

# The ProfitABILITY Toolkit:

A federal contractor's guide to the final rule on  
Section 503 of the Rehabilitation Act

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William Nicks, an [AmeriCorps Pittsburgh Public Ally](#), is the primary author of this toolkit.

**Disclaimer** – The ProfitABILITY toolkit, quick-reference guide, and associated training materials are for reference only and are not meant to serve as specific legal advice.

Users of these documents should consult with their own legal counsel and the Office of Federal Contract Compliance Programs (OFCCP) for legal advice and guidance.



[Goodwill of Southwestern Pennsylvania](#), 2016

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## Using the ProfitABILITY Toolkit

This toolkit has been developed to be accessible to everyone.

The following features will help you navigate the ProfitABILITY Toolkit:

- Jump to any section or question by clicking the text in the Table of Contents.
- Clicking blue in-text links will open a relevant webpage in your browser.
- Fonts, spacing, and layout are designed for ease of reading.
- Plain language is used as much as possible.

This toolkit uses the same [definitions](#) as Section 503.

See the Appendix on page [34](#) for a list of the organizations referenced in this toolkit.

## Executive Summary

The Census Bureau's 2010-2012 American Community Survey found that people with disabilities were [twice as likely to be unemployed](#) as people without disabilities. 2012-2022 occupational projections from The Bureau of Labor Statistics found people with disabilities are overrepresented and will remain in lower-paying, slower growing occupations, despite having high potential for job growth in well-paying occupations.

To address the employment gap, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) published the Final Rule on [Section 503](#) of the Rehabilitation Act of 1973 (Section 503). Under the law, qualifying federal contractors are prohibited from employment discrimination and must take affirmative action to recruit, hire, and advance employment of people with disabilities.

Highlights of the new regulations include:

A nationwide 7% utilization goal of qualified people with disabilities.

Requirements for data collection, analysis, and corrective actions.

Invitations to self-identify are to be sent to applicants and employees.

Use of mandated equal opportunity language within subcontracts.

Contractors shall preserve and provide access to employment records.

Revision of nondiscrimination provisions and the definition of "Disability."

While Section 503 requires contractors to advance employment opportunities, hiring people with disabilities is an investment that makes business sense. This is clear when you consider that [87% of American consumers](#), with a market share of over [\\$1 Trillion](#), prefer to give their business to companies that hire people with disabilities. Industry leaders have developed inclusive workforces because it's good for business:

“Hiring individuals with disabilities is, in fact, good for business. The return on investment to SunTrust can be measured in several ways. One, it helps our diversity initiatives, building a strong workforce; two, it helps us to develop products and services, expanding our customer base; and three, it enables us to reach out to our entire community. It's good for shareholders and it's good for business.”

CT Hill, Chairman, President, and CEO SunTrust Banks Mid-Atlantic

The goal of the ProfitABILITY Toolkit is to assist employers in providing equal employment opportunity. This document provides you with the compliance resources and best practices you need to recruit, hire, retain, and advance people with disabilities.

## Legal Obligations for Federal Contractors

The final rule on [Section 503](#) of the Rehabilitation Act of 1973 and its [enforcing regulations](#) set forth employment requirements for qualifying federal contractors and subcontractors, including affirmative actions to be taken to ensure [equal employment opportunity](#) (EEO) for qualified people with disabilities in all employment actions or benefits of employment. Section 503 requires affirmative action to recruit, hire, retain, train, and advance employment for people with disabilities. This also updates Section 503 to match changes under [amendments](#) to the [Americans with Disabilities Act](#) (ADA).

### Who is affected by Section 503?

Federal contractors and subcontractors receiving a federal contract that is more than or that will exceed \$10,000 are “qualifying contractors” and must take affirmative action to recruit and advance employment of “qualified individuals with disabilities”. Contractors with federally assisted construction contracts are not subject to this law. Contractors must be compliant at all U.S. based locations, regardless of award site.

Contractors with 50 or more employees and a federal contract of \$50,000 or more, must develop and maintain a written Affirmative Action Program (AAP).

[Qualified individuals with disabilities](#) are provided EEO under Section 503.

Qualified individuals with a disability do not include people currently using illegal drugs, when the contractor takes action for this activity, following the [Drug Free Workplace Act](#).

