Office of Management and Budget

Request for Information

Docket Number OMB-2021-0005

July 6, 2021

On January 20, 2021, President Joseph R. Biden issued Executive Order 13985 calling on executive departments and agencies (agencies) to "recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity."

The following comments are submitted on behalf of the Consortium for Citizens with Disabilities (CCD) Employment and Training Task Force. The CCD is a coalition of more than 100 national disability organizations working together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. There is no greater manifestation of inclusion than empowering more people with disabilities to enter the workforce. As such, the Employment and Training Task Force strives to review, understand, comment on, and influence those policy issues affecting the 21 million working-age people with disabilities.

Should any agency staff have questions about our comments or wish to discuss our recommendations, please feel free to contact the Employment and Training Task Force Co-chairs – Julie J. Christensen, PhD, LMSW, Association of People Supporting EmploymentFirst (APSE), 301-279-0060 , julie@apse.org; Alicia Epstein, SourceAmerica, (703) 584-3987 aepstein@sourceamerica.org; Phillip Pauli, RespectAbility, (202) 517-6272,philipp@respectability.org; Susan Prokop, Paralyzed Veterans of America (PVA), (202) 416-7707, susanp@pva.org; Dahlia Shaewitz, Institute for Educational Leadership (IEL), (202) 822-8405, shaewitzd@iel.org.

Our comments below cover four of the five areas identified in the Request for Information but will focus on select questions within those areas. Some of these comments are drawn from task force documents that can also be found on the CCD website. We offer the following information and recommendations to draw attention to the broad array of steps that should be taken to minimize employment barriers, improve employment outcomes, and reduce dependence on federal income support programs for people with disabilities.

Area 1 on equity assessments and strategies

The work of advancing equity requires a holistic assessment of agency practices and policies. Some Federal agencies will need to implement new approaches to assess whether future proposed policies, budgets, regulations, grants, or programs will be effective in advancing equity.

In the economic expansion prior to COVID-19, 38.8 percent of US civilians with disabilities ages 18-64 living in the community were employed, compared to 78.6 percent of people without disabilities – a gap of 39.7 percentage points. Fully one quarter (25.9%) of US civilians with disabilities of working-age in 2019 were living in poverty compared to the overall national poverty rate of 11.4% for US civilians of working-age without disabilities. As of May 2021, the labor force participation rate for working-age people with disabilities was 34.2% and the labor force participation rate for working-age people without disabilities reached 76.3% in May. The depth of the impact of COVID on workers with disabilities must be recognized—in the past year more than 1 million workers with disabilities lost their jobs nationwide.

The labor force participation rate, the percentage of the population that is working or actively looking for work, presents an even starker picture. Only 20.6% of people with disabilities are in the labor force, compared to 67% of people without disabilities. This underscores the vast disparities that are part of an historic marginalization and discrimination against people with disabilities. In this recovery period the country has an opportunity to rebuild the economy and get millions of Americans with and without disabilities into the labor force and into work.

Very often, qualified individuals with disabilities only need accessible workplaces and simple job accommodations in order to lead productive work lives. The Department of Justice (DOJ) and Equal Employment Opportunity Commission (EEOC) possess important tools for enforcing the Americans with Disabilities Act (ADA) and policies that derive from that law such as the Supreme Court's Olmstead decision. Policies that support DOJ and EEOC disability rights enforcement and protect the integrity of the ADA are essential for people with disabilities to be part of America's workforce.

Over the years, special hiring authorities and various executive orders have been put in place to expedite and increase the hiring of federal workers with disabilities. Section 501 of the Rehabilitation Act prohibits employment discrimination against people with disabilities in the federal sector and Section 503 requires affirmative outreach and hiring of people with disabilities by federal contractors. Yet these programs are underutilized and little understood. Coupled with federal dollars that support and require segregated programs for individuals with disabilities, the result has been an uneven track record in federal sector employment of people with disabilities, especially for those with significant disabilities. Policies must ensure proper utilization and awareness of these programs along with monitoring and oversight of their effectiveness and implementation.

The Biden administration recently issued [new remote work guidance](), which may provide opportunities to current federal workers with disabilities and potential new hires with disabilities who may have attendant care requirements or transportation barriers to remain in or join the civil service.

In addition to support for remote work policies, alternative/flexible work schedules can accommodate employees with disabilities who may need to be on leave due to medical visits, have rest-breaks in the middle of a traditional workday due to the impact of the disability or treatment protocols, or need to take temporary leave due to mental health incidences. The Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services (DHHS) has developed numerous workplace strategies such as job-sharing or cross-training to help support people with mental illness to sustain employment in the government over time.

We strongly encourage the establishment of a Chief Accessibility Officer of the United States. An executive level role within the federal government can raise the visibility of the value and need for disability inclusion across the government as well as in the minds of the general public. Designating a Chief Accessibility Officer is a best practice that many companies have adopted to help drive greater inclusion in private industry.

What are some promising methods and strategies for assessing equity in internal agency practices and policies? What knowledge, skills, or supports do practitioners need to use such tools effectively?

