e) merely provides contractors with a potential defense to liability for a charge of discrimination; it does not expand the scope of what the ADA substantively permits, nor does it authorize another agency to require conduct inconsistent with the ADA's nondiscrimination standards, which Section 503 expressly incorporates. *See* 29 U.S.C. 793(d). This liability defense presumes the possibility of tension between statutory or regulatory commands and the ADA—it does not resolve that tension or supply independent authority for a requirement to violate the ADA.

Moreover, the existence of such a defense is not a reason to retain regulations that place contractors in the position of having to invoke it. Agencies should not structure regulatory regimes in a manner that requires regulated entities to rely on an interagency conflict defense to avoid liability. The better course is to interpret and implement Section 503 in harmony with the ADA's statutory limits so that contractors are not compelled to choose between compliance with DOL regulations and adherence to the ADA's substantive prohibitions. *See* 29 U.S.C. 793(e) (requiring DOL to develop procedures that ''avoid[ ] duplication of effort and prevent[ ] the imposition of inconsistent or conflicting standards'' in the handling of administrative complaints under Section 503 and the ADA).

DOL is not prohibiting contractors from exercising their own legal and business judgment about making disability inquiries consistent with the ADA and its implementing regulations. Instead, DOL simply no longer requires that contractors do so as part of their affirmative action or other obligations under Section 503.[11]

DOL's rescission of the disability inquiry requirement would not cause regulatory confusion, as some commenters suggest, because the elimination of this requirement, as contemplated herein, will bring DOL in alignment with the EEOC and its treatment of ADA regulations. When pursuing a Section 503 discrimination violation, the Secretary of Labor is also charged with ensuring that DOL's standards do not conflict with the ADA, which is expressly incorporated into Section 503. 29 U.S.C. 793(d)–(e).

d. EEOC Subregulatory Guidance Is Unpersuasive

In the NPRM, DOL disagreed with the 2013 rule's reliance on past EEOC guidance to support the disability inquiry requirement. Specifically, the 2013 rule asserted that EEOC's Title I Technical Assistance Manual and an informal discussion letter from EEOC's Office of Legal Counsel (OLC) permitted the disclosure of disability information for affirmative action purposes.[12] In response to the NPRM, some commenters disagreed with DOL's rescission of the disability inquiry requirement and continued to cite the OLC discussion letter. Other commenters correctly observed, however, that this is not a formal opinion letter, approved by a vote of the Commission. Rather, it represents the view of a single EEOC career attorney. As such, it does not constitute the EEOC's official position on the matter.

The OLC letter is also unpersuasive on its own terms. As one commenter who previously served as a senior advisor to the EEOC General Counsel explained, the letter does not engage in statutory analysis and its conclusion conflicts with the plain text of the ADA, which explicitly prohibits all pre-offer employer inquiries into disability status and permits post-employment inquiries only where they are job-related and consistent with business necessity. 42 U.S.C. 12112(d)(2)(A), (4)(A). Further, though courts are to give ''due respect'' to an agency's interpretation of a statute, that commenter noted that such interpretations are not entitled to judicial deference. *Loper Bright,* 603 U.S. at 400. For the reasons stated above, DOL finds the OLC letter neither authoritative nor persuasive.

As commenters observed, EEOC interpretive guidance provides that ''inviting individuals to identify themselves as individuals with disabilities as required to satisfy the affirmative action requirements of section 503 of the Rehabilitation Act is not restricted by'' the ADA's prohibition on pre-offer disability inquiries. *See* Appendix to Part 1630, Title 29. Upon consideration, DOL concludes that this guidance is inconsistent with the best reading of Section 503 and will not defer to it. Specifically, DOL declines to administer Section 503 in violation of the ADA.

The ADA's text is unequivocal: a covered employer ''shall not . . . make inquiries of a job applicant as to whether such applicant is an individual with a disability.'' 42 U.S.C. 12112(d)(2)(A). This prohibition is categorical and contains no exception for affirmative action. Congress enacted the ADA against the backdrop of existing affirmative action obligations under Section 503, yet it did not include any carveout permitting pre-offer disability inquiries in furtherance of those obligations. To the contrary, the ADA must control the best reading of Section 503, because the latter incorporates the standards of the former. *See* 29 U.S.C. 793(d). Where Congress includes exceptions in some provisions but omits them in others, DOL must presume that the omission was intentional.

Nor does the characterization of such inquiries as ''voluntary self-identification'' alter the analysis. The statute regulates the employer's conduct—''mak[ing] inquiries''—not the applicant's obligation to respond. Even if an applicant may decline to answer, the employer has still posed a prohibited question. The ADA does not provide an exception for inquiries that an applicant is free to ignore, and DOL declines to read one into the statute.

DOL also disagrees with the premise that such inquiries fall outside the scope of section 12112(d)(2)(A) based on their asserted purpose. The statutory text does not distinguish between inquiries made for discriminatory screening and those made for data collection or compliance purposes. Instead, Congress adopted a bright-line rule prohibiting pre-offer disability inquiries altogether, while permitting more flexibility at later stages of the employment process. *See* 42 U.S.C. 12112(d)(3)–(4). Reading a purpose-based limitation into 42 U.S.C. 12112(d)(2)(A) would be inconsistent with that structure.

[11] For these same reasons, DOL declines to adopt a commenter's recommendation to return to the pre-2013 self-identification requirements, which provided that contractors shall, ''after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, invite the applicant to inform the contractor whether the applicant believes that he or she may be covered by the act and wishes to benefit under the affirmative action program.'' *See* 61 FR 19336, 19344–45 (May 1, 1996).

[12] *See* EEOC, ''A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act,'' (Jan. 1, 1992), available at *https://www.eeoc.gov/laws/guidance/technical-assistance-manual-employment-provisions-title-i-americans-disabilities-act;* 78 FR 58682, 58691 (Sept. 24, 2013) (discussing the EEOC technical assistance manual and OLC discussion letter).

Recent Supreme Court precedent reinforces the need to adhere to the statute's best reading. In *Loper Bright,* the Court emphasized that " 'statutes . . . have a single, best meaning' " that is " 'fixed at the time of enactment.' " 603 U.S. at 400 (quoting *Wis. Cent. Ltd.* v. *United States,* 585 U.S. 274, 284 (2018)). Applying that principle here, DOL concludes that the best reading of Section 503 in light of 42 U.S.C. 12112(d)(2)(A) is that employers may not make disability-related inquiries of job applicants prior to an offer of employment, regardless of the employer's intent or the framing of the question.

Accordingly, DOL does not adopt or defer to EEOC enforcement guidance to the extent it suggests that pre-offer disability inquiries are permissible when made for affirmative action purposes under Section 503. To the extent there is tension between the ADA's prohibition and regulatory approaches that rely on applicant self-identification, that tension must be resolved in a manner consistent with the statutory text enacted by Congress.

The same conclusion applies to other EEOC statements and guidance that suggest disability inquiries are permitted for affirmative action purposes, including EEOC's 1995 Title I Technical Assistance Manual and its July 27, 2000, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA. Like other subregulatory guidance predating *Loper Bright*—these are unpersuasive to the extent they are read to authorize mandatory pre-offer disability inquiries.

Ultimately, many commenters pointed to no text in the ADA supporting their position and instead relied on subregulatory EEOC guidance. The suggestion that DOL may interpret only Section 503 while disregarding the ADA prohibitions is unpersuasive. As discussed above, DOL has an obligation to administer Section 503 consistent with other applicable federal statutes. Section 503 does not operate in isolation, and DOL must interpret and implement it in tandem with the ADA. As other commenters observed, due to the overlapping subject matter of the ADA and Section 503, the two statutes should be read together. When reading these statutes together, DOL adopts the best reading of the text and will not defer to contrary subregulatory guidance.

e. Potential Utility of Disability Data Does Not Override ADA's Privacy Protection

Many commenters argued that soliciting disability data through disability inquiries is useful to contractors in advancing affirmative action. DOL acknowledges those views but concludes that Congress has already made a policy determination in enacting the ADA to protect individual privacy by limiting employer-initiated disability inquiries. Other commenters emphasized that the ADA serves, in part, to shield applicants and employees from potentially invasive questioning and from the risk that disability information will influence employment decisions. One commenter, drawing on experience as an OFCCP practitioner, noted that individuals with observable disabilities often feel they have no meaningful choice but to disclose their disability status, while individuals with non-obvious disabilities report disclosing only out of concern that failure to do so might be perceived as dishonesty.

Although contractors are required to keep disability disclosures confidential and not use them in employment decisions, confidentiality requirements do not eliminate the practical pressures or risk of distress that individuals may experience when presented with an employer-initiated request to disclose disability status. Because DOL does not believe that the collection of disability information is necessary for contractors to satisfy their statutory affirmative action obligations under Section 503, it concludes that the privacy interests reflected in the ADA outweigh the asserted utility of collecting disability data.

Commenters also asserted that the disability data assists contractors with reviewing their job qualifications and employment practices for Section 503 compliance. For example, one commenter asserted that disability data helps contractors conduct barrier analyses where they can ''assess whether there are potential compliance gaps or barriers to equal employment opportunity.'' But contractors can—and should—review their practices, job qualifications, and advancement opportunities as part of their ongoing equal employment opportunity compliance functions regardless of whether disability-status data has been collected. Such reviews need not depend on knowledge of which individuals have disabilities. Contractors remain free to analyze potential barriers by job category and to ensure accessibility and compliance with equal employment opportunity requirements without asking employees or applicants to disclose their disability status.

f. The ADA's Statutory Construction Provisions Do Not Permit Disability Inquiries

Some commenters cited ADA provisions at 42 U.S.C. 12201(a) and (b), which govern statutory construction, to argue that DOL's disability inquiry requirement can override or is otherwise exempt from the ADA's limitation on employer inquiries of applicants' and employees' disabilities status. DOL disagrees.

Several commenters characterized section 12201(a) as generally providing that the ADA and the Rehabilitation Act should be construed with reference to each other and argued that, as a result, DOL may not rescind the Section 503 regulations' requirement that contractors inquire into applicants' disability status under 41 CFR 60–741.42. Several commenters asserted: ''Reading the ADA and Rehabilitation Act together makes clear that the ADA's pre-offer inquiry bar is a term of art that does not apply to Section 503 self-identification forms, which are kept separate from an applicant or employee's personnel file.'' The commenters did not identify any term that they contend is a ''term of art'' because there are none. Section 12112(d)(2)(A)'s pre-offer inquiry bar is not a term of art, but a statutory prohibition, entitled ''Prohibited examination or inquiry,'' that governs inquiries to job applicants no matter the form in which they are made. Consistent with ordinary meaning principles, statutory terms are interpreted according to their plain and ordinary meaning unless Congress indicates otherwise. Nothing in the ADA suggests that ''inquiries'' or any other relevant term carries a specialized meaning that would exclude employer-initiated requests for information about disability status.