## What are the key requirements for federal contractors under Section 503?

The final rule on Section 503 requires qualifying federal contractors to:

- Take actionable steps to meet the 7% aspirational utilization goal (not a quota) for employing people with disabilities in each work group, across your entire workforce. This goal is intended to be a management tool for use in informing decision-making while creating accountability for your hiring practices.
- Collect and perform annual quantitative comparisons on of the number of people with disabilities who apply for positions and the number hired.
- Invite applicants and incumbent employees to voluntarily self-identify as a person with a disability during prescribed periods.
- Include mandated language within their subcontracts and alert subcontractors and unions of their commitment to promoting equal employment opportunity.
- Allow the federal government to access specific data and employee records for the purpose of reviewing employment and compliance practices.
- Develop an Affirmative Action Program (AAP), which outlines policies that promote the employment and advancement of people with disabilities.
- Provide reasonable accommodations to qualified applicants or employees, so long as it does not impose an “[undue hardship](#)” upon business operations. This rule supports the reasonable accommodation requirements of the ADA.

## Where can contractors find information and guidance on Section 503?

[The Office for Disability Employment Policy](#) (ODEP) funds two free services to help:

The [Employer Assistance and Resource Network](#) (EARN) provides guidance and “resources to help employers recruit, hire, train, and advance people with disabilities.”

The [Job Accommodation Network](#) (JAN) is the premier resource for accommodation information and offers free training, resources, and consultation services.

Other resources to help you stay compliant include:

- Identify your obligations with the [Federal Contract Compliance Advisor](#).
- [Frequently Asked Questions](#) on the Final Rule on Section 503.
- [The White House’s Recruiting, Hiring, Retaining, and Promoting People with Disabilities: A Resource Guide for Employers is a best practice toolkit](#).
- [The Disability Noncompliance Law Advisor](#) helps identify ADA obligations.
- The OFCCP lists various compliance [resources for federal contractors](#).
- [Checklist of Compliance with Section 503](#) is a compliance aid (read disclaimer).

See the Appendix on page [34](#) for a list of organizations and the services they offer.

## Recruiting and Hiring Candidates with Disabilities

“This was not about charity. We did not lower our standards; we did not lower the expectations for quality and output. We offered same pay for same work. ...Those with disabilities are waiting for us to discover their gifts, abilities, and contributions.”

Randy Lewis Retired Senior Vice President, Walgreens

### How can hiring people with disabilities benefit my organization?

Your organization’s bottom line is affected by your human resource activities. Hiring any employee must make sense for your organization’s financial, mission, and social goals. [The Business Case](#) for providing equal employment opportunity is clear:

- Hiring and retaining people with disabilities [benefits your bottom line](#).
- Organizations that hire people with disabilities have [tax incentives](#) to offset costs (i.e., architectural changes) and help improve economic outcomes for employees.
- Executive endorsement of inclusive hiring policies is an effective marketing tool for increasing your access to diverse market segments.
- Development of an accommodating workplace and inclusive work culture benefits all employees and can improve overall productivity.
- A commitment to social responsibility is a competitive move, which attracts larger numbers of employees and customers, while building your brand.

## What must contractors consider in their recruitment efforts?

Steps contractors *must* take in recruitment:

- Post the five (5) required [equal employment opportunity notices](#).
- Provide reasonable accommodation to applicants when requested.
- Post all notices in a format that is both understandable and accessible.
- Contractors using electronic application systems must use an electronic posting that is conspicuously stored or included within the application.

Steps contractors *should* take:

- Develop a written plan for providing reasonable accommodation in recruitment and employment, including providing information to applicants on how to make requests.
- Don't settle for simply stating you are an equal opportunity employer.
- Advertise the commitment of your organization's top U.S. representative to nondiscrimination and providing equal employment opportunities.
- Verify interview or hiring event locations are accessible.
- Give applicants timely notice of all pre-employment requirements.
- Develop electronic content based on [Web Content Accessibility Guidelines](#).