President Biden in his campaign platform promised to direct the Department of Labor (DOL) to work with the EEOC and the DOJ to eliminate employment discrimination barriers faced by too many individuals with disabilities. This includes requiring employers to disclose whether they have successfully engaged in an "interactive process" with workers with disabilities to provide those workers with the accommodations they need to overcome barriers in the workplace and the job application process."

President Biden said he would also "work with civil rights leaders to develop and institute implicit bias training programs for federal workers and contractors to address discrimination based on race, sex, sexual orientation, gender identity or expression, or disability. And, he will promote flexible work arrangements both in government and in the private sector, including for people with disabilities, employees with a serious health condition, and older workers, as well as caregivers."

There are numerous resources for addressing racial justice and disability inclusion in the context of workforce development.

- The National Skills Coalition released [The Roadmap for Racial Equity: An imperative for workforce advocates]() in 2019. This report examined "the racial and ethnic disparities in educational attainment and access; systemic barriers to

equitable workforce training and quality employment; and why advancing equity is an economic and moral imperative."

- Researchers at the Center for American Progress developed a policy document in 2019 titled A Design for Workforce Equity Workforce Redesign for Quality Training and Employment, which presents the direct benefits to job quality and competitiveness from embracing an equity agenda in workforce development. The National Council of Non-Profits gathered detailed ideas on diversity, inclusion, and equity from advocacy agendas to board recruitment. An inventory of their equity resources can be found here.

Across the federal government, agencies should be tasked with improving their performance in outreach, recruitment, hiring, and advancement of people with disabilities. Many federal hiring managers remain unfamiliar with the various hiring authorities and they incur no penalties for not adopting them. In the past two decades, despite executive orders such as Executive Order 13163 established in 2000 to increase federal employment for people with disabilities, the participation rate of people with disabilities in federal employment has declined.

This task force applauds the Executive Order issued on June 25, 2021, to promote diversity, equity and inclusion throughout the federal workforce, - particularly Section 10 pertaining to Advancing Equity for Employees with Disabilities. The task force recommends that the following actions be included in that initiative: Coordination and focus on Schedule A to include guidance and a checklist/tool for properly onboarding individuals with disabilities into a federal office, division or agency, including:

- Confirmation that all accommodation needs are met, and strong advocacy from agency leadership in support of the employee for any unaddressed accommodation gaps.
- Initial orientation of the office and introductions to other staff.
- Creation of a performance management plan within 30 days of initial hire.
- Assignment of an office peer support during first week of employment, to help the employee ease into their new work environment and engage with other colleagues.
- Assignment of a mentor based on the feedback of the employee, within 30 days for start date, to coach and support the individual's professional growth over time. Schedule and make available any necessary training the individual needs to effectively complete tasks assigned to them.
- Transforming the federal recruitment and hiring process to assure all aspects are accessible to individuals with the most significant disabilities, including implementing alternative application models.
- Implementation of universal design, disability awareness, and best practices for equity and inclusion in all required onboarding and training activities required of federal employees.

- Assurances that any training and assessment tools are accessible to individuals with the most significant disabilities.

Improving reasonable accommodations procedures have had significant benefits for private sector employers who are committed to recruiting, hiring, and retaining workers with disabilities. Likewise, the federal workforce ought to review current reasonable accommodations procedures and work towards making the process less time consuming, legalistic, and adversarial. Accommodations should be offered as a matter of course and interim accommodations that need to be further reviewed should automatically be provided. Supervisors currently have too much authority to deny reasonable accommodation requests; denials ought to be automatically reviewed by higher authorities.

Additionally, the DOL Office of Disability Employment Policy (ODEP) has developed a toolkit of Stay at Work/Return to Work policies that can be mirrored in the federal workforce. For existing employees who suffer a serious injury or illness, these policies support flexible work environments that encourage employees to stay at work or return to work quickly, which results in greater financial stability of workers while reducing the turnover costs to employers.

The Department of Defense's (DoD) Computer/Electronic Accommodations Program (CAP) provides assistive technology (AT) services and AT devices to DoD employees with disabilities including service members wounded ill or injured on active duty with disabilities or limitations. In the past, CAP used its statutory authority, along with adequate funding levels, to provide AT services and AT devices for federal employees of DoD and other federal agencies. As of Fiscal Year 2021, CAP was not adequately funded to provide AT devices and accommodations for employees of non-DoD federal agencies. DoD/CAP remains an informational resource and will continue to provide AT services, including needs assessments and consultation services, for all federal agencies. CAP should once again be available to provide technology accommodations to all federal employees.

Within the Department of Labor, the agency most directly responsible for strengthening the nation's workforce, the employment of people with disabilities should be a top priority for the Employment and Training Administration (ETA). No workforce development grant RFP should be cleared within DOL without clearly indicating a priority to serve individuals with disabilities, especially Black, Indigenous, People of Color (BIPOC) with disabilities. No special initiatives should be authorized without a clearly defined strategy for serving individuals with disabilities, including Job Corps, incumbent and dislocated worker training programs, and others.

To ensure that all federal agencies address disability inclusion, each agency should conduct an audit using a framework such as the government's own Inclusion@Work approach. Agency audits can help to identify and prioritize opportunities to expand the workforce to include more individuals with disabilities, identify gaps and resources needed, and provide a plan for increasing recruitment, retention, and promotion of

individuals with disabilities. OPM or similar agency should provide an external review of plans that would include targets toward meeting or exceeding the EEOC hiring target of 12% employees with disabilities.