Some commenters also argued that section 12201(a) ''preserves'' or effectively ''locks in'' Section 503 regulations, but they did not explain how the statutory text supports this conclusion. Section 12201(a) provides that ''nothing in this chapter shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*) or the regulations issued by Federal agencies pursuant to such title.'' The provision ''in this chapter'' at issue is section 12112(d)(2)(A)'s pre-offer inquiry bar. That provision is part of the ADA's antidiscrimination and privacy framework. It protects job applicants by prohibiting employers from asking about disability status and thereby reduces the risk that such information will be used improperly in employment decisions.

The proper comparison under section 12201(a), therefore, is whether construing section 12112(d)(2)(A) to prohibit preemployment employer-initiated disability inquiries results in either a ''lesser standard'' of protection against discrimination or in a lesser degree of privacy protection than the standards applied under the Rehabilitation Act or its regulations. It does not. The ADA's limitation on disability-related inquiries is itself a substantive protection for individuals. A regulatory requirement that contractors inquire into applicants' disability status does not provide greater or equal protection in these respects.[13]

The commenters' reliance on *Bragdon* v. *Abbott,* 524 U.S. 624, 631–32 (1998), does not support a different conclusion. In *Bragdon,* the Supreme Court interpreted the ADA's definition of ''disability'' consistently with the Rehabilitation Act to ensure that individuals receive the ADA's protection against discrimination. The Court's reference to ''protection'' concerned the scope of the ADA's antidiscrimination provisions. It did not suggest that regulatory mechanisms developed under the Rehabilitation Act must be incorporated into the ADA or may override the ADA's express statutory limitations.

The commenters read section 12201(a) to invert its function. The provision requires ''constru[ing] the ADA to grant at least as much protection as provided by the regulations implementing the Rehabilitation Act.'' *Bragdon,* 524 U.S. at 632. It does not, as commenters suggested, require the ADA to yield where its statutory provisions provide greater protection than a Rehabilitation Act regulation. Here, the ADA's limitation on employer-initiated disability inquiries provides a higher level of privacy and a greater degree of antidiscrimination protection. Construing section 12112(d)(2)(A) to prohibit employer-initiated inquiries therefore complies with, rather than violates, section 12201(a).

Several commenters also asserted that the disability inquiry requirements are preserved by 42 U.S.C. 12201(b), which provides that nothing in the ADA ''shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law . . . that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this chapter.'' The Department has considered this argument and does not find it persuasive.

First, section 12201(b) is a rule of statutory construction that preserves the ''remedies, rights, and procedures'' provided in other ''Federal laws.'' It does not extend to every regulatory mechanism that an agency may adopt to implement those laws. Section 503 requires covered contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. 29 U.S.C. 793. That said, it does not mandate any particular method for achieving those objectives, such as employer-initiated inquiries into disability status and utilization goals that depend on such inquiries. The disability inquiry requirements are therefore regulatory choices, not statutory commands. This distinction is reinforced by Congress's drafting: in section 12201(a), Congress expressly provided that the ''no lesser standard'' provision applies with respect to ''regulations,'' but it did not include such language in section 12201(b). Accordingly, section 12201(b) preserves the continued validity of Section 503 itself, not specific regulatory approaches that go beyond the statute's text.

Second, section 12201(b) does not authorize regulatory requirements that conflict with the ADA's express prohibitions. As explained above, the ADA establishes clear limitations on disability-related inquiries by employers, including a categorical ban against pre-offer inquiries and strict conditions on inquiries of employees. A savings clause such as section 12201(b) does not create exceptions to these limitations or permit agencies to mandate conduct that the ADA explicitly forbids. Rather, it merely ensures that the ADA is not interpreted to displace other Federal statutes that protect individuals with disabilities. It does not operate as an independent grant of authority to impose requirements inconsistent with the ADA's substantive protections.

Third, the Department is not persuaded that the disability inquiry requirement constitutes ''greater or equal protection'' within the meaning of section 12201(b). The ADA's limitations on employer-initiated disability-related inquiries are themselves substantive protections designed to safeguard individual privacy and reduce the risk of discrimination. A requirement that compels employers to solicit disability information diminishes, rather than enhances, those protections. While commenters contended that the collection of disability data may support broader affirmative action objectives, section 12201(b) calls for a comparison of the legal protections for the ''rights of individuals.'' Section 12201(b) does not call for an abstract assessment of policy benefits. Ultimately, the ADA's express limits on employer-initiated disability inquiries reflect a deliberate policy choice by Congress. DOL is obliged to give effect to that judgment, not to second-guess it by substituting DOL's own determination of what types of employer-initiated disability inquiries should be permitted. DOL therefore does not conclude that the disability inquiry requirement provides greater or equal protection than the ADA's restrictions.

Finally, as previously discussed in more detail, contractors may still comply with Section 503's affirmative action obligations using measures that do not depend on knowledge of a particular applicant's or employee's disability status.

g. Other ADA-Related Comments

Although many commenters urged DOL to maintain the existing disability inquiry requirement, several commenters proposed alternative frameworks for this requirement. Some commenters suggested that DOL impose the requirement only for the post-offer period, or convert the requirement into a voluntary option. As explained above, DOL is not prohibiting contractors from voluntarily exercising their own legal and business judgment about making disability status inquiries at the post-offer stage, if they believe such inquiries comply with the ADA and its implementing regulations. DOL is, however, no longer requiring that contractors conduct such inquiries as part of their affirmative action obligations under Section 503. The same is true for pre-employment inquiries: if a contractor believes there is a lawful basis under the ADA and its regulations to collect disability information, then DOL is not forbidding that practice—DOL is simply no longer going to require it. At their own discretion and without being prompted by an employer, employees and applicants are still permitted to disclose their disability status at any point in the hiring or employment process (*e.g.,* when requesting a reasonable accommodation).

One commenter stated that any conflict with the ADA could be resolved

[13] It is not even clear that the regulation's requirement that contractors inquire into their applicants and employees' disability status is a standard at all, let alone a standard of protection for individuals.

by requiring contractors to conduct confidential, anonymous, or aggregated collection of disability self-identification data after a job offer. DOL does not find this to be a workable solution. The commenter's suggestion continues to require the contractor to make a disability-related inquiry. The text of the ADA does not provide an exception for anonymous or aggregated inquiries. Additionally, true anonymity would often be difficult to ensure in practice, particularly in small applicant pools or in narrowly defined job categories. Even if anonymity could be maintained, the utility of the data would be limited, as using aggregated or anonymous data would constrain meaningful analysis and could introduce issues such as duplication or data inaccuracy.

Other commenters urged DOL and the EEOC to adopt joint regulations clarifying the circumstances in which pre-employment disability inquiries are permitted. Since DOL is removing the disability inquiry requirement, DOL does not believe that joint regulations are necessary or appropriate. By rescinding the disability inquiry requirement, DOL eliminates any asserted tension and does not consider it proper to initiate joint rulemaking on a requirement it is no longer imposing on contractors.

Some commenters requested DOL maintain the CC–305 form, which contractors were previously required to use when requesting the disability information.[14] DOL declines to retain this form, as the final rule rescinds the disability inquiry requirement. Other commenters asserted that the CC–305 form does not constitute a prohibited inquiry under the ADA because it is voluntary, includes an ''I do not want to answer'' option, and imposes no penalty for non-disclosure. DOL disagrees. A truly voluntary disclosure occurs when an applicant or employee volunteers his or her disability self-identification without being asked. When an employer hands the employee a form, that is clearly a request for information. The existence of a ''I do not want to answer'' option on an employer-provided form does not change the fact that the employer has made an inquiry.

One commenter argued that other DOL requirements go beyond the text of the ADA, citing medical examinations that may be authorized under the Federal Mine Safety and Health Act or the Occupational Safety and Health Act requirements. This objection is misplaced. The cited authorities govern employees, not applicants, and thus operate only in the employment context or in the post-offer stage. The ADA draws a clear distinction between stages of employment: although it categorically prohibits disability-related inquiries at the pre-offer stage, it permits medical examinations and certain inquiries after an offer of employment, subject to certain conditions, as well as during employment when they are job-related and consistent with business necessity or part of an employee health program. The medical examinations referenced by the commenter fall within those permissible contexts. Accordingly, the commenter's examples do not present a conflict with the ADA's restrictions and do not undermine DOL's position.

3. Impact of the Proposed Changes

Several commenters believed that the proposed changes would weaken employment discrimination protections for individuals with disabilities. Some commenters were also concerned that the NPRM, if finalized, would decrease employment and economic opportunities or undo recent advancements for the disability community, including disabled veterans. Commenters also expressed concern that the proposed changes would signal that hiring individuals with disabilities is not a priority or discourage other countries from working towards disability inclusion. Several commenters also asserted that there were several benefits to the voluntary self-identification and data collection requirements, citing their belief that these requirements increased awareness of the ADA definitions, destigmatized disabilities, encouraged inclusive work environments, and signaled that employers were open to hiring, advancing or reasonably accommodating workers with disabilities. Some commenters believed that DOL's past enforcement of the regulations was effective and consistent with the administration's focus on expanding labor force participation. Commenters were also concerned that the proposed changes would conceal discrimination in workplaces and reduce accountability and transparency for contractors.

DOL reviewed these concerns and believes they are unfounded and unpersuasive. The rescinded provisions are limited to specific affirmative action requirements that conflict with the clear statutory text of the ADA and weaken the ADA's privacy protections by forcing contractors to inquire about disability status. The regulations' non-discrimination provisions remain intact, where contractors are still prohibited from discriminating against any employee or applicant for employment because of their physical or mental disability. Contractors are still subject to other provisions in the regulations such as the recordkeeping requirements, various requirements in Subpart C (*e.g.,* outreach requirements), and other provisions such as the complaint procedures set forth in Subpart D. With the remaining provisions, DOL continues to preserve the agency's Section 503 program, while ensuring that qualified individuals with disabilities can fully participate in the workforce.

Ultimately, the above commenters argued that the disability inquiry requirement and utilization goal produce beneficial policy outcomes. Even assuming these claimed effects were accurate, they would not alter DOL's conclusion. Agencies may not retain the unlawful disability inquiry requirement and related analyses based on perceived policy benefits. As explained above, the ADA expressly limits disability-related inquiries by employers. DOL regulations that require contractors to solicit disability status from applicants or employees plainly violate those statutory restrictions. Where a regulation conflicts with the plain text of a statute, the agency lacks authority to maintain the regulation regardless of any asserted policy benefit. DOL cannot preserve the disability inquiry and utilization provisions based on commenters' policy preferences when those provisions are inconsistent with the ADA's statutory requirements.

DOL also received several comments on the NPRM's potential impact on reasonable accommodation procedures. Commenters believed that the proposed changes would take away the right to request reasonable accommodations, reduce the number of qualified individuals with disabilities who request reasonable accommodations, or make it more difficult for qualified individuals with a disability to request and receive reasonable accommodations. Some commenters believed that the disability inquiry requirement should be retained because employers need disability information to make reasonable accommodations.

[14] One commenter suggested that DOL retain the form but modify the language by eliminating the existing responses and allowing the user to mark a box which says ''I am voluntarily reporting that I have a disability or have had one in the past. I acknowledge that my employer or prospective employer has not inquired about whether I have a disability in violation of the Americans with Disabilities Act (29 U.S.C. 12112(d)), that I have been told that I need not disclose that I have a disability, and that I am doing so of my own free will.'' DOL declines to make this change, as this approach does not address the ADA concerns detailed above.