## How must contractors treat and protect a person's disability status?

A person's disability status is considered confidential and protected information. Contractors must protect this information in the following manner:

- Decisions for employment or benefits of employment shall not be made on the basis of a person's status as or relationship with a person with a disability.
- Disability status is considered to be confidential and protected medical information, which may not be included in an employee's non-medical file.
- Contractors may not ask questions about a disability, even if apparent, or conduct medical examinations until after making a conditional job offer.
- They may, however, evaluate an applicant's qualifications for a job, including:
  - Asking applicants whether they will need a reasonable accommodation for the application process, and if so, what type?
  - Asking about the applicant's ability to perform job-related functions.
  - Requesting applicants show or describe how they would perform job activities or achieve job outcomes.
  - Asking about qualifications such as skills, education, or experience.
  - Pre-employment drug-testing to meet [Drug-Free Workplace Act](#) standards.
  - Requesting medical documentation for providing an accommodation.

## What are some best practices for recruiting skilled workers with disabilities?

Successful recruitment of qualified workers requires a steady stream of talent. Building a "talent pipeline", a network of community partners who refer applicants, can help organizations effectively recruit workers with desired skills and qualifications.

Start building your talent pipeline today by connecting with these resources:

- Regional Organizations
  - [Goodwill of Southwestern Pennsylvania](#)
  - [Pennsylvania's Offices of Vocational Rehabilitation](#)
  - [West Virginia's Division of Rehabilitative Services](#)
- National Resources
  - [American Dream Employment Network](#)
  - [Career One Stop](#)
  - Social Security Administration's [Ticket To Work Program](#)
- Veteran Resources
  - [Veterans Employment and Training Service](#) (VETS)
  - [Veterans Employment Center](#)
  - [Vet Jobs Job Board](#)
- Student & Youth Resources
  - [Workforce Recruitment Program](#) for college students with disabilities.
  - Submit job openings to high school [transition programs](#), [trade schools](#), or [community college](#) and university career centers.
  - Develop a [registered apprenticeship program](#) for youth with disabilities.
- Workforce Development Resources
  - [Creating Linkages for Effective Recruitment of Candidates with Disabilities](#)
  - [Recruiting, Hiring, Retaining, and Promoting People with Disabilities](#)
  - [Disability Employment 101](#)

## When and how should applicants and employees be invited to self-identify?

Contractors that are required to develop a written affirmative action program (AAP) must invite applicants and employees to self-identify for data collection purposes. Contractors will use this data to determine the effectiveness of affirmative actions. Invitations must be in the [prescribed manner](#) and [do not violate Title I](#) of the ADA. Contractors are prohibited from compelling or coercing people to self-identify.

Read more in the section "[Who needs to develop an Affirmative Action Program?](#)"

Contractors [may invite](#) applicants and employees to self-identify at the following times:

- Employees and applicants may self-identify at any time.
- At the time of application or consideration for employment. Invitation materials must remain separate from the application.
- After an offer of employment, but before an employee's job duties begin.
- Invitations are sent the first year contractors become subject to Section 503.
- Employees are to be invited at five year intervals thereafter and must be reminded, once between each five-year invitation, they may disclose a disability at any time.
- Additionally, Contractors may identify a person as having a disability, if they do not voluntarily self-identify, when a disability is obvious or known.

For further resources on promoting self-identification, see the following:

[Building an Inclusive Environment that Encourages Self-Identification & Disclosure](#)

[Do Ask, Do Tell: Encouraging Employees with Disabilities to Self-Identify](#)

## Advancing Employment Opportunity and Retention

Your greatest assets are the people who support your organization's mission. Turnover's high cost is a major challenge to maintaining a productive workforce. Retaining employees and advancing their opportunities directly affects your business. This section outlines practices that positively benefit your bottom line and employees.

### What are some best practices for retention and advancing employment?

Greater retention is profitable, though not achieved by every organization. [Retention strategies](#) are an inexpensive tool to add to your human resource plan. Rutgers' Overview of U.S. [Corporate Practices](#) in *The Employment of People with Disabilities* shines a spotlight on the best practices for retention and development.

These practices include:

- Corporate Interest and Organizational Readiness
  - Executive leadership must announce and advertise their commitment to including people with disabilities in their strategic hiring plan.
  - Share your commitment and positive outcomes in official communications.
  - Create an [inclusive work environment](#).
  - Participate in leadership networks, advisory councils, and seek awards or recognition for efforts to hire people with disabilities.
  - Create actionable retention strategies for when employees are temporarily unable to work due to [becoming disabled](#) or have a long-term illness.