What are some promising methods and strategies for identifying systemic inequities to be addressed by agency policy?

In addition to the well-documented gap in employment opportunities, educational outcomes and family wealth, BIPOC communities across the United States face serious barriers in access to technology and with it, future access to the economy. A [September 2020 report from Deutsche Bank](#) found a "digital racial gap" and warned that "76% of Blacks and 62% of Hispanics could get shut out or be under-prepared for 86% of jobs in the US by 2045."

As a result, barriers to learning during the COVID-19 pandemic that were true for all students and their families, was particularly challenging for students with disabilities, BIPOC students with disabilities, and the wider BIPOC community. A late [2020 study by UCLA](#) found that "racial inequality is significant, with African Americans and Hispanics being 1.3 to 1.4 times as likely to experience limited accessibility as non-Hispanic Whites." The government must prioritize closing the technology gap, improving internet access, and providing low/no cost hardware needs.

What are some promising methods and strategies for advancing equity on urgent or immediate agency priorities?

In his 2020 campaign platform, President Biden promised to "Phase out the subminimum wage based on disability and work with Congress to ensure that there is funding for impacted employees with disabilities to receive support in competitive and integrated work settings." We support this effort and offer additional recommendations to enhance disability inclusion across federal programs and agencies.

The National Core Indicators Data Brief on racial and ethnic disparities across health domains offers a critical framework for beginning to operationalize racial and social equity in the context of workforce services. The brief points to a "possible framework to analyze the components of public systems that may result in disparities proposed by the World Health Organization to assess gender equality in health care. The components of the WHO framework include four criteria for assessing disparities: Availability, Accessibility, Acceptability, and Quality."

The Georgetown University National Center for Cultural Competence (NCCC) includes these components (adding a Utilization component) to examine potential causes for racial and ethnic disparities. Researchers have used a variation of the five criteria as follows:
• Availability – the array, type and intensity of services and supports being offered, and whether it fits the needs of different races/ethnicities.

• Accessibility – the geographic distribution, hours of service, accommodations, and universal design of services and supports and whether these factors are systematically disenfranchising certain populations.

• Acceptability – the degree to which services reflect a respect for the values, histories, expectations, language, and experiences of a group. The capacity to plan and deliver culturally and linguistically competent services may affect whether services are acceptable to different races/ethnicities.

• Quality – the overall quality of services and supports. Does quality differ depending on to whom a service is being provided? This may alienate racial and ethnic groups.

• Utilization – rates of utilization of services and supports may differ by race/ethnicity. Research would be needed to identify the reasons behind this difference.

The NCCC framework also includes an examination of the nature of policies and level of resources that may contribute to any disparities in any one or more of the criteria. Finally, this framework, when applied to a service system, can be used to assess disparities in the many services and supports that human service participants rely on (e.g., housing, transportation, education, mental health, etc.).

The 2012 National Longitudinal Transition Study found that despite the increased engagement and use of school supports, high school youth with disabilities are more socioeconomically disadvantaged, with specific disabilities (intellectual disability, autism, deaf-blindness, multiple disabilities, and orthopedic impairments) to have the highest risk of not transitioning successfully beyond school. More recent data from the Youth Transition Report shows that the gap between youth (ages 16-24) with and without disabilities remains significant—youth with disabilities are less likely to graduate from high school, less likely to enter and graduate college, less likely to enter the workforce and obtain a job, and are more likely to be in at-risk categories with higher rates of family poverty. Closing these gaps means supporting all youth with disabilities through policies such as the Workforce Innovation and Opportunity Act (WIOA), which requires cross-system collaboration including K-12, vocational rehabilitation, and workforce agencies at the federal and state level to support transition age youth to achieve their career goals.

High school students often graduate without supports to transition into postsecondary education, training, or work. They do not obtain Social Security cards or State IDs, do not understand how to identify and access needed transportation supports, and fail to apply for SSI or SSDI, which can limit their eligibility for long term support services. The SSI Youth Solutions Conference developed a number of proposals to facilitate the entry of young people with disabilities into the workforce, such as delaying the use of SGA as a criterion for adult SSI eligibility and building the apprenticeship infrastructure to support SSI youth.

In public schools across the nation, there are 6.5 million students with disabilities. Out of that number, fully 3.5 million are BIPOC students with disabilities. In addition, 11.4 percent of students with disabilities nationwide (almost 720,000) also identify as English language learners.

For many of the 1,158,862 Black students (K-12) with disabilities in America today, the deck is stacked against them. Due to policies that support structural racism, schools are funded by local property taxes which perpetuate a cycle of poverty. Moreover, the Individuals with Disabilities Education Act (IDEA), the central law that gives students with disabilities rights to special education, was never fully funded. President Biden has pledged to fund fully IDEA and bills to do just that are moving in the U.S. House and Senate. Without that funding students with disabilities are either undiagnosed or fail to receive the supports they need. Black students with disabilities are disproportionately impacted by suspension in schools, with more than one in four boys of color with disabilities — and nearly one in five girls of color with disabilities — receiving an out-of-school suspension.