Commenters also discussed the benefits of reasonable accommodations for qualified individuals with disabilities and asserted that most accommodations are not costly for employers.

In response, DOL notes that the NPRM did not propose, and the final rule does not make, changes to the reasonable accommodation requirements.[15] As provided in 41 CFR 60–741.21(a)(6), a contractor must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability unless it can demonstrate that the accommodation would impose an undue hardship on the operation of its business. At their own discretion and without being prompted by an employer, employees and applicants are also still permitted to voluntarily provide information about their disability status for reasonable accommodation purposes.

One commenter also stated that the NPRM ''eliminates the requirement for contractors to conduct self-audits of their hiring, promotion, and compensation practices to evaluate inclusion of individuals with disabilities. This means contractors will no longer need to examine whether their practices are producing discriminatory outcomes or take steps to address shortfalls.'' For clarification, DOL relied on the now-rescinded E.O. 11246 to require contractors to conduct in-depth analyses of their employment practices including hiring, pay, and compensation. The Section 503 regulations never included this requirement. Rather, the Section 503 regulations require contractors to use their utilization analyses to determine ''whether and where impediments to equal employment opportunity exist'' and ''to develop and execute action-oriented programs'' designed to correct any identified problem areas. *See* 41 CFR 60–741.45(e) and (f). While the final rule rescinds these requirements, contractors can continue to assess their workplace policies through other means such as barrier analyses of recruitment, hiring, retention, and promotion practices. The NPRM and the final rule also continue to include the equal employment opportunity clause at 41 CFR 60–741.5, which requires contractors to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices.

In the NPRM and the final rule, contractors meeting the AAP thresholds are still required to design and implement an audit and reporting system, which differs from the requirements referenced by the commenter. *See* 41 CFR 60–741.44(h) (focusing on the effectiveness of the AAP). While contractors are no longer required to collect the disability self-identification data, they can continue to meet these obligations through other measures such as reviewing their actions taken in response to reasonable accommodation requests or auditing their workplace accessibility. Employees and applicants also have the right to file complaints of disability discrimination pursuant to the regulations. *See* 41 CFR 60–741 at Subpart D. In this way, contractors can continue to assess what remedial measures may be necessary in their workplaces.

A few commenters believed that the proposed changes would hinder DOL's or researchers' ability to analyze workforce data on the employment of individuals with disabilities. However, these commenters misunderstand the use and purpose of the data collection requirements. Applicants and employees submitted the CC–305 form to the contractor, not DOL. The prescribed CC–305 form indicated that contractors were soliciting disability information for the purpose of measuring their progress towards the 7 percent utilization goal.[16] Although DOL may have seen contractor-specific information when assessing a contractor's compliance with the utilization requirements during a compliance review, it did not collect this data for all contractors and did not use or share this data for statistical or research purposes.

Lastly, commenters expressed concern that the proposed changes could impact the enforcement or interpretation of other laws or policies such as VEVRAA or Schedule A hiring in federal agencies. DOL notes that this final rule pertains to the Section 503 regulations only. The revisions to Section 503's implementing regulations do not extend to other programs such as VEVRAA, which relates to protected veterans, or the Federal Government's Schedule A hiring program, which are outside the scope of this final rule.

That said, DOL intends to clarify its view on one issue raised by a few commenters who suggested that the Section 503 disability inquiry requirement is comparable to the self-identification requirements in the VEVRAA regulations. For example, one such commenter asserted that ''VEVRAA depends on the same foundational ideas that [41 CFR 60–741] is built on. Challenging the authority to self-identify disabilities [under Section 503] seems like it necessarily brings into question the legality of the disabled veterans category [under VEVRAA].'' DOL disagrees for several reasons.

First, under the VEVRAA regulations, 41 CFR 60–300.42(a) requires contractors to invite applicants during the pre-offer stage to disclose protected veteran status, but not the particular category thereof.[17] Under VEVRAA, ''protected veteran'' includes a veteran who may be classified as a ''disabled veteran'' under 41 CFR 60–300.2(i). *See* 41 CFR 60–300.2(q).[18] However, the invitation to disclose protected veteran status under 41 CFR 60–300.42(a) is distinguishable from the Section 503 invitation to disclose disability status. The primary purpose of the protected veteran inquiry is to assess whether an individual is a protected veteran, not whether an individual has a disability. The protected veteran inquiry is therefore not a proxy for a disability inquiry. As OFCCP explained in the 2013 preamble to the VEVRAA regulations, ''the proposed pre-offer inquiry does not ask about disability status specifically; rather, it only asks that the applicant identify whether he or she is a protected veteran generally.'' 78 FR 58627 (Sept. 24, 2013). This is also consistent with the recommended text for extending the pre-offer invitation in Appendix B to Part 60–300, which asks simply whether the applicant ''identif[ies] as one or more of the classifications of protected veteran status . . .'' but does not invite the individual to list those categories. Since one cannot directly infer that an applicant is disabled from their protected veteran status, it is not an ''inquiry'' under the ADA.

Second, although the invitation that occurs at the post-offer stage does

[15] The proposed revisions to the guidance in Appendix A on a contractor's duty to provide reasonable accommodations were limited to those related to the invitation to self-identify as an individual with a disability, which DOL proposed rescinding in the NPRM.

[16] *See* Form CC–305, available at *https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202306-1250-001&icID=200170.*

[17] 41 CFR 60–300.42(a) (''[t]he contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a protected veteran who may be covered by [VEVRAA].'').

[18] A ''protected veteran'' means ''a veteran who is protected under the non-discrimination and affirmative action provisions of [VEVRAA]; specifically, a veteran who may be classified as a 'disabled veteran,' 'recently separated veteran,' 'active duty wartime or campaign badge veteran,' or an 'Armed Forces service medal veteran,' as defined by this section.'' *Id.*

specify the particular categories of ''protected veteran'' to which the applicant may belong, the scope of the ''disabled veteran'' category is materially different from—and broader in relevant respect than—the ADA-based definition of ''disability'' covered by the Section 503 disability inquiry. The Section 503 disability inquiry requirement is based on whether the applicant believes that he or she is an individual with a ''disability'' as defined in 41 CFR 60–741.2(g)(1)(i) or (ii). This definition tracks the first two prongs of the ADA definition of ''disability'': ''(i) A physical or mental impairment that substantially limits one or more major life activities of such individual; [or] (ii) a record of such an impairment[.]'' This definition is closely aligned with the ADA definition and therefore offers a clear illustration of a pure disability inquiry.

In contrast, under VEVRAA, ''disabled veteran'' is defined more broadly as: (1) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or (2) a person who was discharged or released from active duty because of a service-connected disability. 41 CFR 60–300.2(i). This category is not coextensive with the category of individuals who meet the ADA's definition of disability. It may include, for instance, individuals with service-connected conditions that do not ''substantially limit'' a major life activity—and thus would not satisfy the ADA definition—but nonetheless render individuals unfit for the specific military duties of their office, grade, rank, or rating. *See* 10 U.S.C. 1201, 1203. The reverse is also true. Someone disabled under the ADA would not be a ''disabled veteran'' if, for instance, the disability lacked any service connection. *See* 38 U.S.C. 1110. ''Disabled veterans'' under VEVRAA must satisfy different conditions than those who have a disability under the ADA and Section 503. The individuals who qualify as ''disabled veterans'' under VEVRAA meet fundamentally different definitions than those who are not veterans but have a disability under the ADA and Section 503. The inquiries are, therefore, not comparable as the commenters suggest.

4. Due Process Rights and Reliance Interests

Some commenters asserted that ''Individuals with disabilities have historic reliance on voluntary self identification and the 7% utilization goal, so phasing it out without a hearing is a due process violation,'' citing *Perry* v. *Sindermann,* 408 U.S. 593 (1972). These commenters are wrong.

Perry held that a public employee could have a constitutionally protected property interest in continued employment where there was an implied tenure system creating a legitimate claim of entitlement. That holding is inapplicable here. The individuals that commenters are referencing are not government employees but applicants and employees of private contractors. Neither the disability inquiry requirement nor the utilization goal creates any individual entitlement, property interest, or other constitutionally protected interest. Importantly, these provisions regulate contractor compliance obligations and do not confer enforceable rights on applicants or employees. Accordingly, the Due Process Clause does not require a hearing before DOL revises or rescinds these regulatory provisions. *See Bd. of Regents of State Colls.* v. *Roth,* 408 U.S. 564, 577 (1972).

Commenters also cited *Encino Motorcars LLC* v. *Navarro,* 579 U.S. 211, 212 (2016), for the proposition that agencies must ''be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account'' and *FCC* v. *Fox Television Stations,* 556 U.S. 502, 515 (2009), which states that ''[i]t would be arbitrary or capricious to ignore such matters.'' These cases concern the Administrative Procedure Act's requirement that agencies consider serious reliance interests when changing policy, not constitutional due process hearing requirements.

DOL also disagrees that there is a reliance interest in the disability inquiry and utilization goal regulations. Individuals do not have a legitimate reliance interest in being asked whether they have a disability by a prospective or current employer. The commenters did not explain what individuals with disabilities have done in reliance upon the expectation that they would be asked whether they have a disability. If an individual wishes to disclose that information, nothing in this rule prevents him or her from voluntarily doing so without being asked, such as in the course of requesting a reasonable accommodation.

Nor is there any legitimate reliance interest in the utilization goal. The utilization goal does not guarantee employment, advancement, accommodation, or any other benefit to any individual with a disability. It does not create any entitlement or preference for any particular applicant or employee. Rather, the utilization goal functions as a management tool used by contractors to evaluate their overall affirmative action efforts. Because it does not confer any individual right or benefit, commenters have not identified any concrete reliance interest. And as explained above, commenters have not explained what employees have done in reliance on the expectation that contractors would use the utilization goal to evaluate their affirmative action efforts.

5. Alternatives To Rescinding the Utilization Goal and Related Analyses

In lieu of rescinding the utilization goal, commenters suggested that DOL modify the regulations at 41 CFR 60–741.5 to further clarify the prohibition against quotas or to institute an annual certification requirement for contractors to certify that they are not using quotas. Commenters also suggested various alternatives to rescinding the utilization goal such as increasing or decreasing the goal; adopting a flexible, non-binding goal; adopting diagnostic reference points in lieu of a goal; increasing the employee threshold required to trigger the goal; instituting a hiring benchmark; or moving the utilization provisions to the regulations' Appendices, which provide guidelines contractors can choose to implement to promote equal employment opportunity for individuals with disabilities.

