



## **Obama administration may soon require all Federal contractors hire 7% disabled workers**

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Good intentions rarely make for good economic policy. Case in point: In December, the Labor Department [proposed](#) expanding the government's affirmative action program for federal contractors (a category that includes nearly all of the nation's largest corporations) to include new obligations in hiring disabled workers.

Once, and if, the proposed rules goes into effect, companies with federal contracts will be asked to have a workforce compromised of at least seven percent of people with disabilities – in addition to two percent with severe disabilities. A Labor Department spokesperson tells Human Events that these numbers are merely "aspirational" -- "goals, not quotas" – and that Washington simply wants "to make sure that companies are making an effort to meet those goals."

Sounds rather harmless. Problem is that even the Office of Federal Contract Compliance Programs press release announcing the proposed rules [uses the word](#) "require" twice in the first sentence. If the Labor Department's aspirations go unmet, for instance, companies could be denied federal contracts and be barred from bidding for future ones. The Labor Department isn't targeting a few road-paving crews here, but rather hundreds of thousands of companies, millions of employees and over \$700 billion a year in contracts.

Patricia Shiu, director of the OFCC went further, explaining that aspirations were no longer good enough. The new rules, she said, are "probably the greatest proposal for real substantive change since the passage of the Americans with Disabilities Act. For nearly 40 years, the rules have said that contractors simply need to make a 'good faith' effort to recruit and hire people with disabilities. Clearly, that's not working."

She's right. In fact, quotas can be so problematical that the federal government with its nearly unlimited ability to mold a diverse workforce [has failed to meet](#) its own hiring goals. According to the Equal Employment Opportunity Commission's numbers only the Equal Employment Opportunity Commission and Social Security Administration have hit the 7 percent and 2 percent targets.

The proposal requires not only the hiring of 7 percent, but the compartmentalized hiring of disabled workers across numerous job categories within a company. There will also be new reporting obligations, so that the Labor Department can measure "the effectiveness of the contractor's affirmative action efforts." If Washington is unimpressed, companies could be out of a lucrative federal contract. If there aren't enough qualified disabled workers in your area for the jobs you need to fill, you might be in trouble. If your company already has an effective and fully staffed workforce in place that doesn't meet the expectations of the Labor Department? You might also be out of luck.

Walter Olson, Senior Fellow at the Cato Institute – who [calls](#) the potential rules one of the "Obama administration's most ambitious and far-reaching regulatory initiatives" -- wonders whether the Labor Department even has the authority to require quotas since the Americans with Disabilities Act was created to make "reasonable accommodations" and provide workplace access, not quotas.

Moreover, it is illegal, under the ADA, for employers to query applicants about their disabilities. So prospective employers will have to wait for self-identification or take a guess. Mark Wilson, a policy expert at Applied Economic Strategies, points out that the new rules may have the potential to set up conflicts with the ADA. "For smaller employers and contractors, people who go in and out of being a federal contractor," explains Wilson, "they're going to run into the problem trying to comply with ADA regulations at one point, and then the new regulations at another."

All of which, no doubt, will create a fertile new ground for lawsuits.

It is understandable that an ugly 12.7 unemployment rate among disabled workers -- markedly higher than the overall workforce – would cause concern. Yet, there are many other groups struggling to find work. Youth employment, for instance, has plunged to levels not seen since the late 1940s. Will Washington try and institute de facto quotas to help them, as well? The Labor Department has the tools to nudge companies and shape the entire workforce. But regulating companies into

moral compliance can be prohibitively expensive for many companies – especially smaller ones.

Conservatives might often worry that sweeping legislation will re-shape the economy, in reality, much of the Obama administration's work is being done in bite-sized pieces.