Statistics show that unmet disability needs are a critical factor for many justice-involved youths. Researchers have found that one-third of incarcerated youth need special education services and that in some cases, up to 70 percent of justice-involved youth disclosed a learning disability. As documented by the National Council on Disability, fully "85 percent of youth in juvenile detention facilities have disabilities that make them eligible for special education services, yet only 37 percent receive these services while in school." Youth of color, including English Language Learners (ELLs), are disproportionality trapped in the school-to-prison pipeline.

What types of equity assessment tools are especially useful for agencies with national security, foreign policy or law enforcement missions?

Many federal jobs within DoD, intelligence and other law enforcement agencies have been declared exempt from Section 508, Section 503 and VEVRAA under "national security" rationales. These exemptions imply that people with disabilities are unqualified for work in these agencies which is an archaic and outdated position that should be discarded immediately. Additionally, the procedure to apply for a top-secret clearance is overwhelming and often not accessible for people with disabilities.

Of particular concern is the manner in which the intelligence community has been exempted from accessible technology regulations. The Rehabilitation Act of 1973 (29 U.S.C. 794d) requires the Federal government departments and agencies to enhance accessibility to Information Communication Technologies ("ICT") for individuals with disabilities by implementing Assistive Technology ("AT"). Pursuant to an exception, agencies operating ICT as part of a national security system (as defined by 40 U.S.C. 11103(a)) are not required to implement AT. (An agency's ICT may qualify for this exception if it 1) involves intelligence activities; 2) involves cryptologic activities related to national security; 3) involves command and control of military forces; 4) involves equipment that is an integral part of a weapon or weapons system; or 5) Is critical to the direct fulfillment of military or intelligence missions. The exception does not include ICT involved with routine administrative and business applications such as payroll, finance, logistics, and personnel management. This exception also applies only to federal

agencies and their components. This exception cannot be claimed by vendors and contractors.)

Although the exception was intended to be narrow to protect the intelligence community from increased vulnerability to security breaches, many agencies within the intelligence community have for many years read the exception broadly in order to justify blanket exclusion of any efforts to implement AT or update inaccessible systems with regard to their ICT.

The historical use of this as a blanket exception for software, databases, and other technologies has meant that ICT systems have been built and procured without ensuring workforce usability standards, especially for employees with disabilities. As noted above, employees may become disabled at any point in their career—these exceptions serve as barriers to new hires and prevent existing employees with disabilities to continue their valuable contributions to the intelligence community. By failing to engage in a case-by-case analysis, these agencies are not able to identify when implementation of AT in ICT would be both cost effective and beneficial to enhancing the diversity of their workforces and implementation would not make systems more vulnerable." In order to improve inclusion in the national security and intelligence workforce, the federal government should set a timeline for reviewing ICT accessibility practices in national security positions and current exemptions to bring inaccessible systems into compliance with Section 508 accessibility and implement narrow standards for a case-by-case review for applying the national security exception in Section 508. Additionally, national security and intelligence agencies should review other areas of inaccessibility, including the physical accessibility of secure facilities and the process for requesting reasonable accommodations in the security clearance process and security-sensitive aspects of employment in national security positions.

All federal agencies should be held to the same standard of disability inclusion and access. Accessibility in the design of tools and resources should be given priority across all federal agencies, with accessibility baked into federal procurement for software, hardware, and other technology tools. Historically, federal investment priorities have led to greater access for all people with disabilities. Additionally, agency staff (procurement managers, hiring managers, program officers) should receive training at onboarding and regularly thereafter on disability awareness, universal design, equity and inclusion, and accommodations. Federal offices are located in states that offer assessment tools and assistive technology supports, such as vocational rehabilitation and state assistive technology offices; national technical assistance centers are available to federal agencies including the regional ADA Centers, the Job Accommodations Network (JAN), the National Organization on Disability (NOD), and the Employer Assistance and Resource Network (EARN), to name a few.

How might agencies collect data and build evidence in appropriate and protected ways to reflect underserved individuals and communities and support greater attention to equity in future policymaking?

There are 3.2 million working-age African Americans with disabilities, most of whom face structural barriers to success. In the economic expansion prior to the COVID-19 pandemic, 32 percent of working-age percent of working-age African Americans with disabilities had jobs, compared to 75.5 percent of working-age African Americans without disabilities. Even before the coronavirus disproportionately impacted BIPOC communities, fully 32 percent of African Americans with disabilities lived in poverty, compared to 20.9 percent of African Americans without disabilities. The [Annual Disability Statistics Compendium](#) provides annual updates on data that is publicly available. These data are a federally funded resource to inform policymakers at the federal and state levels.

Another data resource is the [National Core Indicators](#). The [Data Brief on Racial and Ethnic Disparities in Quality of Life and Health Domains for People with Intellectual and Developmental Disabilities](#) (ID/DD)also points to significant racial disparities. People with ID/DD who are part of marginalized racial and ethnic groups, face the "double burden" of racial injustices resulting from racism and the stigma resulting from ableism.
For Area 2 on barrier and burden reduction:

Members of underserved communities may experience a variety of external factors that may disproportionately affect their access to information about programs or program eligibility, applying for benefits, conducting post-award reporting, and recertification of eligibility.