DOL considered these alternatives and declines to retain the utilization goal and related analyses in any form. First, given the rescission of the disability inquiry requirement, DOL views commenters' alternatives for assessing utilization as unworkable and therefore declines to adopt them in the final rule. Further, modifying the goal, requiring a certification, or adding new regulatory language prohibiting quotas would be ineffective. Prior to this rescission, the regulations already included express language prohibiting the use of quotas and the agency issued guidance highlighting this prohibition.[19] Despite these guardrails, several commenters agreed that the utilization requirements were in practice pressuring contractors to meet quotas. DOL also notes that neither the

[19] 41 CFR 60–741.45 Utilization goals, ''The utilization goal is not a rigid and inflexible quota which must be met, nor is it to be considered either a ceiling or a floor for the employment of particular groups. Quotas are expressly forbidden;'' and 41 CFR 60–741.45(h), ''The utilization goal established in paragraph (a) of this section shall not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities.''

utilization goal nor the related analyses are required by Section 503. *See* 29 U.S.C. 793. By rescinding these burdensome requirements, DOL is fulfilling the mandate of E.O. 14219 to rescind or modify regulations that are not authorized by clear statutory authority. *See* E.O. 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' 90 FR 10583 (Feb. 25, 2025).

Some commenters disagreed with DOL's position that the Section 503 utilization analysis is unworkable because it is dependent on the E.O. 11246 job groupings. *See* 41 CFR 60–741.45(d)(2) (requiring the Section 503 utilization analysis to use the same job groupings as the contractor's E.O. 11246 analyses). For example, some commenters stated that contractors could continue to use E.O. 11246 job groups for their analysis. Given the rescission of the utilization goal in the final rule, DOL declines to adopt this recommendation. Further, with the revocation of the E.O. 11246 authority, requiring contractors to continue to use the E.O. 11246 job groupings for their Section 503 analyses may cause confusion.

In lieu of E.O. 11246 job groups, some commenters suggested that contractors could use EEO–1 job categories, total workforce, or their own groupings for the utilization analysis. Other commenters suggested that DOL add the 41 CFR 60–2.12 definition of job group from the E.O. 11246 regulations to the Section 503 regulations. One commenter suggested replacing the utilization goal and analysis with other types of analyses and reporting. These include barrier analyses of recruitment, hiring, retention, and promotion practices; data on average response times and resolution outcomes for reasonable accommodation requests; and reports on qualitative measures of inclusion, such as accessibility of digital systems, participation in leadership pipelines, and engagement in workplace culture. The commenter also recommended that contractors be required to integrate accessibility into procurement and supply chain reviews and to embed accessibility and disability inclusion into training, design, and operational practices. Another commenter suggested requiring a barrier analysis to assess application accessibility, screening practices, workplace culture, and career pathways when contractors fail to meet the 7 percent utilization goal.

DOL declines to adopt these recommendations. Imposing new requirements or job groupings for conducting Section 503 analyses would be contrary to E.O. 14219, which directs Federal agencies to implement deregulatory measures and reduce undue burden on businesses. *See* E.O. 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' 90 FR 10583 (Feb. 25, 2025).[20]

Commenters also expressed concern as to how they could measure progress without the utilization analysis and the regulations' data collection requirements. For example, some commenters expressed concern as to how contractors could identify potential discrimination issues in their workforce or measure the effectiveness of their outreach efforts, as required by 41 CFR 60–741.44(f)(3), without these analyses. Similarly, commenters asserted that rescinding the analyses would hinder contractors' ability to prepare and maintain other required sections of the AAP. A commenter requested that contractors be permitted to continue to conduct the analyses and to be afforded flexibility in how they do so. Another commenter also recommended that contractors be permitted to conduct periodic analyses to assess whether they are reaching qualified applicants.

In response, DOL notes that contractors can continue to meet the objectives of Section 503 without DOL mandating the specific type of analyses. This final rule is removing the disability inquiry requirement and is rescinding the related data collection and analyses set forth at 41 CFR 60–741.44(k) and 41 CFR 60–741.45, respectively. If contractors, at their own discretion, continue to take these actions, they should ensure that in doing so, they are acting in accordance with all applicable laws and regulations, including the ADA. Removing the rigid requirement to complete the utilization and data collection analyses affords contractors the flexibility to conduct analyses that are appropriate for their workforce, rather than imposing a one-size-fits-all requirement.

Further, while the final rule no longer requires contractors to collect disability data or to compute the metrics previously required under 41 CFR 60–741.44(k), they can continue to measure the effectiveness of their outreach efforts through other measures that are appropriate for their workforce. DOL does acknowledge that many contractors primarily relied on the quantitative data to assess the effectiveness of their outreach and other affirmative action requirements. The 2013 rule also required contractors to consider the quantitative data, among other criteria. *See* 78 FR 58682, 58699 (Sept. 24, 2013). Given this final rule's rescission of the disability inquiry requirement, DOL does agree that more clarification on this issue is necessary. To address confusion regarding contractors' obligations, DOL is adding clarifying language to 41 CFR 60–741.44 providing that contractors are no longer required to consider quantitative data on the numbers of individuals with disabilities who were referrals, applicants, or hires when assessing the effectiveness of their outreach efforts and affirmative action program pursuant to 41 CFR 60–741.44(f)(3) and 41 CFR 60–741.44(h)(1).[21] *See Ne. Maryland Waste Disposal Auth.* v. *E.P.A.,* 358 F.3d 936, 951 (D.C. Cir. 2004) (''Agencies, are free—indeed, they are encouraged—to modify proposed rules as a result of the comments they receive.''). In meeting these requirements, contractors may review other factors such as the accessibility of their outreach and hiring materials.

6. Congressional Intent

DOL received several comments regarding the congressional intent underlying Section 503. For example, some commenters noted that Section 503 requires contractors to engage in affirmative action for individuals with disabilities. These commenters asserted that DOL's proposal to rescind the affirmative action requirements described above (*e.g.,* the disability inquiry requirement and utilization goal and analyses) conflicts with the congressional intent underlying Section 503. More generally, commenters asserted that Section 503 was meant to strengthen protections for individuals with disabilities, and thus they believed that DOL's proposal to rescind these affirmative action requirements conflicted with the intent or purpose of Section 503.

DOL disagrees with these comments. Section 503 requires contractors to ''take affirmative action to employ and advance in employment qualified individuals with disabilities.'' 29 U.S.C. 793(a). As detailed in section III(A) above, while the disability inquiry and utilization goal requirements conflict

[20] DOL further notes that EEOC has issued a proposed rule to rescind the EEO–1 data reporting requirement at 29 CFR 1602.7. *See* 91 FR 46332 (July 23, 2026).

[21] The clarifying language is now included at 41 CFR 60–741.44(l) and reads as follows: ''Contractors are not required to consider quantitative data on the numbers of individuals with disabilities who were referrals, applicants, or hires when assessing the effectiveness of their outreach efforts and affirmative action program pursuant to 41 CFR 60–741.44(f)(3) and 41 CFR 60–741.44(h)(1).''

with the guardrails included in the ADA statute, the regulations continue to provide for other actions contractors can take to employ and advance in employment qualified individuals with disabilities.

7. Cross-References to E.O. 11246 and 41 CFR 60–3

In the NPRM, DOL proposed removing the Section 503 regulations' cross-references to E.O. 11246, which was revoked by E.O. 14173 on January 21, 2025.

A commenter stated that removing the E.O. 11246 cross-references would result in disability-related complaints being siloed or deprioritized, particularly in cases where disability interacts with other protected bases under federal law (*e.g.,* race or gender). Another commenter acknowledged that E.O. 11246 was now revoked but urged DOL to retain the cross-references to the revoked E.O. 11246 authority. In support of this position, the commenter asserted that E.O. 11246 helped prevent employment discrimination and noted that E.O. 11246 was in effect for decades. Another commenter suggested that E.O. 14173 could not impact Section 503 because Section 503 is statutory and remains in effect.

As a point of clarification, neither the NPRM nor this final rule propose changes to Section 503 found at 29 U.S.C. 793. Rather, the NPRM correctly noted that the implementing regulations for this statute expressly cross-reference E.O. 11246, which was revoked by E.O. 14173. Commenters' concerns about removing the E.O. 11246 cross-references are unfounded, as the proposed change is technical in nature. Rather than cross-referencing to the E.O. 11246 regulation's administrative proceeding procedures, DOL is merely moving the applicable procedures directly into the Section 503 regulatory text. This technical change will remove the outdated E.O. 11246 references, thereby ensuring greater clarity for stakeholders.

Separately, the E.O. 11246 regulations at 41 CFR part 60–3 previously incorporated the Uniform Guidelines on Employee Selection Procedures (UGESP), 29 CFR part 1607. UGESP is not applicable to Section 503. Section 60–741.21(a)(7)(iii) explained this fact by citing to the E.O. 11246 regulations at 41 CFR part 60–3. Now that E.O. 11246 has been revoked, UGESP continues to be inapplicable to Section 503, but the reference to 41 CFR part 60–3 in 41 CFR 60–741.21(a)(7)(iii) is outdated. As a result, this final rule revises 41 CFR 60–741.21(a)(7)(iii) to remove the cross-reference to 41 CFR part 60–3 and retain the reference to UGESP. This action does not impact other agencies' interpretation and application of UGESP, or the existence of UGESP more broadly.

8. Administrative Proceeding Procedures

DOL received numerous comments on its proposal to relocate the administrative proceeding procedures formerly contained in the E.O. 11246 regulations into the Section 503 implementing regulations. Several commenters supported this proposal, stating that conforming the regulatory structure in this manner is reasonable and appropriate following the revocation of E.O. 11246. These commenters noted that consolidating the applicable procedures within the Section 503 regulations would improve regulatory clarity and transparency regarding the procedures governing enforcement of Section 503. Other commenters recommended that DOL modify or eliminate the administrative proceeding procedures because of recent case law challenging the use of Administrative Law Judges (ALJs) by federal agencies. *See, e.g., Space Exploration Tech. Corp.* v. *Nat'l Labor Relations Bd.,* 151 F.4th 761 (5th Cir. 2025) (challenging the structure of the NLRB, including its ALJs); *ABM Indus. Groups, LLC* v. *U.S. Dep't of Labor,* 756 F.Supp.3d 468 (S.D. Tex. Oct. 30, 2024) (holding that Plaintiff is likely to succeed on its claim that the assigned DOL ALJ is unconstitutionally protected by two layers of good-cause removal restrictions), *vacated,* No. 4:24–CV–03353, 2024 WL 6076919. Relying on this case law, some of these commenters asserted that DOL can no longer use the ALJ structure included in the current procedures. Commenters also cited *SEC* v. *Jarkesy,* 603 U.S. 109 (2024), in which the Supreme Court held that the Seventh Amendment requires the Securities and Exchange Commission to pursue civil penalties in federal court where the defendant is entitled to a jury trial. Some commenters further cited lower court decisions applying *Jarkesy* outside the SEC context, including *Sun Valley Orchards, LLC* v. *DOL,* 148 F.4th 121 (3d Cir. 2025), *cert. granted,* 2026 WL 1127242 (U.S. Apr. 27, 2026) (No. 25–966) (applying *Jarkesy* to hold that DOL could not seek certain monetary remedies through administrative proceedings). However, the application of *Jarkesy* outside the SEC context remains unsettled and continues to be addressed by the courts. *Compare Sun Valley* with *Axalta Coating Systems LLC* v. *FAA,* 144 F.4th 467 (3d Cir. 2025) (holding that *Jarkesy* did not bar administrative adjudication of civil penalties for violations of hazmat regulations). DOL sought Supreme Court review of *Sun Valley,* and the Court granted a writ of certiorari. 2026 WL 1127242 (U.S. Apr. 27, 2026) (No. 25–966).