- Targeted Recruitment and Hiring
  - Create and utilize a “Talent Pipeline” (See page [13](#)).
  - Develop partnerships with high-schools, colleges, & disability service providers.
- Workforce Awareness and Workplace Accommodation
  - Adopt proven methods of support like [mentoring](#), [on-the-job coaching](#), [accommodation](#), and [establishing employee resource groups](#).
  - Promote workforce diversity as an organizational value.
  - Provide [etiquette](#), [accommodation](#), and [communication](#) training to managers and supervisors, to dispel the [common myths of employing people with disabilities](#).
- Inclusive Marketplace Practices
  - [Embrace](#) the disability market segment; about 1-in-6 of the U.S. population.
  - Use or make universally accessible products or services, especially those that cater to or are designed by people with disabilities.
  - Bid out supply contracts to [suppliers with disabilities](#) shows your organization is committed to providing opportunity to people with disabilities.
- Measuring Progress
  - Establish techniques to analyze the impact of affirmative actions.
  - Develop an affirmative action program, even if it is not a mandatory requirement.

See higher retention and productivity by adopting these [corporate best practices](#).

[Business Strategies that Work](#) can also guide you to retain productive and loyal staff.

See EARN’s [Recruiting & Retention Frequently Asked Questions](#) for more information.

## How can return to work programs help retain valued employees?

Injury, illness, or disability can cause employees to take a leave for their health. An organization's procedures for such scenarios can make the difference between retaining and losing a productive employee. [Return to Work](#) plans are a cost-effective method to help manage an employee's safe and timely return while avoiding turnover.

Deloitte LLC's approach on [retaining a high-performing employee](#) is a case study on how employers can retain an employee who suddenly develops a disability.

Consider these resources for developing your own return to work procedures:

- [What is a Return to Work program?](#)
- [Return to Work Toolkit](#)
- [Workplace Flexibility Toolkit](#)
- [Customized Employment Primer](#)

## What are some best practices for on-boarding employees with disabilities?

[Onboarding](#) procedures help new hires learn about workplace rules and culture. Successful onboarding can result in higher job satisfaction, organizational commitment, performance, productivity, and career effectiveness with lower turnover and stress. [Onboarding New Employees: Maximizing Success](#), a publication of the Society for Human Resource Management (SHRM), outlines effective practices and research, which you may use to increase the impact of your onboarding efforts.

Consider the following best practices for onboarding new employees:

- Verify the new hire is a good fit for the position, culture, and organization’s goals.
- Make the first day on the job special and implement the basics before day one.
- Provide [accommodation request forms](#) to new hires before the first day on-the-job.
- Prepare tools such as an onboarding road map, position expectations, feedback forms, directory, or an intranet database with policies & procedures.
- Tell new employees about [financial benefits](#) they may be eligible to receive.
- Have new hires participate in a formal and structured orientation program.
- Develop a written onboarding plan that is mindful of special groups (i.e., [veterans](#)).
- Be sure your program is consistently implemented and is monitored over time.
- Use technology to facilitate the onboarding process.
- Use milestones, such as 30, 60, 90 and 120 days on the job—and up to one year post-organizational entry—to check in on employee progress.
- Provide new hires with a [mentor](#).
- Set up an [employee resource group](#) that can help fill knowledge gaps.
- Include [management](#) in onboarding and on-going support programs.
- Invest in relationship development by providing opportunities for new hires to spend ample time with supervisors, stakeholders, peers, and management.
- Include key stakeholder meetings and planning sessions as part of the program.
- Be crystal clear with new employees in terms of the workplace and positions’:
  - Objectives
  - Roles
  - Timelines
  - Responsibilities

## What is the impact of having an inclusive work culture?

Your organization's work environment and culture shapes the views of your employees and can impact retention, productivity, talent pool, and your customer base.

[Leading Practices on Disability Inclusion](#), a publication of The U.S. Chamber of Commerce & U.S. Business Leadership Network, provides contractors with an inclusion assessment tool plus case studies on how an inclusive culture benefits U.S. companies. Practices include those adopted by industry leaders who drive profit with inclusiveness.

"3M's inclusive culture results in high-performance teams and an engaged workforce... An inclusive culture also improves retention and reduces recruitment costs."