Other barriers are internal to the administration of programs. While certain program rules may ensure that benefits are awarded to eligible individuals or are otherwise required by law, others are not necessary for ensuring benefits are awarded to eligible individuals and may be remedied via administrative or regulatory changes.

Throughout the federal government, there are numerous agencies tasked with advancing the employment of people with disabilities. The EEOC monitors compliance with and enforces anti-discrimination laws enacted to protect people with disabilities. Within the Department of Labor, ODEP, ETA, and the Veterans Employment and Training Service (VETS) manage a range of programs and demonstration projects testing innovations in employment practices for people with disabilities. At the Department of Education, the Rehabilitative Services Administration (RSA) operates the major federal disability employment program, the state vocational rehabilitation (VR) system. Also, the National Institute of Disability, Independent Living and Rehabilitation Research (NIDILRR) housed at DHHS in the Administration for Community Living supports a national network of research and training programs focused on employment and independent living for people with disabilities. The Social Security Administration's (SSA) Office of Employment Support Programs is responsible for implementing the Ticket to Work program which was designed to assist Social Security disability beneficiaries in becoming more economically self-sufficient. At the Department of Veterans Affairs, the Veterans Readiness and Employment (VR&E) program was created to serve veterans with service-connected disabilities. Only recently have these

agencies begun to collaborate on mutual research agendas and initiatives that cut across programmatic silos.

The Interagency Committee on Disability Research (ICDR) serves as a model for engaging cross-agency collaboration and information sharing that focuses on improving outcomes for people with disabilities. A similar committee that focuses on employment outcomes within and outside the federal government would serve to improve collaboration across agencies while sharing information and resources toward a more inclusive federal workforce.

How can agencies address known burdens or barriers to accessing benefits programs in their assessments of benefits delivery?

In his campaign platform President Biden promised to work with the disability community to "build a stronger, more expansive middle class so that everyone—regardless of race, gender, religion, sexual orientation, or disability—can find a place. That means amending our laws, policies, and culture to ensure full inclusion of the 61 million individuals with disabilities in the United States in all parts of our society. President Biden promised to prioritize enacting and implementing policies that break down the barriers to access for people with disabilities living and succeeding in their chosen communities, which means good jobs in competitive, integrated employment; affordable, accessible, and integrated housing; accessible and affordable transportation; inclusive voting processes; and any needed long-term services and supports."

At one time, the Social Security Administration funded positions called "navigators" to assist disability beneficiaries in dealing with the numerous rules and regulations involved in returning to work. The DOL Veterans Employment and Training Services (VETS) has recently piloted a "navigator" program to assist service members transitioning from the military. Given the complexities confronting consumers, claimants and constituents of the federal government's many programs serving people with disabilities, it would make sense to extend the concept of a navigator program to all applicants and beneficiaries of federal programs who could benefit from such guidance.

One approach for agencies to understand the burdens that their policies impose on accessing benefits by people with disabilities would be to conduct a "climate survey" or "environmental scan" of an agency's operations and policies by asking for input from applicants, claimants, beneficiaries – about the accessibility of programs and services, what barriers they encounter. Such an inquiry must extend not only to those currently served by the agency but to those who have failed in their ability to receive needed benefits.

In 2017, an evaluation of American Job Centers (AJCs) published data on the accessibility of the approximately 2,500 centers across the country. While the majority of AJCs met physical accessibility standards and about two-thirds met communications accessibility standards, fewer than half were programmatically accessible. Only 37% of AJCs were fully accessible across all three domains. AJCs would also benefit from an

internal audit to determine areas for improvement. As noted in the report, these improvements may include: 1) maintain physical accessibility; 2) ensure communications access through funding for interpreters and expanded accessible resources; and, 3) address programmatic access through awareness training, staffing to include experts on disability, benefits counseling, increased partnerships, better outreach to disability populations, and greater involvement of people with disabilities to inform AJCs about accessibility.

WIOA performance standards should be updated to provide appropriate mechanisms for measuring services to individuals with disabilities. Performance measures must be tailored to acknowledge the differences in populations being served, recognizing and crediting provision of services to harder-to-serve populations. Performance measures used to evaluate the workforce system inherently discourage serving customers with disabilities, due to anticipated higher financial service costs and extended service time frames. Evaluation of the latest data from this system should be undertaken to ascertain the workforce system's current performance in serving people with disabilities. If possible, such evaluation should drill down into the system's performance serving BIPOC people with disabilities.

How might an agency assess or balance prioritization of potentially competing values associated with program administration, such as program uptake, program integrity, privacy protection, and resource constraints, in the context of addressing equity for underserved individuals and communities?

The National Council on Disability found that "people with disabilities live in poverty at more than twice the rate of people without disabilities." To protect the economic security of people with disabilities and increase employment opportunities, Pres. Biden promised to "take a holistic approach to Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Medicaid, and other programs to support people with disabilities." Unfortunately, too often, policies intended to protect Social Security disability program resources, hinder the ability of beneficiaries to attain economic self-sufficiency. Among the campaign promises related to work for those on Social Security disability benefits, Pres. Biden said he would reform the SSI program so that it doesn't limit beneficiaries' freedom to marry, save, or live where they choose; eliminate the five-month waiting period for SSDI and two-year waiting period for Medicare; and expand access to tax-advantaged savings accounts, ABLE accounts, which provide people with disabilities a way to pay for "qualified disability-related expenses, such as education, housing and transportation." All of these policies are encompassed in legislation now pending in Congress and the CCD has been working to ensure their passage.