In any event, these developments do not affect DOL's decision here. This final rule does not expand DOL's remedial authority, create new causes of action, or establish new enforcement mechanisms. It merely relocates the existing procedural provisions after the revocation of E.O. 11246. To the extent future judicial decisions clarify the constitutional status of DOL's ALJs, clarify the application of *Jarkesy* to DOL enforcement actions, or otherwise require changes to DOL's administrative enforcement structure or available remedies, then the impact of potential future judicial decisions on such issues may be addressed in a separate rulemaking. DOL reaffirms its position that moving the administrative proceeding procedures directly into the Section 503 regulations is necessary due to the revocation of E.O. 11246. This change will also provide clarity about the current administrative proceeding procedures applicable to Section 503.

9. Burden and Cost

In the NPRM, DOL noted that rescinding the disability inquiry, utilization, and related data collection requirements would reduce the regulatory burden for contractors. While some commenters agreed that the NPRM revisions would reduce undue burden, others disagreed. These other commenters noted that changing the current requirements would require contractors to update their HR systems and processes, creating additional work. They also expressed concern that shifting requirements could cause confusion and increase the risk of noncompliance. Other commenters argued that the current requirements do not impose an undue burden, emphasizing that the burden is minimal because contractors already collect similar information on protected veterans. They further asserted that any burdens are minor compared to the potential costs to individuals with disabilities such as weakened discrimination protections.

DOL acknowledges that contractors might incur costs updating HR systems to remove disability inquiries and updating related analyses. But even after accounting for these potential costs, DOL estimates that these changes will lead to significant overall savings. *See* Paperwork Reduction Act discussion at section IV(C) below.

DOL also disagrees with the comments regarding the potential costs to individuals with disabilities. As noted above, the discrimination protections remain intact, and the proposed changes to the affirmative action provisions are intended to align the regulations with the ADA's guardrails and protections for individuals with disabilities. DOL is implementing changes that will better ensure that contractors are meeting their Section 503 obligations, while also complying with their other civil rights obligations.

With respect to commenters' concerns about the proposed changes causing confusion, DOL will continue to provide stakeholders with updated guidance as necessary on the Section 503 program. In this way, contractors will continue to receive notice of the changes and can stay informed about their obligations under Section 503.

10. Other Comments

Some commenters expressed general support or opposition to the NPRM without addressing specific issues discussed in the NPRM. Some commenters raised issues unrelated to DOL's authority under Section 503, such as contract bidding opportunities for individuals with disabilities. Other commenters suggested modifications unrelated to topics covered in the NPRM, such as adding a religious exemption into the Section 503 regulations or adding fines and penalties to the regulations. Some commenters suggested subregulatory changes to DOL's enforcement procedures or requested subregulatory guidance on the Section 503 program. These issues fall outside the scope of this rulemaking, and therefore DOL does not address them in this final rule. To the extent that DOL determines that additional regulatory changes may be necessary, then those changes may be pursued in a separate rulemaking. DOL may also continue to update its subregulatory materials as necessary to ensure they align with current agency procedures and requirements.

A commenter supporting the proposed rule urged the President to utilize his authority at 29 U.S.C. 793(c) to temporarily provide relief from the affirmative action requirements under Section 503 until DOL finalized a new rule. While DOL declined to implement this recommendation, DOL notes that no contractors were cited for a violation related to the disability inquiry and utilization requirements during the rulemaking period.

Some commenters encouraged DOL to delay the final rule until further study and input from stakeholders or until the future state of OFCCP is determined. Another commenter recommended DOL wait until the Government Accountability Office (GAO) issues a pending report on the Section 503 program and stakeholders have an opportunity to assess the impact. DOL respectfully declines these recommendations. As set forth in detail above, issuing the final rule is necessary to align the Section 503 requirements with applicable law and recent executive orders, and significantly reduces the regulatory burden on contractors. Through the rulemaking process, DOL has provided stakeholders with sufficient notice of the changes and an opportunity to comment.

B. Jurisdictional Thresholds

Effective October 1, 2025, the basic coverage threshold for Section 503 increased from $15,000 to $20,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025). Therefore, DOL is updating references to the basic coverage thresholds noted throughout the Section 503 regulations. This technical revision will ensure that the regulations accurately reflect the basic coverage threshold, thereby promoting greater clarity for contractors about their obligations pursuant to Section 503. DOL finds good cause to make these changes without prior notice and comment pursuant to 5 U.S.C. 553(b)(B). Specifically, DOL finds that notice and comment are unnecessary because the inflationary adjustments are minor and technical amendments that were previously subject to notice and comment through the Federal Acquisition Regulatory (FAR) Council's rulemaking process and are now binding on the Section 503 regulations.[22]

C. Other Technical Revisions

The final rule also includes additional technical changes such as corrections to typographical errors and updates to several website addresses that have changed or are no longer available. DOL finds good cause to make these corrections under the ''good cause'' exemption of the Administrative Procedure Act, 5 U.S.C. 553(b)(B). Specifically, DOL finds that notice and comment are unnecessary because these changes are technical in nature and do not substantively amend the regulations.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to the Office of Information and Regulatory Affairs (OIRA) for review. In accordance with E.O. 12866, DOL has determined that this final rule does not constitute a ''significant regulatory action.'' *See* E.O. 12866 sec. 3(f)(1). Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

1. Costs of the Final Rule

Rescinding the disability inquiry and utilization requirements impacts the time burden and costs related to Section 503 compliance. With the removal of the rescinded requirements, DOL estimates the following:

a. System Updates Related to Recordkeeping Changes

DOL estimates that covered entities will take an average of 10 hours to remove the CC–305 form and data collection information from their recordkeeping/Human Resource Information Systems. This will result in a total of 299,040 burden hours.[23]

[22] *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

[23] As Human Resources Information Systems (HRIS) are typically maintained by the parent company rather than individual establishment, DOL

Continued

b. Recordkeeping Burden

With the rescinded provisions, covered entities will no longer have recordkeeping costs related to the disability inquiry requirement and utilization analyses. The regulations at 41 CFR 60–741.44(f)(4) still require a contractor to document all outreach activities it undertakes for individuals with disabilities and retain these documents for a period of 3 years. DOL estimates that it will take each covered entity 10 minutes to maintain the outreach and recruitment documentation. Therefore, the recurring burden for this provision is 19,995 hours (119,971 covered entities × 10 minutes/60 = 19,995 hours).

Section 60–741.44(h)(1)(vi) requires contractors to document the actions taken to meet the audit and reporting system requirements outlined in Section 60–741.44(h). DOL estimates that it will take covered entities 10 minutes to document compliance with this provision. Documentation may include, as an example, the standard operating procedure of the system including roles and responsibilities, and audit and reporting timeframes and lifecycles. The annual recordkeeping burden of this provision is 19,995 hours (119,971 covered entities × 10 minutes/60 = 19,995 hours).

c. Third-Party Disclosure Burden

With the rescinded provisions, affected parties (covered entities and applicants/employees) no longer have a third-party disclosure burden related to administering and completing the CC–305 form. The remaining third-party disclosure burden is related to 41 CFR 60–741.44(f)(1)(ii), which requires a contractor to ‘‘send written notification of company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers, requesting appropriate action on their part.’’ DOL estimates that contractors will take 15 minutes to prepare the notification and send it to subcontractors, vendors, and suppliers, and an additional 15 minutes to update email address changes in the company's email system. Likewise, DOL estimates the burden for any information technology assistance needed to send the written communication as 15 minutes. Accordingly, the annual third-party disclosure burden is 89,978 hours (119,971 contractor establishments [24] × 45 minutes/60 = 89,978 hours).

Based on the above, the monetized burden is as follows:

- *First-year monetized recordkeeping burden:* (299,040 hours × $78.05 [25]) + ([19,995 hours +19,995 hours] × $86.35 [26]) = $23,340,072 + $3,453,137 = $26,793,209.
- *Monetized recordkeeping burden for each subsequent year:* ([19,995 hours +19,995 hours] × $86.35 [27]) = $3,453,137.
- Monetized annual third-party disclosure burden is $7,769,600 (89,978 hours × $86.35 [28]).

Together, these costs amount to $26,793,209 in first-year recordkeeping burden costs, $7,769,600 in first-year third-party disclosure burden costs, and $11,222,737 in recurring annual costs (recordkeeping and third-party disclosure burden costs) for subsequent years. With a total of $34,562,809 in first year costs and $11,222,737 in recurring costs in subsequent years, and using a 7 percent discount rate, the annualized cost is $14,328,439.

DOL estimates that affected parties incurred an estimated $105,173,444 in costs under the previous requirements ($104,698,359 in annualized monetized time burden and $475,085 in operating costs related to the CC–305 form).[29]

2. Rule Familiarization Costs

DOL expects that Human Resources Managers or Management Analysts at each covered entity will spend time becoming familiar with the provisions in the final rule. DOL estimates that it will take one hour on average for a Human Resources Manager or Management Analyst to read the final rule or the compliance assistance materials provided by DOL.

DOL estimates an average hourly wage rate of $99.11 based on a 60/40 split between Human Resources Managers ($77.15) and Management Analysts ($55.15), resulting in an average hourly wage of $68.35. DOL applies a 45 percent rate for fringe benefits and overhead costs, leading to a total hourly wage rate of $99.11 (= $68.35 × 1.45).[30]

Consequently, the estimated burden for rule familiarization is 119,971 hours (= 119,971 covered entities based on 2022 EEO–1 data × 1.0 hours). The total estimated cost is $11,890,326 (= 119,971 hours × $99.11/hour) in the first year. Over the 10-year analysis period, the annualized rule familiarization costs are estimated at:

- $1.4 million at a discount rate of 3 percent.
- $1.6 million at a discount rate of 7 percent.

DOL does not anticipate significant adjustment costs beyond rule familiarization.

This rule is considered a deregulatory action under Executive Order 14192. Using a perpetual time horizon and 7 percent discount rate, DOL estimates that the annualized cost savings resulting from this final rule amount to $80,047,091 in 2024 dollars.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

DOL reviewed this final rule under the provisions of the Regulatory Flexibility Act. The Department has determined that a Final Regulatory Flexibility Analysis is not required because this rule is not expected to have a ‘‘significant economic impact on a substantial number of small entities''

calculated the burden hours for this estimate by the total number of parent companies subject to the Section 503 requirements. Based on EEO–1 data, DOL estimates that 29,904 contractors will need to undergo HRIS updates (29,904 × 10 hours = 299,040 burden hours).

[24] Based on EEO–1 data, the covered entities consist of approximately 119,971 contractor establishments covered by the Section 503 regulations.