Clydette Douglas, Chief Diversity Officer, 3M

American consumers are becoming increasingly aware of the issues companies are passionate about. With [87% of American consumers](#) agreeing they prefer to give their business to companies that hire people with disabilities, organizations can no longer afford to ignore this market share. Broadening your customer base to be inclusive of people with disabilities and their allies is an investment in a prosperous future for all.

This segment of the market represents over [\\$200 billion in discretionary spending](#), while their friends, families, and allies represent a market share of over \$1 Trillion. Inclusive workforces create opportunities to grow, market, and invest in technologies or practices, which benefit your organization, customers, and community.

## How can contractors provide equal employment opportunities?

Training is a valuable investment that plays a [key role](#) in improving retention.

[Training](#) and [professional development](#) show employees your investment in their future.

Making opportunities accessible improves satisfaction and benefits your bottom line.

Employee development and training can be accessible to everyone when contractors:

- Create and implement a [strategic training & development plan](#).
- Provide [training needs assessments](#) and solicit feedback to determine training topics that fill knowledge or skill gaps and are of interest to the employee.
- Tailor training to match individual [learning styles](#) and career paths/interests.
- Utilize local resources for learning opportunities, like on-the-job experiences, knowledgeable employees, or training at community colleges.
- Include supervisor or managerial support in employee training.
- Use organization-tailored rewards as incentives for employees to finish training.
- Assess, with the employee, if making or adjusting an accommodation is needed.
- Make sure conference, training, and learning opportunities are accessible.
- Use [employee resource groups](#) as a source for informal networking and training.

## Affirmative Action Programs

### Who needs to develop an Affirmative Action Program?

Contractors with at least 50 employees and a contract of \$50,000 or more, except for federally assisted construction contracts, must develop and maintain a written [affirmative action program](#) (AAP) within 120 days of the contract's start date.

### What must a contractor's AAP contain?

An AAP is a management tool used to provide equal employment opportunity. This is your organization's written commitment to providing equality in employment. While this toolkit assists with your compliance efforts, it is highly recommend that you review the full [AAP regulatory language](#) to ensure full compliance under the law.

A written affirmative action program helps identify and predict potential problems in the participation and utilization of people with disabilities in a contractor's workforce. This will include specific procedures and good faith efforts your organization will take to provide equal employment opportunity. Contractors must submit a [written policy](#) to subcontractors or unions with whom they may have a collective bargaining agreement. This policy must communicate the organization's affirmative action obligations and must request that these groups take appropriate action on their part.

The outcome of such affirmative actions will be a more inclusive workforce. Action programs will put in place policies and procedures that affirm your commitment.

Important [features your AAP must](#) include are:

- Designation of an official responsible for the implementation of the AAP whose identity shall appear on certain external & internal communications. They shall be given support from senior management and staff for program implementation.
- An accessible and understandable EEO policy statement, which includes support from the top representative for the contractor's U.S. operations.
- The EEO policy shall be posted in all job postings and company bulletin boards.
- An organization with a workforce of 101 or more must perform a utilization analysis on the basis of job groups, as prescribed within [Executive Order 11246](#).
- Commitment to non-discrimination and taking affirmative action to employ and advance people with disabilities, at all levels of employment, including executive. The commitment will state your workforce utilization goal of 7%.
- Procedures for communicating your obligation to engage in affirmative action efforts with employees, including training personnel involved in employment practices.
- An audit and reporting system to measure efforts and guide improvement.
- A schedule for reviewing physical and mental job qualification standards to make sure they are job-related for the position and consistent with business necessity.
- Guidelines for annual review of outreach and recruitment efforts for the previous 12-months, plus personnel practices, to evaluate their effectiveness.
- Outreach and recruitment efforts targeting qualified individuals with disabilities.

Resources for developing your program include [federally required contents of your AAP](#), [EARN's AAP page](#) and Department of Labor [sample affirmative action program](#).

## Providing Reasonable Accommodations

### What is a reasonable accommodation?

Contractors are required to [make a reasonable accommodation](#) to a known disability of a qualified applicant or employee, **upon request**, so long as it would not impose an “[undue hardship](#)” on the contractor. [Guidelines on a Contractor’s Duty to Provide Reasonable Accommodation](#) outlines your organization’s responsibilities. These guidelines are consistent with and created partly from the [ADA guidelines](#).

