

**IMPROVING FEDERAL EMPLOYMENT OF PEOPLE
WITH DISABILITIES**

HEARING

BEFORE THE

OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE, AND THE
DISTRICT OF COLUMBIA SUBCOMMITTEE

OF THE

COMMITTEE ON

HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

FEBRUARY 16, 2011

Available via the World Wide Web: <http://www.fdsys.gov>

Printed for the use of the Committee on Homeland Security
and Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE

66-621 PDF

WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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IMPROVING FEDERAL EMPLOYMENT OF PEOPLE WITH DISABILITIES

WEDNESDAY, FEBRUARY 16, 2011

U.S. SENATE,
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE,
AND THE DISTRICT OF COLUMBIA,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:36 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Subcommittee, presiding.

Present: Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. This hearing will come to order. Aloha and thank you all for being here today as the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia meets to examine what the Federal Government is doing to improve hiring and accommodations for people with disabilities in Federal Government.

As the Nation's largest employer, the Federal Government has an opportunity and a responsibility to be the model employer to the country. We have taken many steps toward that goal, but we have so much further to go. Despite great efforts by our witnesses here today and the agencies they represent, the number and percentage of people with disabilities employed in the Federal workforce has declined over the past two decades. Even at their peak, these numbers were not acceptable. But now, people with targeted disabilities make up less than 1 percent of our Federal workforce.

Last year, we celebrated the 20th anniversary of the Americans with Disabilities Act (ADA). This landmark civil rights legislation continues to serve the millions of individuals with disabilities in our country. These individuals are now better able to participate in society because the ADA helped remove barriers in employment, transportation, public services, telecommunications, and public accommodations. Despite ADA requirements of equal employment opportunities and reasonable accommodations, people with disabilities continue to face significant barriers to employment. The Federal Government must work to reverse this trend by setting an example of successfully hiring and accommodating people with disabilities.

(1)

Former Senator Voinovich and I requested that the Government Accountability Office (GAO) study the best practices that agencies could use to increase the employment of people with disabilities. Last summer, GAO held a forum with experts and advocates from across the disability community. I am glad to have Ms. Jones from GAO here today to discuss their report on that forum.

I have been pleased to see this Administration's renewed commitment to this issue. The Executive Order (EO) President Obama issued last summer lays the groundwork for agencies to improve their efforts. I am eager to hear from our witnesses today about the progress they have made as well as what more needs to be done.

Each day, disabled veterans return from service overseas and they must be a central part of this effort. Whether recently injured in Iraq or Afghanistan or disabled in prior service, these veterans have demonstrated enormous commitment to this Nation and we have a responsibility to provide them opportunities to continue their service as civilian employees.

The Federal Government has started to take some positive steps toward improving employment opportunities for people with disabilities, but we still have a long way to go. I am pleased that we are able to bring attention to this important issue and I look forward to hearing from each of our witnesses and to continuing to work with them on these issues. So thank you all again for being here today.

I want to welcome our panel of witnesses to this Subcommittee and this hearing: Ms. Yvonne Jones, Director of Strategic Issues at the Government Accountability Office; Ms. Christine Griffin, Deputy Director of the Office of Personnel Management; Ms. Kathleen Martinez, Assistant Secretary of Labor for Disability Employment Policy; and Chai Feldblum, Commissioner at the Equal Employment Opportunity Commission.

It is the custom of this Subcommittee to swear in all witnesses, so will you please raise your right hand. Do you swear that the testimony you are about to give before the Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. JONES. I do.

Ms. GRIFFIN. I do.

Ms. MARTINEZ. I do.

Ms. FELDBLUM. I do.

Senator AKAKA. Let it be noted for the record that the witnesses answered in the affirmative.

Let me also remind all of you that although your oral statement is limited to 5 minutes, your full written statements will be included in the record.

Ms. Jones, will you please proceed with your statement.

TESTIMONY OF YVONNE JONES,¹ DIRECTOR, STRATEGIC ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Ms. JONES. Thank you, Mr. Chairman. Mr. Chairman, I am pleased to be here today to discuss possible strategies for improving the rate of Federal employment of individuals with disabilities. My testimony today is based on our October 2010 report that discussed

¹The prepared statement of Ms. Jones appears in the appendix on page 25.

barriers to the employment of people with disabilities in the Federal workforce and leading practices that could be used to overcome these barriers.

To identify these barriers and leading practices, we solicited the views of a wide range of knowledgeable individuals through a survey and a forum, which took place in July 2010. Federal employees and applicants for employment with disabilities are protected from discrimination by the Rehabilitation Act of 1973. Under this Act, as amended, a person is considered to be disabled if the individual has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

The Rehabilitation Act also requires that Federal agencies take proactive steps to provide equal opportunity to qualified individuals with disabilities in all aspects of Federal employment. Federal law also provides special hiring authorities for people with disabilities, including Schedule A excepted service hiring authority. However, even with existing Federal provisions, concerns have been raised about the low level of employment of people with disabilities in the Federal workforce.

In brief, Mr. Chairman, participants at the forum said that the most significant barrier keeping people with disabilities from the workplace is attitudinal. Attitudinal barriers can include bias against and low expectations for people with disabilities, a focus on disabilities rather than on their abilities. According to participants, there is a fundamental need to change the attitudes of hiring managers, supervisors, coworkers, and prospective employees, and that cultural change within agencies is critical to this effort.