[25] Because these costs relate to the system changes, the calculation is based on the average wage rate for a Computer Systems Analyst plus 45 percent of wages for fringe benefits. $53.83 × 1.45 = $78.05. *See* Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2024, *https://data.bls.gov/oes/#/industry/000000.*

[26] *See* Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2024, *https://data.bls.gov/oes/#/industry/000000.* $55.15 per hour for Management Analysts and $77.15 per hour for Human Resources Managers. The calculation uses an 80/20 split between Management Analysts and Human Resources Managers, which equals $59.55 plus 45 percent of wages for fringe benefits. $59.55 × 1.45 = $86.35.

[27] *Id.*

[28] *Id.*

[29] *See* Burden and cost estimates in the April 2026 supporting statement for OMB #1250–0005, available at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202604-1250-002.*

[30] *See* U.S. Bureau of Labor Statistics (BLS), Occupational Employment and Wage Statistics, May 2024 National Occupational Employment and Wage Estimates, available at *https://www.bls.gov/oes/current/oes_nat.htm* (reporting mean hourly wage of $77.15 for Human Resources Managers (SOC 11–3121) and $55.15 for Management Analysts (SOC 13–1111)). The blended rate applies a 60/40 weighting to these occupations, yielding a weighted average hourly wage of $68.35. BLS, Employer Costs for Employee Compensation, December 2024, available at *https://www.bls.gov/news.release/ecec.toc.htm* (fringe benefits and overhead costs equal 45 percent of wages). Loaded blended rate: $68.35 × 1.45 = $99.11.

within the meaning of the Regulatory Flexibility Act. The Act directs agencies, where such impacts exist, to consider steps ''to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes,'' 5 U.S.C. 604(a)(6), reflecting Congress's concern with regulatory compliance burdens imposed on small entities. *Cf. Mid-Tex Elec. Coop.* v. *FERC,* 773 F.2d 327, 343 (D.C. Cir. 1985) (explaining that ''the costs of compliance with uniform regulations to small businesses were the focus of congressional concern''). ''Congress envisioned that the relevant 'economic impact' was the impact of compliance with the proposed rule on regulated small entities.'' *Id.* at 348.

This final rule has no compliance impacts on small entities and would instead eliminate burdensome regulations. Small entities, including small Federal contractors and subcontractors, within the scope of the rescinded requirements may experience economic effects from this rule. However, those effects are expected to be beneficial due to burdens and barriers to participation being eliminated. Because the rule does not impose compliance obligations or associated costs of the type that the RFA is designed to address and that agencies must take steps to ''minimize,'' DOL has concluded that the final rule would not have a ''significant economic impact on a substantial number of small entities'' and that the preparation of an FRFA is not warranted. DOL will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act (PRA)

The purpose of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* includes minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, DOL conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. *See* 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands DOL's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and DOL can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by the Office of Management and Budget (OMB) under the PRA and it displays a currently valid OMB control number. The public is also not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. 44 U.S.C. 3512.

This rulemaking affects DOL's information collection, ''U.S. Department of Labor Office of Federal Contract Compliance Programs Recordkeeping Requirements—29 U.S.C. 793 Section 503 of the Rehabilitation Act of 1973, As Amended,'' which is currently approved under OMB Control Number 1250–0005. This information collection covers various Section 503 requirements and includes the CC–305 form, which contractors use to ask applicants and employees if they have a disability or have had one in the past. On August 25, 2025, DOL published a 60-day notice in the **Federal Register** proposing changes to the information collection to align the information collection with the proposed changes in the NPRM. 90 FR 41415. Specifically, DOL proposed removing the requirements related to the disability inquiry requirement from the information collection, including removing the prescribed CC–305 form. The agency received 24 comments during the 60-day period from a variety of stakeholders including individuals, employer associations, law firms, consultants, and advocacy groups. The comments on the proposed changes to the information collection are described below.

1. Information Collection Comments on Disability Inquiries

Many of the comments received in response to the information collection request were similar to the NPRM public comments. For example, several commenters disagreed with the proposed information collection changes, asserting that the disability inquiry requirement and related CC–305 form helped DOL and contractors assess compliance with the Section 503 affirmative action obligations, better identify potential discrimination, and develop best practices for disability inclusion. A commenter stated that ''removing Section 503 data-collection framework would eliminate the only mechanism that allows both contractors and OFCCP to measure whether affirmative action is meaningful'' and that without the data, DOL enforcement would rely on individual complaints and case-by-case investigations, which they view as slower, less efficient, and less effective at identifying systemic discrimination.

Similar to the NPRM comments, commenters urged the agency to maintain the CC–305 form because, if eliminated, contractors would need to develop their own form to collect information they believe necessary to comply with Section 503. Likewise, a commenter stated that they expect many contractors will continue soliciting employees' disability status as part of their Section 503 compliance programs, even if not expressly required by DOL's regulations. A commenter expressed concern that rescinding the CC–305 form would detract from employers' ability to obtain disability information for lawful purposes, such as the ability to evaluate the effectiveness of outreach and recruiting efforts.

One commenter asserted that rescinding the CC–305 form would make it less likely for individuals to disclose their disabilities and seek reasonable accommodation in the workplace, increasing the possibility of discrimination and decreasing productivity. This commenter also believed the CC–305 form was useful because it includes a comprehensive list of disabilities that helps qualified workers determine if a condition they have constitutes a disability. The commenter further noted that this determination can empower workers who may not realize they are protected by the ADA and Section 503, leading some workers with disabilities to seek accommodations that support their success in the workplace, thereby increasing productivity.

Commenters further supported the continued use of the CC–305 form because they believe it streamlines the process for contractors and promotes uniformity among contractors and across contractors' multiple locations, specifically multi-state employers. In particular, one commenter stated that discontinuing the CC–305 form is burdensome for multi-state employers. The commenter argued it is less burdensome for multi-state employers to use one common form or set of approved words that is acceptable across all 50 states and U.S. territories rather than having to implement multiple, different versions of a disability self-identification form.

Commenters offered additional support for maintaining the CC–305 form, citing their belief that it reinforces the government's leadership role in modeling inclusive employment practices and provides the government data on federal hiring of individuals with disabilities. Another commenter similarly expressed concern that the proposed information collection changes would reduce transparency, accountability, and the ability to measure whether accessibility and inclusion commitments are truly being met.

Several commenters suggested edits to the CC–305 form, including simplifying the introductory language and revising the form to allow contractors to include information on how applicants can request a reasonable accommodation at any point during the selection process. Some commenters suggested the agency adopt a shorter form, with one recommending the agency adopt a form that is mobile-friendly while maintaining the language stating the form is voluntary and confidential. This commenter also suggested that contractors be permitted to hyperlink to the definition of disability and list of medical conditions in order to shorten the form.

A commenter requested that DOL retain the CC–305 form as an optional form, and that DOL provide contractors with flexibility to modify the contents or the format in a way that is consistent with their own corporate culture. The commenter likened this approach to the VEVRAA model in which DOL identifies the core elements that a disability inquiry must contain but leaves the development and execution of the form itself to the contractor. Further, the commenter requested that contractors be permitted to require applicants and employees to complete the form, provided it includes an 'opt out' or 'I do not want to answer' option. The commenter asserted that because respondents can select 'I do not want to answer,' the form remains voluntary.

Some commenters also discussed agency guidance related to the CC–305 form. For example, a commenter requested that DOL restore to the agency's website a prior FAQ related to the electronic implementation of Form CC–305. Another commenter suggested that DOL provide additional resources to encourage higher response rates. Finally, an employer association expressed that it would be premature to eliminate the CC–305 form before any new final regulations implementing Section 503 are promulgated.

In response to the commenter's concern that it would be premature to eliminate the CC–305 form before the Section 503 final rule is promulgated, DOL notes that the proposed changes to the information collection will not take effect until the effective date of the final rule.

Further, for the reasons described above, DOL declines to retain the CC–305 form in any manner since the final rule eliminates the requirement that contractors ask applicants and employees about their disability status. As detailed in the ADA discussion at section III(A)(2) above, DOL believes that Congress made a policy determination to protect privacy with the enactment of the ADA. DOL chooses to enforce Section 503 consistent with the privacy protections of the ADA. DOL enforced, and contractors were able to comply with Section 503's statutory requirements prior to the CC–305 form, and DOL will continue to enforce, and contractors will continue to be able to comply with Section 503's statutory requirements after the discontinuation of this form. If a contractor, in exercising its own legal and business judgment, believes there is a legal basis on which it is permitted to collect certain information under the ADA and its implementing regulations, then this final rule does not prohibit the contractor from doing so. However, given DOL's view that this inquiry process contravenes the ADA, it would not be appropriate for DOL to provide a form for contractors to make potentially unlawful inquiries as to the disability status of applicants and employees.

With respect to the other concerns raised by commenters, DOL notes that the nondiscrimination provisions in the Section 503 regulations remain intact. Contractors are still prohibited from discriminating against any employee or applicant for employment because of their physical or mental disability. As explained above, DOL did not propose, and the final rule does not make, changes to provisions related to reasonable accommodation. Additionally, employees and applicants are still permitted to voluntarily provide information about their disability status for reasonable accommodation purposes. Appendix B to Part 60–741 continues to provide guidance to contractors on best practices on reasonable accommodation procedures, including dissemination of reasonable accommodation procedures to employees. DOL may continue to update its subregulatory materials, as necessary, for alignment with current agency procedures and requirements, including the agency website.

2. Burden Estimates for the Information Collection

DOL received several comments discussing the burden for the information collection. For example, one commenter argued the agency may be overestimating the burden related to implementing the CC–305 form, as the commenter believes the ongoing costs for administering the form are minimal. Other commenters similarly noted that electronic submission of the disability data minimizes employer burden. Several other commenters expressed concern that eliminating the CC–305 form would impose additional costs, noting the change would require modifications to contractors' electronic systems.

In response, DOL notes that the information collection burden estimate accounted for contractor costs related to discontinuation of the CC–305 form.[31] The information collection estimates are based on average costs and cost savings for all contractors. DOL acknowledges that individual costs and costs savings may vary depending on the various resources and policies of contractors. However, DOL estimates that removing the disability inquiry and utilization requirements will result in a net decrease in burden. As noted above, the annualized cost savings associated with this burden decrease, when discounting at a 7% percent discount rate, is approximately $80 million.

The information collection requirements associated with this final rule are summarized as follows:

Agency: Office of Federal Contract Compliance Programs.

Type of Review: Revision of a currently approved collection.

Title of Collection: U.S. Department of Labor Office of Federal Contract Compliance Programs Recordkeeping Requirements—29 U.S.C. 793 Section 503 of the Rehabilitation Act of 1973, As Amended.

OMB Control Number: 1250–0005.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 119,971 Contractor Establishments.

Frequency: On occasion.

Number of Responses: 119,971.

[31] The information collection request accounted for 299,040 burden hours related to updating systems to remove the CC–305 form and utilization information. DOL continues to use this estimate in this final rule. *See* cost analysis in Section IV(A).

Estimated Average Time per Response: 1.91 hours per Contractor Establishment.

Estimated Total Annual Burden Hours: 229,648 total burden hours.

Total Estimated Annual Other Cost Burden: $0 (operating and maintenance costs).

Forms: None.

D. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Executive Order 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

DOL has examined this final rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOL has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Sec. 201, Public Law 104–4 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a) and (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a significant ''intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

DOL examined this final rule according to UMRA and its statement of policy and determined that the final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOL has concluded that it is not necessary to prepare a Family Policymaking Assessment. A commenter disagreed with this assessment, asserting that promoting discrimination against individuals with disabilities directly affects family well-being. As explained in section III(A)(3) above, the regulations' non-discrimination provisions remain intact and contractors are still prohibited from discriminating against any employee or applicant for employment because of their physical or mental disability. Therefore, DOL maintains that it is not necessary to prepare a Family Policymaking Assessment.

H. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (Mar. 18, 1988), DOL has determined that this final rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

I. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). DOL has reviewed this final rule under the OMB guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13175

DOL has examined this final rule and determined that it does not have tribal implications under E.O. 13175 that would require a tribal summary impact statement. It does not ''have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.''

K. Review Under Additional Executive Orders and Presidential Memoranda

As detailed above, DOL has examined this rule and has determined that it is consistent with the policies and directives outlined in E.O. 14173, ''Ending Illegal Discrimination and Restoring Merit-Based Opportunity;'' E.O. 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government

Efficiency' Deregulatory Initiative;'' E.O. 14275, ''Restoring Common Sense to Federal Procurement;'' E.O. 14267, ''Reducing Anti-Competitive Regulatory Barriers;'' Presidential Memorandum, ''Directing the Repeal of Unlawful Regulations;'' [32] and E.O. 14192, ''Unleashing Prosperity through Deregulation.'' This final rule is considered a deregulatory action under E.O. 14192. As described in section IV(C) above, using a perpetual time horizon to allow for cost comparisons under that order, DOL estimates that the annualized cost savings amount to $80 million in 2024 dollars, using a 7 percent discount rate.

List of Subjects

41 CFR Part 60–30

Administrative practice and procedure, Civil rights, Equal employment opportunity, Government contracts, Government procurement, Government property management, Individuals with disabilities, Reporting and recordkeeping requirements, Veterans.

41 CFR Part 60–741

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Labor, Reporting and recordkeeping requirements, Veterans.

For the reasons set forth in the preamble, and under the authority of 29 U.S.C. 793, as amended, 38 U.S.C. 4212, as amended, and E.O. 14173, DOL amends chapter 60 in title 41 of the Code of Federal Regulations as set forth below:

PART 60–30 [REMOVED AND RESERVED]

■ 1. Effective December 21, 2026, under the authority of 29 U.S.C. 793, as amended, 38 U.S.C. 4212, as amended, and E.O. 14173, remove and reserve 41 CFR Part 60–30.

PART 60–741—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

■ 2. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 705 and 793; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

■ 3. Amend § 60–741.1 by revising paragraph (b) to read as follows:

§ 60–741.1 Purpose, applicability, and construction.

* * * * *

(b) *Applicability.* This part applies to all Government contracts and subcontracts in excess of $20,000 for the purchase, sale or use of personal property or nonpersonal services (including construction): *Provided,* That subpart C of this part applies only as described in § 60–741.40(a). Compliance by the contractor with the provisions of this part will not necessarily determine its compliance with other statutes, and compliance with other statutes will not necessarily determine its compliance with this part: *Provided,* That compliance shall also satisfy the employment provisions of the Department of Labor's regulations implementing section 504 of the Rehabilitation Act of 1973 (see 29 CFR 32.2(b)) when the contractor is also subject to those requirements.

* * * * *

■ 4. Amend § 60–741.2 by revising paragraphs (d), (p), and (aa) to read as follows:

§ 60–741.2 Definitions.

* * * * *

(d) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor holding a contract in excess of $20,000.

* * * * *

(p) *Prime contractor* means any person holding a contract in excess of $20,000, and, for the purposes of subpart D of this part, ''General Enforcement and Complaint Procedures,'' includes any person who has held a contract subject to the act.

* * * * *

(aa) *Subcontractor* means any person holding a subcontract in excess of $20,000 and, for the purposes of subpart D of this part, ''General Enforcement and Complaint Procedures,'' any person who has held a subcontract subject to the act.

* * * * *

■ 5. Amend § 60–741.4 by revising paragraphs (a)(1) and (2) to read as follows:

§ 60–741.4 Coverage and waivers.

(a) * * *

(1) *Contracts and subcontracts in excess of $20,000.* Contracts and subcontracts in excess of $20,000 are covered by this part. No contracting agency or contractor shall procure supplies or services in less than usual quantities to avoid the applicability of the equal opportunity clause.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, ''call-type'' contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will not be in excess of $20,000. The applicability of the equal opportunity clause shall be determined at the time of award for the first year and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds $20,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

* * * * *

■ 6. Amend § 60–741.5 by revising paragraph (a)(6) to read as follows:

§ 60–741.5 Equal opportunity clause.

(a) * * *

(6) The contractor will include the provisions of this clause in every subcontract or purchase order in excess of $20,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

■ 7. Amend § 60–741.21 by revising paragraph (a)(7)(iii) to read as follows:

§ 60–741.21 Prohibitions.

(a) * * *

(7) * * *

(iii) The Uniform Guidelines on Employee Selection Procedures do not apply to the Rehabilitation Act and are similarly inapplicable to this part.

* * * * *

■ 8. Amend § 60–741.23 by revising paragraph (a) and removing and reserving paragraph (c) to read as follows:

[32] Presidential Memorandum on Directing the Repeal of Unlawful Regulations, 2025 Daily Comp. Pres. Doc. 466 (Apr. 9, 2025).

§ 60–741.23 Medical Examinations and Inquiries.

(a) *Prohibited medical examinations or inquiries.* Except as stated in paragraph (b) of this section, it is unlawful for the contractor to require a medical examination of an applicant or employee or to make inquiries as to whether an applicant or employee is an individual with a disability or as to the nature or severity of such disability.

* * * * *

■ 9. Amend § 60–741.24 by revising paragraph (b)(3) to read as follows:

§ 60–741.24 Drugs and alcohol.

* * * * *

(b) * * *

(3) Any information regarding the medical condition or history of any employee or applicant obtained from a test to determine the illegal use of drugs, except information regarding the illegal use of drugs, is subject to the requirements of § 60–741.23(b)(5).

■ 10. Revise § 60–741.41 to read as follows:

§ 60–741.41 Availability of affirmative action program.

The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

§ 60–741.42 [Removed and Reserved]

■ 11. Remove and reserve § 60–741.42.

■ 12. Amend § 60–741.44 by:

■ a. Revising paragraphs (f)(2)(i)(D) and (E), and (f)(3);

■ b. Removing and reserving paragraph (k); and

■ c. Adding paragraph (l).

The revisions and addition read as follows:

§ 60–741.44 Required contents of affirmative action programs.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(D) Entities funded by the Department of Labor that provide recruitment or training services for individuals with disabilities, such as the services currently provided through the Employer Assistance and Resource Network (EARN) (*https://askearn.org*);

(E) Local Employment Network (EN) organizations (other than the contractor, if the contractor is an EN) listed in the Social Security Administration's Ticket to Work Employment Network Directory (*https://yourtickettowork.ssa.gov*);

* * * * *

(3) *Assessment of external outreach and recruitment efforts.* The contractor shall, on an annual basis, review the outreach and recruitment efforts it has taken over the previous twelve months to evaluate their effectiveness in identifying and recruiting qualified individuals with disabilities. The contractor shall document each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and the contractor's conclusion as to whether each effort was effective. The contractor's conclusion as to the effectiveness of its outreach efforts must be reasonable as determined by OFCCP in light of these regulations. If the contractor concludes the totality of its efforts were not effective in identifying and recruiting qualified individuals with disabilities, it shall identify and implement alternative efforts listed in paragraphs (f)(1) or (f)(2) of this section in order to fulfill its obligations.

* * * * *

(l) Contractors are not required to consider quantitative data on the numbers of individuals with disabilities who were referrals, applicants, or hires when assessing the effectiveness of their outreach efforts and affirmative action program pursuant to 41 CFR 60–741.44(f)(3) and 41 CFR 60–741.44(h)(1).

§ 60–741.45 [Removed and Reserved]

■ 13. Remove and reserve § 60–741.45.

■ 14. Amend § 60–741.46 by removing and reserving paragraph (a)(2) and revising paragraph (d) to read as follows:

§ 60–741.46 Voluntary affirmative action programs for employees with disabilities.

* * * * *

(d) These voluntary training and development programs should not result in discrimination against other groups and do not relieve a contractor from liability for discrimination under this act or the Vietnam Era Veterans' Readjustment Assistance Act.

■ 15. Amend § 60–741.61 by revising paragraph (f)(1) to read as follows:

§ 60–741.61 Complaint procedures.

* * * * *

(f) * * *

(1) If the complaint investigation finds no violation of the act or this part, or if the Director decides not to refer the matter to the Solicitor of Labor for enforcement proceedings against the contractor pursuant to § 60–741.65(a)(1), the complainant and contractor shall be so notified. The Director, on his or her own initiative, may reconsider his or her determination or the determination of any of his or her designated officers who have authority to issue Notifications of Results of Investigation.

* * * * *

■ 16. Revise § 60–741.65 to read as follows:

§ 60–741.65 Enforcement proceedings.

(a) *General.* (1) If a compliance evaluation, complaint investigation, or other review by OFCCP finds a violation of the act or this part, and the violation has not been corrected in accordance with the conciliation procedures in this part, or OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate, OFCCP may refer the matter to the Solicitor of Labor with a recommendation for the institution of enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any combination of these outcomes. OFCCP may seek back pay and other make whole relief for aggrieved individuals identified during a complaint investigation or compliance review. Such individuals need not have filed a complaint as a prerequisite to OFCCP seeking such relief on their behalf. Interest on back pay shall be calculated from the date of the loss and compounded quarterly at the percentage rate established by the Internal Revenue Service (IRS) for the underpayment of taxes.

(2) In addition to the administrative proceedings set forth in this section, the Director may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60–741.5, including appropriate injunctive relief.

(b) *Hearing practice and procedure.* (1) In administrative enforcement proceedings the contractor shall be provided an opportunity for a formal hearing. All hearings conducted under the act and this part shall be governed by the regulations at 41 CFR 60–741.65(c) to (mm) and the Rules of Evidence set out in the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges contained in 29 CFR part 18, subpart B: *Provided,* That a final administrative order shall be issued within one year from the date of the issuance of the recommended findings, conclusions, and decision of the Administrative Law Judge, or the submission of any exceptions and responses to exceptions to such decision (if any) whichever is later.

(2) Complaints may be filed by the Solicitor, the Associate Solicitor for Civil Rights and Labor-Management, Regional Solicitors, and Associate Regional Solicitors.

(3) [Reserved]

(c) *Applicability of rules of practice for administrative proceedings.* The regulations at 41 CFR 60–741.65(c) to (mm) provide the rules of practice for all administrative proceedings that relate to the enforcement of Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended, including but not limited to proceedings instituted against contractors or subcontractors covered by 41 CFR part 60–741. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

(d) *Waiver, modification.* Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

(e) *Computation of time.* In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

(f) *Form, filing, service of pleadings and papers.* (1) *Form.* The original of all pleadings and papers in a proceeding conducted under the 41 CFR 60–741.65 regulations shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (*e.g.,* complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless otherwise ordered for good cause by the Administrative Law Judge regarding specific papers and pleadings in a specific case, all such papers and pleadings are public documents.