There are, however, a number of remaining hurdles to work for people with disabilities that, if addressed, would greatly improve their opportunities for employment. CCD has written extensively on the multi-faceted approaches needed to modernize SSDI and SSI so that beneficiaries of these programs have greater opportunities to return to work. These solutions include:

- Eliminate the "benefit cliff" for SSDI. Earnings limits under SSDI can discourage people with disabilities from engaging in employment or internship opportunities when they depend on SSDI funds. Pres. Biden promised to increase this limit and phase out this benefit gradually.
- Establish a single substantial gainful activity (SGA) level for people with disabilities and people who are blind at the level used for people who are blind.
- Allow ongoing presumptive re-entitlement for those able to work, but who have continuing disabilities.
- Revise rules for impairment-related work expenses.
- Continue benefits pending appeal for those who lose benefits due to earnings above SGA level.
- Modify "deeming" eligibility (SSI) to protect Medicaid for certain working people who transition to Title II.
- Clarify work subsidy issues as they impact determinations of SGA.
- Significantly improve and enforce utilization of the system to track earning reports to reduce large overpayments.
- Establish a time limit for notices about overpayments and, absent fraud, hold beneficiaries harmless after that time period.
- Allow permanent premium-free access to Medicare for beneficiaries who work.
- Renew SSA disability demonstration authority. (Title II)
- Reform Medicare homebound rules - Current Medicare policy for durable medical equipment (DME) restricts its use to "in the home", meaning that people on SSDI who use devices and technology they need for independent living risk violating the law if they use their DME to go to work.
- Expand access to Medicaid buy-ins - Over thirty states have created Medicaid buy-ins to permit working people with disabilities to retain coverage under that program. However, most of the people using the buy-in reside in only a handful of states.

How might agencies incorporate into their equity assessments barriers or duplicative burdens a participant is likely to experience when seeking services from multiple agencies?

As noted previously, people with disabilities have to deal with multiple agencies that deal with employment. Amplifying those challenges is the fact that those agencies may be located in different parts of a community, far from transportation and where people with disabilities often live. People with disabilities cannot obtain and retain employment if they must struggle constantly to find and afford a place to live, making enforcement of fair housing laws and support for low- and moderate-income housing programs essential for successful employment. Similarly, if people with disabilities have no means for getting to where the jobs are, that too is a barrier to employment. To that end, government policies and programs need to ensure not only that traditional bus, rail, air

and para-transit systems are accessible to people with disabilities but that new modes of transportation comply with the law as well.

For Area 3, on procurement and contracting:

The Federal Government is the world's largest purchaser of goods and services, with acquisitions totaling over $650 billion per year. As the Federal Government's purchasing power is used to fight COVID-19, increase domestic productivity, combat climate change, and address other Administration priorities, agencies will need to assess opportunities to invest in underserved individuals and communities by promoting business diversity (including, but not limited to, professional services, financial services, and technology) and resiliency. Agencies will need to assess opportunities to direct more procurement and contracting dollars to underserved individuals and communities so that a broad cross-section of American businesses can share in the jobs and opportunities created by Federal buying activities. Economic research shows that investing in underserved communities and closing racial wealth gaps yields economic growth and job creation that benefits all Americans.

In his campaign platform, President Biden promised to "Ensure those working in the federal government or for government contractors reflect the diversity of our country, including people with disabilities." Pres. Biden specifically committed to fully and aggressively enforce Section 503 of the Rehabilitation Act, which requires that federal contractors "engage in affirmative action efforts to employ and advance in employment qualified individuals with disabilities."

Self-employment and entrepreneurship represent viable employment options for people of all ages with disabilities, who are twice as likely to be self-employed than those without disabilities. These employment strategies offer economic self-sufficiency, independence and flexibility and should be encouraged throughout the job exploration and development process. Federal agencies, including DOL, Education, Housing and Urban Development (HUD), and the Small Business Administration (SBA) should expand opportunities for entrepreneurial individuals with disabilities by broadening availability of financing, business supports and contracting preferences, removing asset limits and other barriers that exist in federal programs, conducting research and providing technical assistance to employment providers on developing self-employment opportunities and outcomes. Entrepreneurship programs for youth with disabilities can help to address the gap between youth with and without disabilities to build work experience and expose those youth to career opportunities, particularly BIPOC youth with disabilities and those from rural and low-resourced communities.

How do we achieve equity in a procurement system that must balance competing economic and social goals, including the need to conduct procurements in a streamlined and rapid manner?

In OFCCP procurement activities, disability inclusion should be required in contracts and grants that provide services and hire staff. Model language can be created and put into future procurements across the federal government.