A reasonable accommodation is any modification or adjustment:

- To a job application process, that allows a qualified applicant with a disability to be considered for a position they desire; or
- To the work environment, way, or circumstances under which a desired position is performed, allowing a qualified employee to perform vital duties of that position; or
- That allows a qualified employee with a disability to enjoy equal benefits and privileges of employment, as are enjoyed by employees without a disability.

Accommodations will always vary based upon the situation, but may include:

- An average cost of \$0, and typically less than \$500.
- [Changing tests](#), materials, policies, or [restructuring](#) a job and/or schedule.
- Acquisition of [assistive technology](#) or change to existing equipment.
- Providing qualified readers or [interpreters](#).
- Making [facilities accessible](#) to & usable by people with disabilities.
- Contractors are not required to lower quality or production standards.

## When must contractors provide an accommodation?

U.S. Equal Employment Opportunity Commission (EEOC) guidance on [requesting a reasonable accommodation](#) addresses when and how employers will provide an accommodation. In short, contractors must take action:

**If** a qualified individual with a disability requests an accommodation to perform the essential functions of their job or enjoy an equal level of benefits and privileges.

**Then** the contractor must respond and engage in a timely and interactive process to find then provide a sufficient accommodation, so long as it would not cause an undue hardship, regardless of how the request was given.

**If** an employee with a known disability is having significant difficulty performing their job and it is reasonable to conclude that the performance problem may be related.

**Then** the contractor is required to confidentially inquire whether the problem is disability related and if the employee is in need of a reasonable accommodation.

**Except** contractors are not required to provide an accommodation that would cause an [undue hardship](#) (See “Undue Hardship” under “General Principals”).

**Additionally**, a person rejecting a reasonable accommodation that is necessary to allow them to perform essential functions of a held or desired position, shall not be considered a qualified individual with a disability.

Read [Making an Accommodation](#) for further guidance, examples, and other resources.

## What information may be requested before providing an accommodation?

Under Section 503, employees and applicants are entitled to an accommodation only when it is needed because of their disability. Contractors may request information about an impairment that is the basis for an accommodation request. An inquiry or exam must be “job-related and consistent with business necessity.”

JAN’s webcast “[De-constructing Accommodation](#)” outlines the different types of questions you may ask employees and applicants. This training video covers different scenarios, outlining the [interactive process](#) and when to ask certain questions.

Contractors may ask for [medical documentation](#) from an appropriate health care or rehabilitation professional, in response to an accommodation request, when the disability and need for accommodation are not known or obvious. This documentation may show the type of impairment and how it greatly limits one or more major life activities. Specific questions about an accommodation request may be included on a [medical inquiry form](#). When fulfilling an accommodation request, contractors may use any relevant comments a medical provider has left on the medical inquiry form.

Contractors must customize, in each scenario, the form to ensure they are not violating the ADA restriction on requesting information that is already known.

Guidelines on exams and inquiries are defined in [EEOC's ADA enforcement guidance](#).

## What is the business impact of providing a reasonable accommodation?

JAN's ongoing study, [Workplace accommodations: Low cost, high impact](#), provides data on the true impact of providing an accommodation. The study's findings paint a positive picture: the majority of employers who provided an accommodation did so to retain or promote a valued employee, did so with no or low cost, and found their accommodation was either ["very" or "extremely" effective](#). Additionally, employers reported multiple direct and indirect benefits after making an accommodation.

### Direct Benefits

- Retained a valued employee.
- Increased employee productivity.
- Eliminated additional training costs.
- Improved employee attendance.

### Indirect Benefits

- Improved co-worker interactions.
- An increase in company morale.
- An increase in overall productivity.
- Improved interactions with customers.

### Costs

The Job Accommodation Network has found:

- A majority of accommodations cost nothing.
- About third of accommodations have an average one-time cost of \$500.
- Only 1-in-25 of accommodations incur an on-going cost.
- 3-in-4 employers reported accommodations were very or extremely effective.
- [Tax Incentives](#) are provided to employers of people with disabilities, which credit businesses to offset expenses for providing access or removal of mobility barriers.

## What are some best practices for providing a reasonable accommodation?

An accommodating workplace is not one specifically designed for the comfort and accessibility of people with disabilities, but all persons within the organization. Persons with disabilities do not wish to be treated differently, but provided equal opportunity to perform their work. Accessibility allows employees, applicants, and clients the opportunity to succeed in your organization's environment.

