



September 21, 2010

Barbara J. Bingham
Acting Director
Division of Policy, Planning, and Program Development
Office of Federal Contract Compliance Programs
Room N3422
200 Constitution Avenue, NW
Washington, DC 20210

RE: Evaluation of Affirmative Action Provisions under Section 503 of the Rehabilitation Act
(RIN # 1250-AA02)

Dear Ms. Bingham:

The U. S. Poultry & Egg Association, the National Chicken Council, and the National Turkey Federation are non-profit trade associations representing the producers and processors of chickens, turkeys, other poultry, eggs and affiliated industry suppliers. Our member companies are committed to providing equal opportunity in the workplace for all and appreciate the opportunity to comment on OFCCP's efforts to strengthen affirmative action requirements to increase employment opportunities for people with disabilities.

Current affirmative action regulations are adequate

We believe the existing regulations concerning affirmative action are adequate to encourage employers to offer employment and make reasonable accommodations for those with disabilities. Those laws also provide recourse for persons who believe they have been discriminated against in the workplace. Special regulations for federal contractors are not needed at this time.

Efforts designed to increase numerical targets are difficult to measure and monitor

Accurate measuring and monitoring of hiring of individuals with disabilities is difficult and to some degree prohibited by other regulations. The Americans with Disabilities Act prohibits pre-offer medical inquiries, and also prohibits medical inquiries of current employees absent a job-related necessity. Therefore there is no way to accurately track the percentage of applicants with disabilities or monitor the effectiveness of outreach efforts.

Applicants and existing employees may choose not to disclose a disability or may not be aware that their condition fits the definition of a disability. Without the ability to conduct a pre-offer

Barbara J. Bingham
Page 2
September 21, 2010

medical inquiry or conduct medical inquiries of current employees absent a job-related business necessity, employers cannot accurately track the percentage of applicants and employees with disabilities.

Definition of Disability makes tracking difficult


Unlike race and gender which can be monitored with reasonable accuracy, applicants and employees may have differing opinions on what constitutes a disability and may not be familiar with the complex definition of disability under the ADA. Employees with well controlled diabetes or cancer in remission may not consider themselves disabled but they are clearly protected from discrimination under the ADA. An employee who works in a highly accessible location may not self identify as disabled because they do not require an accommodation. However, this same employee might require an accommodation when working at a different location. Setting quantitative goals may require employers to initiate discussions with employees about their status simply for the purpose of recordkeeping which seems to violate the intent and spirit of existing affirmative action programs and regulations.

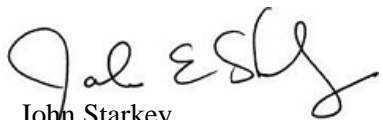
In summary, our members support and encourage outreach to individuals with disabilities but we do not agree that additional rules will substantially enhance that outreach or allow us to accurately measure the employment of those with disabilities.

Thank you for the opportunity to comment. If you have any questions or require additional information concerning our comments please do not hesitate to contact Paul Pressley of the U.S. Poultry & Egg Association at 770-493-9401, Stephen Pretanik of the National Chicken Council at 202-296-2622, or Hilary Thesmar of the National Turkey Federation at 202-898-0100.

Sincerely,


George Watts
National Chicken Council


Joel Brandenberger
National Turkey Federation


John Starkey
U.S. Poultry & Egg Association