The Section 503 rule should be modified to align with the EEOC's Section 501 affirmative action rule for federal agencies. In contrast to the Section 501 rule, which imposes a 12% employment goal for people with disabilities and a 2% subgoal for people with targeted disabilities, the Section 503 rule imposes only a 7% goal for people with disabilities. Moreover, it does not impose any subgoal or include any requirement to ensure that attention is paid to employing people with significant disabilities, including those historically excluded from the workforce. The percentages of people with disabilities that the federal government achieved with efforts to comply with Section 501 demonstrate that Section 503's goals are far too low. Moreover, it is critically important to have a subgoal to ensure that people with significant disabilities are not left out of Section 503 enforcement.

The Section 503 rule should also be modified to require covered contractors to enter linkage agreements between contractors and disability partner organizations to recruit and hire people with disabilities. This would address the issue of finding qualified candidates with a disability. This was proposed in Sec 503 rulemaking but was not included in the final rule. OFCCP should revisit the requirement in future rulemaking opportunities. In the meantime, it should encourage this as a best practice.

What kinds of equity assessment tools might agencies use to identify inequity in their standard practices throughout the acquisition lifecycle, including, but not limited to, the development of requirements, market research (including outreach to businesses), selection of contract type, availability of financing, incentive structure, negotiation and evaluation of interested sources, debriefings of unsuccessful offerors, management of contracts, evaluation of contractor performance, and use of past performance in selection of sources?

OFCCP should facilitate more focused 503 enforcement, building upon the focused reviews done in the past Administration, but with a stronger emphasis on targeting bad actors and supporting compliance of contractors. Targeted training to auditors should be undertaken, providing them with the right tools so that they can ask questions that would allow them to identify non-compliance risk factors and dig deeper on enforcement issues of certain contractors. To advance compliance among federal contractors, OFCCP needs both authority to penalize firms through loss of funding opportunities while incentivizing compliance with additional training and technical assistance to support shared employment and inclusion goals.

Contractor outreach to veterans with disabilities should be assessed under both 503 and VEVRAA programs. Contractors should be evaluated not only on outreach to veterans, but also on their disability diversity and inclusion efforts to capture their commitment. Better linkages should be created between contractors and the veterans service organization/military service organization communities to ensure contractors

understand resources available, use of Work Opportunity Tax Credits (WOTC), priority of service, and other preferences that facilitate hiring of veterans with significant disabilities – especially those with non-service-connected disabilities.

How might agencies identify opportunities to engage with business owners and entrepreneurs who are members of underserved communities to promote doing business with the Federal Government?

President Biden promised in his campaign platform that he would "ensure that entrepreneurial training programs funded by the Small Business Administration focus on and benefit entrepreneurs with disabilities. He will also provide incentives for states and local governments to adopt programs that support entrepreneurship and small business development among the disability community." We agree with this proposal.

Indeed, the federal government procurement process itself is daunting and challenging for incoming new federal contractors, especially small businesses owned by persons with a disability. There are no standard procedures, and many smaller companies choose not to bid for a government contract because it can be overwhelming - from reviewing lengthy solicitations to putting together a comprehensive proposal that meets the contract requirements. Resources and tools for new companies may not be accessible. There is a critical need for additional resources to aid entrepreneurs with disabilities across the federal government beyond SBA, GSA, and OFCCP.

Interestingly, on June 11, 2021, the SBA announced a [funding competition](#) of up to $500,000 for non-profit organizations and private sector firms to deliver federal procurement training to veteran and service-disabled veteran entrepreneurs through the Veteran Federal Procurement Entrepreneurship Training Program. SBA could explore setting up a similar program for 8(a) program participants with disabilities and examine the opportunities for extending such a competition to organizations and private sector firms working with all entrepreneurs with disabilities.

In addition, agencies involved in federal contracting should identify and share opportunities for collaboration and education of business partners, including federal contractors, and provide them the support they need to recruit, hire, train and retain individuals with disabilities in their workforce. CSAVR offers [The NET](#) as an example of an available resource to support recruitment and hiring of qualified candidates with disabilities.

The Bureau of Labor Statistics (February 2021 News Release) reported that 10.3% of people with disabilities were self-employed, a larger share than those without disabilities (6.1%). People with disabilities who face discrimination and access barriers often turn to starting their own businesses; in the wake of the COVID-19 pandemic, interest in self-employment has increased as it offers additional work opportunities for people with disabilities.

The University of Montana Research and Training Center on Disability in Rural Communities sponsored an Action Summit for the Advancement of Capital Access to Entrepreneurs with Disabilities over fifteen years ago. The conference brought together

representatives from the federal government, economic development agencies, disability advocacy groups, think tanks, state vocational rehabilitation agencies and others involved in self-employment and entrepreneurship for people with disabilities. The focus of the summit was to highlight the value of small business enterprise for people with disabilities, identify impediments unique to entrepreneurs and aspiring entrepreneurs with disabilities and outline recommended solutions to those challenges. While obviously dated, many of the findings from that conference offer some insights that should be explored today.

Challenges identified by Summit participants remain highly relevant today:

• Lack of any RSA national policy promoting self-employment; • Unfamiliarity of many VR counselors with business planning and development resources; • A dearth of information about innovative programs undertaken by various state agencies; • Absence of the Small Business Administration in helping entrepreneurs with disabilities; • Federal policies that limit asset accumulation necessary to finance a business; • Credit difficulties that people with disabilities encounter in obtaining small business loans; and • Misconceptions about the ability of people with disabilities to run a business.