Best practices for providing an accommodation include:

- Developing written [reasonable accommodation procedures](#) to create an easy and [understandable process](#) for requesting and providing an accommodation.
- Being transparent by sharing information with employees & applicants on how to make a request and who to contact (your AAP administrator, if applicable).
- Making your [online](#) systems accessible and compatible with [assistive technologies](#).
- Referring to JAN's for free [consultation](#), [materials](#), [training](#) and a [Searchable Online Accommodation Resource](#) (SOAR) including accommodations by disability.
- Being inclusive by asking the employee how they wish to be accommodated.
- JAN provides free on accommodations.
- Processing accommodation requests [interactively](#) and quickly.

Confused about how to make a reasonable accommodation? Watch JAN's archived webcast: [Accommodation Deconstruction](#); a discussion on the inclusive process.

The [Workplace Flexibility Toolkit](#) is a central location for knowledge, case studies, frequently-asked questions, guidance sheets, and other strategic resources.

## Recordkeeping, Evaluations, & Enforcement

Federal contractors must maintain, preserve, and provide access to documents. This section will help you understand your organization's duties for [recordkeeping](#), [compliance enforcement](#), and [penalties for noncompliance](#).

### What are the recordkeeping obligations under Section 503?

Contractors must preserve records from the date a record is made *OR* the date personnel action is taken, whichever occurs later, and must provide access to records OFCCP deems relevant to matters under investigation. [Requirements](#) include:

- Any personnel or employment [record](#) made or kept by the contractor shall be preserved for the prescribed period of time; see page [32](#) specific details.
- Medical information obtained for employment purposes, regarding condition, history, or reasonable accommodations of any employee or applicant, shall be collected and maintained on separate forms in separate medical files as a confidential medical record, except that:
  - Supervisors & managers may be informed of necessary restrictions on work or duties of a person and necessary accommodations; and
  - First aid or safety personnel may be informed whenever a disability may require emergency treatment; and
  - Government officials enforcing laws administered by OFCCP, including the ADA, shall be provided relevant information upon request.

- Information on self-identification shall be kept confidential and maintained in a data analysis file, rather than in medical files.
- Failure to keep complete and accurate records is considered noncompliance with recordkeeping requirements, with the presumption that destroyed or non-preserved records would have been unfavorable to the contractor.
  - Except where the contractor shows destruction of or failure to preserve records was the result of circumstances out of the contractor's control.

### How is compliance tracked and enforced?

The [compliance enforcement process](#) is designed to provide contractors opportunities to take remedial actions, rather than escalating directly to punishment.

Determining and enforcing compliance takes place through the following steps:

- The compliance process is triggered by:
  - Contractor's enforcement of the AAP audit & report process; or
  - The filing of a [valid complaint](#); or
  - A [pre-award review](#) for non-construction contract awards of \$10 million or more.
- [Compliance evaluations](#) – OFCCP reviews to determine if a contractor is meeting their obligations, per the [contract compliance manual](#), as needed:
- Compliance review – Analysis and evaluation of AAP, employment practices, & affirmative actions, which may proceed in three phases:
  - Desk audit to determine if the AAP satisfies agency standards; or
  - On-Site review at the contractor's establishment; or
  - Off-Site reviews are performed as needed; or

- Enforcement actions include:
  - [Sanctions & Penalties](#) – For failure to comply with Section 503.
  - [Conciliation agreements](#) – Agreements providing for timely remedial action by the contractor, granted if OFCCP determines the contractor is willing to correct violations and/or deficiencies in an AAP or employment practices.
  - [Enforcement Proceedings](#) – Occur after the violation of a conciliation agreement or when OFCCP deems the contractor is not willing to correct violations and/or deficiencies in their overall Section 503 obligations.
  - Contractors that intimidate or interfere with parties participating with the compliance process will be subject to the same penalties.
- [Ineligible Contractors](#) may have eligibility to receive federal contracts reinstated.

The [Federal Contract Compliance Manual](#) explains these processes in greater detail.

## How long must contractors keep and maintain records?

Contractors [must maintain and preserve records relating to employment](#), varying depending upon workforce and contract size.