(2) *Service.* Service upon any party shall be made by the party filing the pleading or document in accordance with 29 CFR part 26. When a party is represented by an attorney, the service shall be upon the attorney.

(3) *Proof of service.* A certificate of the person serving the pleading or other document, setting forth the manner of service, shall be proof of the service.

(g) *Prehearing procedures: Administrative complaint.* (1) *Filing.* The Solicitor of Labor, Associate Solicitor for Labor Relations and Civil Rights Regional Solicitors and Regional Attorney upon referral from the Office of Federal Contract Compliance Programs, are authorized to institute enforcement proceedings by filing a complaint and serving the complaint upon the contractor which shall be designated as the defendant. The Department of Labor, OFCCP, shall be designated as the plaintiff.

(2) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the order, the regulations, or its contractual obligations. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government.

(3) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. An amended answer shall be responded to within 14 days of its service.

(h) *Prehearing procedures: Answer.* (1) *Filing and service.* Within 20 days after the service of the complaint, the defendant shall file an answer with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the defendant or its attorney and served on the Government in accordance with § 60–741.65(f)(2).

(2) *Contents; failure to file.* The answer shall:

(i) Contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the defendant is without knowledge, in which case the answer shall so state; or

(ii) State that the defendant admits all the allegations of the complaint. The answer may contain a waiver of hearing; and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(3) *Procedure, upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision and to file briefs in support of the exceptions.

(i) *Prehearing procedures: Notice of prehearing conference.* The Administrative Law Judge shall respond to defendant's request for a hearing within 15 days and shall serve a notice of prehearing conference on the parties. The notice shall contain the time and place of the conference.

(j) *Prehearing procedures: Motions; disposition of motions.* (1) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the Administrative Law Judge, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(2) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response: *Provided,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

(k) *Prehearing procedures: Interrogatories and admissions as to facts and documents.* (1) *Interrogatories.*

Not later than 25 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whoever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory.

(2) *Admissions.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within 25 days after service, the party to whom the request is directed serves upon the requesting party a sworn statement either:

(i) Denying specifically the matter as to which an admission is requested; or

(ii) Setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(3) *Objections or failures to respond.* The party submitting the interrogatory or request may move for an order with respect to any objection or other failure to respond.

(l) *Prehearing procedures: Production of documents and things and entry upon land for inspection and other purposes.* (1) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(2) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and, which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(3) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(4) The party upon whom the request is served shall respond within 25 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

(m) *Prehearing procedures: Depositions upon oral examination.* (1) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding, and may use an administrative subpoena. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(2) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the parties agree otherwise, depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 5 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(3) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party shall be permitted to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided,* That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(4) *Subscription; certification; filing.* The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his direction, and shall be submitted to the witness for examination and signing. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order

of the Administrative Law Judge for good cause shown.

(5) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(i) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(ii) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(iii) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the administrative law judge finds:

(A) That the witness is dead; or

(B) That the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(C) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(D) Upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(iv) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(6) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

(n) *Prehearing procedures: Prehearing conferences.* (1) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(i) Simplification of the issues;

(ii) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(iii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iv) Limitation of number of witnesses;

(v) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

(o) *Prehearing procedures: Consent findings and order.* (1) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(2) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(i) That the order shall have the same force and effect as an order made after full hearing;

(ii) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(iii) That any further procedural steps are waived; and

(iv) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(3) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(i) Submit the proposed agreement to the Administrative Law Judge for his consideration;

(ii) Inform the Administrative Law Judge that agreement cannot be reached.

(4) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his decision based upon the agreed findings, and his decision shall constitute the final Administrative order.

(p) *Hearings and Related Matters: Designation of Administrative Law Judges.* Hearings shall be held before an Administrative Law Judge of the Department of Labor who shall be designated by the Chief Administrative Law Judge of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge, pleadings and papers shall be filed with the Chief Administrative Law Judge.

(q) *Hearings and Related Matters: Authority and responsibilities of Administrative Law Judges.* The Administrative Law Judge shall propose findings and conclusions to the Secretary on the basis of the record. In order to do so, he shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(1) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(2) Require parties to state their position with respect to the various issues in the proceeding;

(3) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full;

(4) Administer oaths;

(5) Rule on motions, and other procedural items or matters pending before him;

(6) Regulate the course of the hearing and conduct of participants therein;

(7) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(8) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(9) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(10) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(i) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters in evidence;

(ii) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(iii) Expelling any party or person from further participation in the hearing;

(11) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(12) Recommend whether the respondent is in current violation of the order, regulations, or its contractual obligations, as well as the nature of the relief necessary to insure the full enjoyment of the rights secured by the order;

(13) Issue subpoenas; and

(14) Take any action authorized by these rules.

(r) *Hearings and Related Matters: Appearances.* (1) *Representation.* The parties or other persons or organizations participating pursuant to 41 CFR 60–741.65 have the right to be represented by counsel.

(2) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's recommended decision and to file exceptions to it.

(s) *Hearings and Related Matters: Appearance of witnesses.* (1) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpoena, setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(2) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(3) The party or prospective witness may file an objection within 5 days after notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

(t) *Hearings and Related Matters: Rules of evidence.* In any hearing, decision, or administrative review conducted pursuant to this part, all evidentiary matters shall be governed by Office of Administrative Law Judges' Rules of evidence at 29 CFR part 18, subpart B.

(u) *Hearings and Related Matters: Objections; exceptions; offer of proof.* (1) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(2) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary, but shall be considered by the Secretary upon filing exceptions to the Administrative Law Judge's recommendations and conclusions.

(3) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

(v) *Hearings and Related Matters: Ex parte communications.* The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision in the case, except as witness or counsel in the proceeding.

(w) *Hearings and Related Matters: Oral argument.* Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

(x) *Hearings and Related Matters: Official transcript.* The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11(a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

(y) *Hearings and Related Matters: Summary judgment.* (1) *For the Government.* At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the respondent, the Government may move with or without supporting affidavits for a summary judgment upon all claims or any part.

(2) *For defendant.* The defendant may, at any time after commencement of the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(3) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Government or respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(4) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which shall provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(5) *Motion and proceedings.* The motion shall be served upon all parties at least 15 days before the time fixed for the hearing on the motion. The adverse

party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment rendered for or against the Government or the respondent shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(6) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

(z) *Hearings and Related Matters: Participation by interested persons.* (1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this section shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state:

(i) Petitioner's interest in the proceedings;

(ii) Who will appear for petitioner;

(iii) The issues on which petitioner wishes to participate; and

(iv) Whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: Provided, That the representative of a labor organization qualifying to participate under paragraph (z)(1) of the section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party of each petition granted.

(5) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state:

(i) The petitioner's interest in the hearing;

(ii) Who will represent the petitioner; and

(iii) The issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this section.

(6) An amicus curiae may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he shall serve a copy on each party.

(aa) *Post-Hearing Procedures: Proposed findings of fact and conclusions of law.* Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

(bb) *Post-Hearing Procedures: Record for recommended decision.* The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

(cc) *Post-Hearing Procedures: Recommended decision.* Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

(dd) *Post-Hearing Procedures: Exceptions to recommended decisions.* Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Service of such briefs or exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the Administrative Review Board, United States Department of Labor, for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

(ee) *Post-Hearing Procedures: Record.* After expiration of the time for filing briefs and exceptions, the Administrative Review Board, United States Department of Labor, shall make a decision, which shall be the Administrative order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

(ff) *Post-Hearing Procedures: Administrative Order.* After expiration of the time for filing, the Administrative Review Board, United States Department of Labor, shall make a decision which shall be served on all parties. If the Administrative Review Board, United States Department of Labor, concludes that the defendant has violated Section 503, the equal opportunity clause, or the regulations, an Administrative Order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate cancellation, termination, and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

(gg) *Expedited Hearing Procedures: Expedited hearings—when appropriate.* Expedited Hearings may be used, *inter alia,* when a contractor or subcontractor has violated a conciliation agreement; has not adopted and implemented an acceptable affirmative action program; has refused to give access to or to supply records or other information as required by the equal opportunity clause; or has refused to allow an on-site compliance review to be conducted.

(hh) *Expedited Hearing Procedures: Administrative complaint and answer.* (1) Expedited hearings shall be commenced by filing an administrative complaint in accordance with 41 CFR 60–741.65(g). The complaint shall state that the hearing is subject to these expedited hearing procedures.

(2) The answer shall be filed in accordance with 41 CFR 60–741.65(h)(1) and (2).

(3) Failure to request a hearing within the 20 days provided by 41 CFR 60–741.65(h)(1) shall constitute a waiver of hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor, U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with 41 CFR 60–741.65(ll).

(4) If a request for a hearing is received within 20 days as provided by 41 CFR 60–741.65(h)(1), the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

(ii) *Discovery.* (1) Any party may serve requests for admissions in accordance with 41 CFR 60–741.65(k)(2) and (3).

(2) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(3) For good cause shown, and upon motion made in accordance with 41 CFR 60–741.65(j), the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

(jj) *Conduct of hearing.* (1) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(2) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

(kk) *Recommended decision after hearing.* Within 15 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified, together with the record, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended decision shall be served on all parties and amici to the proceeding.

(ll) *Exceptions to recommendations.* Within 10 days after receipt of the recommended findings, conclusions and decision, any party may submit exceptions to said recommendations. Exceptions may be responded to by other parties within 7 days after receipt by said parties of the exceptions. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Briefs or exceptions and responses shall be served simultaneously on all parties to the proceeding.

(mm) *Final Administrative Order.* After expiration of the time for filing exceptions, the Administrative Review Board, United States Department of Labor, shall issue an Administrative Order which shall be served on all parties. Unless the Administrative Review Board, United States Department of Labor, issues an Administrative Order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative Order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this paragraph (mm), paragraph (ff) of this section shall be applicable.

■ 17. Amend § 60–741.80 by revising paragraph (b) to read as follows:

§ 60–741.80 Recordkeeping.

* * * * *

(b) *Records with three-year retention requirement.* Records required by § 60–741.44(f)(4) shall be maintained by all contractors for a period of three years from the date of the making of the record.

* * * * *

■ 18. Amend Appendix A to Part 60–741 by revising paragraph 2 to read as follows:

Appendix A to Part 60–741—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation

* * * * *

2. Although the contractor would not be expected to accommodate disabilities of which it is unaware, the contractor has an affirmative obligation to provide reasonable accommodation for applicants and employees of whose disabilities the contractor has actual knowledge. Section 60–741.44(d) provides that if an employee with a known disability is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the disability, the contractor is required to confidentially inquire whether the problem is disability related and if the employee is in need of a reasonable accommodation.

* * * * *

Dated: August 19, 2026.

Kenneth Wolfe,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2026–17115 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–CM–P