The General Accountability Office (GAO) should conduct an environmental scan of businesses owned by people with disabilities – disaggregated by racial, gender, LGBTQ and other demographics - including numbers, income generated, numbers of years in existence and number of employees. GAO should also examine any barriers encountered by these businesses in terms of capital acquisition, impediments from federal assistance programs and small business resources and assistance available to entrepreneurs with disabilities.

The Census Bureau should be directed to conduct a survey of small businesses owned by people with disabilities similar to the survey that it conducts of women-owned businesses every 5 years. The SBA's Office of Advocacy should be asked to document the number of small businesses owned by people with disabilities that are served by SBA's existing small business development programs including: PRIME, the 7[a] loan program, micro-loan direct and guarantee loan programs and 8[a] program. Existing program definitions or criteria should be broadened to include entrepreneurs with disabilities.

Each year, SBA negotiates procurement preference goals with every federal agency and reviews their results. Each federal agency must have an Office of Small & Disadvantaged Business Utilization (OSDBU) to assure minority and women-owned businesses the opportunity to contract with that agency. OSDBUs often provide Vendor Outreach Sessions between small business owners and specialists of their agency and an annual OSDBU Directors Conference invites vendors to take advantage of seminars, counseling with agency buyers, and exhibits. DoD has a program authorized under the National Defense Authorization Act whereby major defense contractors serve as mentor

firms to small business protégés assisting with engineering and technical matters; awarding subcontracts on a noncompetitive basis; and providing loans or cash assistance to protégé firms. Because many of these vendor services and contracting goals are driven by statutory requirements, a change in law would be required to include entrepreneurs with disabilities. However, OSDBUs can take steps to reach out to those currently under its jurisdiction to ensure that minority and women-owned businesses run by people with disabilities are offered opportunities to contract with the federal government.

RSA should develop a national self-employment policy and modify its performance standards so that self-employment outcomes do not detract from a VR agency's evaluation scores. VR counselors should be trained in their agency's self-employment policies and procedures and have a basic understanding of business development resources and where to connect interested clients with appropriate assistance. Several VR agencies have developed programs to finance self-employment options for clients and established effective ties to their local SBDCs. These and other innovative state agency practices to promote entrepreneurship should be disseminated widely and guidance provided to states interested in adopting those approaches.

What kinds of training and capacity building within agency teams would support equitable procurement and contracting efforts?

GSA should provide disability awareness and inclusion strategies and training for all Federal agencies. Also, it should review the training to evaluate how successful it is in changing behavior, and identify new training opportunities to create a culture of inclusion at Federal level. Then, scale this to state and local government as training to improve hiring of people with disabilities in public government jobs. Coordinate resources with existing federally funded national projects, such as JAN and the ADA National Network, for employers' and employees' training and assistance. Provide resources on procuring and developing accessible technologies in the workplace from HR to technical databases and provide resources to help contractors achieve accessibility throughout the hiring process, including web accessibility for application, employment testing, and HR systems.

Equity for entrepreneurs with disabilities requires publicizing grant opportunities in ways that are accessible to those who are blind, deaf, or have other communications-related disabilities. Computer based applications often impede the ability of those with disabilities to apply for grants, fellowships, federal loans. Grantmaking agencies should ensure that all of their processes are accessible to persons with disabilities.

What kinds of benchmarks and assessment techniques might support equitable procurement and contracting efforts?

The EEOC 2020 report showed that more than 36% of complaints were disability related, the second highest category of complaints, and these numbers have steadily increased over the past several years. With the stated plans of OFCCP to end their

Section 503 Focused reviews, an adequate replacement program needs to be put into place similar to systematic reviews of compensation and hiring under Section 503.

The current 7% utilization goal in Section 503 could be strengthened by mirroring the EEOC rule on 12%. Data should be disaggregated and a separate targeted disability goal established for subcategories of populations. OFCCP should work closely with ODEP to access their resources, programs, and expertise.

A tool under development that may support these efforts is the Affirmative Action Plan Verification Interface that is intended to improve communication and the transfer of Affirmative Action Plan data between federal contractors and OFCCP.

For Area 4, financial assistance:

What are promising practices for equitable grantmaking and the administration of financial assistance programs that agencies should consider in the course of their equity assessments?

Credit rules often hinder the ability of people with disabilities to obtain small business loans. Signed into law in 1977, the Community Reinvestment Act (CRA) was created to encourage banks to meet the needs of all borrowers and work against the divisions created by discriminatory practices like redlining. The law has existed for 43 years to help low- and moderate-income neighborhoods through retail banking and community development. However, CRA has yet to fully support the inclusion of people with disabilities as an eligible group. According to the National Disability Institute, sixty percent of adults with disabilities only have a low or moderate income and that far too many Americans with disabilities live in neighborhoods that count as low- or moderate-income communities under the CRA.

As such, the Administration and the Federal Reserve Board should implement regulations including people with disabilities as an eligible group under the existing legislative and regulatory framework of CRA.