See the recordkeeping requirements below and on the following page:

All accommodation requests, physical exam results, job advertisements and postings, applications and resumes, tests and their results, interview notes, other hiring records, rates of pay or other forms of compensation, selection for training or apprenticeship, personnel files of involuntarily terminated individuals or changes in employment, including assignment, promotion, demotion, transfer, lay-off, & termination.

Federal contractors with less than 150 employees or contract of less than \$150,000 must preserve these records for one year. Contractors with at least 150 employees or a contract of at least \$150,000, must preserve them for at least two years.

All federal contractors must preserve all data required under the affirmative action program for three years. This may include annual computations or comparisons of applicant and hiring data, the number of applicants self-identifying as a person with a disability (during the prescribed self-identification periods) or who are otherwise known to have disabilities, total number of job openings and jobs filled, total number of applicants hired and total number of applicants with disabilities hired.

Lastly, contractors must [preserve personnel records relevant to a complaint](#), compliance evaluation or action, until final disposition is provided by OFCCP.

## Schedule for Recordkeeping

Record Relating to:	Length of Record Retention by Type of Contractor	
	< 150 Employees or Contract < \$150,000	> 150 Employees or Contract > \$150,000
Accommodation Requests	1 Year	2 Years
Physical Examination Results	1 Year	2 Years
Job Ads & Postings	1 Year	2 Years
Applications & Resumes	1 Year	2 Years
Tests & Test Results	1 Year	2 Years
Interview Notes	1 Year	2 Years
Other Hiring Records	1 Year	2 Years
Changes in employment <sup>1</sup>	1 Year	2 Years
Rates of Pay or Other Forms of Compensation	1 Year	2 Years
Selection for Training or Apprenticeship	1 Year	2 Years
Personnel Files of Involuntarily Terminated Individuals	1 Year	2 Years
All AAP Required Data <sup>2</sup>	3 Years	3 Years
Personnel records relevant to a Complaint, Compliance Evaluation, or Action <sup>3</sup>	Until final disposition is provided by OFCCP	Until final disposition is provided by OFCCP

<sup>1</sup>Changes in employment include Assignment, Promotion, Demotion, Transfer, Lay-off or Termination.  
<sup>2</sup>AAP required data includes: Annual computations or comparisons of applicant & hiring data, the number of applicants self-identifying as a person with a disability (during the prescribed self-identification periods) or who are otherwise known to have disabilities, total number of job openings and jobs filled, total number of applicants hired and total number of applicants with disabilities hired.  
<sup>3</sup>The term “personnel records relevant to a complaint, compliance evaluation, or action” will include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.” - [§60-741.80.\(a\)](#)

## Appendix: Directory of Contacts and Organizations

[Goodwill of Southwestern Pennsylvania](#) is a regional non-profit that [helps employers](#) find qualified applicants with disabilities and provides assistive [technology](#) training.

[The Office of Federal Contract Compliance Programs](#) (OFCCP) enforces and provides [guidance](#) on [Section 503](#) and hosts an [employment referral resource directory](#).

[The Office of Disability Employment Policy](#) (ODEP) provides resources to [help employers](#) recruit, hire, and advance employment of people with disabilities.

[Employer Assistance & Resource Network](#) (EARN) provides guidance and best practices for recruitment, hiring, management, and inclusion of people with disabilities.

The [Job Accommodation Network](#) (JAN) is a service of ODEP that provides free expert training, tools, and guidance on accommodations and disability employment issues.

[Pennsylvania's Vocational Rehabilitation](#) and [West Virginia's Division of Rehabilitation Services](#) help people with disabilities prepare for, obtain, and maintain employment.

[U.S. Business Leadership Network](#) helps business leverage disability inclusion to drive performance and represents over 5,000 U.S. businesses.

[National Employment Team](#) (The NET) provides businesses [free services](#) and a single point-of-contact for connecting with qualified applicants with disabilities in the local area.

[Ticket to Work](#) through the Social Security Administration works with employers to find meaningful employment for people with disabilities.

[U.S. Equal Employment Opportunity Commission](#) (EEOC) enforces federal [laws](#) prohibiting employment discrimination and provides ADA [compliance assistance](#).

The U.S. Department of Veterans Affairs' [Vocational Rehabilitation & Employment Program](#) matches veterans with disabilities with employers and offers hiring incentives.

The [Workforce Recruitment Program](#) is a program linking highly motivated college students with disabilities to employers for [temporary and permanent work](#).