Participants acknowledge that there are many existing Federal programs and policies to protect the employment rights of people with disabilities but stated that efforts to protect these rights will only make piecemeal progress until agencies change their workplace cultures. Participants identified eight leading practices generated by the survey that agencies could implement to mitigate these barriers and help the Federal Government become a model employer for people with disabilities. Participants emphasized that these practices would not work in isolation, but instead need to reinforce each other. Here are the practices.

Top leadership commitment is key to implementing and sustaining improvements in the employment of individuals with disabilities.

Accountability is critical to success.

Regularly surveying the workforce on disabilities issues provides agencies with important information on potential barriers.

Better coordination within and across agencies could improve employment outcomes for employees with disabilities.

Training for staff at all levels can disseminate leading practices throughout an agency.

Career development opportunities inclusive of people with disabilities can facilitate advancement and increase retention.

A flexible work environment can increase and enhance employment opportunities for individuals with disabilities.

And centralizing funding within an agency can help ensure that reasonable accommodations are provided.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions that you may have.

Senator AKAKA. Thank you very much, Ms. Jones, for your statement.

Ms. Griffin, will you please proceed with your statement.

**TESTIMONY OF HON. CHRISTINE M. GRIFFIN,¹ DEPUTY
DIRECTOR, U.S. OFFICE OF PERSONNEL MANAGEMENT**

Ms. GRIFFIN. Chairman Akaka, thank you for the opportunity to testify today regarding the U.S. Office of Personnel Management's (OPM's) role in improving Federal employment for people with disabilities.

Improving the number of people with disabilities within the Federal Government has been a major priority of this Administration and it has also been a personal goal of mine for the last 5 years, first as a Commissioner at the Equal Employment Opportunity Commission (EEOC) and now currently as Deputy Director of OPM. Securing a job with the Federal Government has been a challenge for people with disabilities regardless of their education level, experience, skills, or abilities. In fact, there has not been much progress over the past 38 years, even though the Rehabilitation Act of 1973 requires Federal agencies to have an affirmative employment program for the hiring, placement, and advancement of people with disabilities.

The unemployment rate for people with disabilities in January 2011 was 13.6 percent. However, this number is deceiving. It only refers to those who are currently seeking employment. Only 27 percent of working age people with disabilities are employed, and there are currently an estimated 10 million working age people with disabilities who are not working and are not seeking work, and most of them probably have in the past and have not been able to find it.

Disability hiring is a critical part of the Obama Administration's comprehensive personnel policy reform agenda. The leadership by this Administration, including OPM Director John Berry, I think, gives me and many others hope that the tools are going to be put in place to ensure that applicants and employees with disabilities have the opportunity to add significant contributions to our government.

Mr. Chairman, combining your leadership with the Administration's leadership, I am convinced this is the year that we will actually see an increase in Federal employment for people with disabilities.

President Obama has already demonstrated top leadership commitment by signing the Executive Order on July 26, 2010, which was the 20th anniversary of the signing of the Americans with Disabilities Act. The President asked agencies to increase hiring of people with disabilities in the Federal Government with a goal of 100,000 people over the next 5 years. He asked OPM to develop, in collaboration with other agencies, the model recruitment and hiring strategies. We have done that and disseminated that to the agencies. Agencies now have to develop plans with goals on the

¹The prepared statement of Ms. Griffin appears in the appendix on page 38.

numbers of people with disabilities and those specifically with targeted disabilities that they are going to hire, and those plans are due to us by March 8.

There are also return-to-work provisions, which I am sure my colleague, Ms. Martinez, is going to go over because that is a piece that the Department of Labor (DOL) is responsible for.

And I think most importantly is a piece regarding accountability. We have asked senior officials to be designated—some are from the Senior Executive Service (SES)—in every agency who will be responsible for the agency's progress. Agency hiring managers, human resource personnel, as well as agency leaders must be held accountable for ensuring that agency staff are working diligently to achieve the agency goals. Goals should be evaluated on a regular basis, either monthly or at a minimum quarterly, to ensure that the strategies being used are successful. Examining success on an annual basis is not an acceptable evaluation.

Increased use of Schedule A, a hiring authority that Ms. Jones described, is an expedient way for Federal agencies to hire people with disabilities into the Federal Government. OPM has already created two very short creative online training courses for Federal agencies as well as applicants.

Another useful tool that is really proving to be successful was developed by OPM in collaboration with the Chief Human Capital Officer Council (CHCOC) and it is a list of people with disabilities covered by Schedule A who already are qualified, deemed to be qualified to fill a variety of entry-level positions that the Council members identified as ones which all agencies have a constant demand for.

OPM, in collaboration with my colleagues here at this table and the Computer/Electronic Accommodation Program (CAP) at the Department of Defense (DOD) and our colleagues at the Department of Education (DOE) Rehabilitation Services Administration (RSA) are all working together. We have provided multiple trainings to Federal agencies. We will do four more of those trainings over the next couple of weeks.

But the bottom line is, the Federal Government has to make significant improvements in hiring and retaining employees with disabilities before it becomes a model employer. Attitudinal barrier, as you have heard, continue to be the biggest challenge that people with disabilities are facing when they seek employment. And maybe this is not unique to the Federal Government, but in my experience, the only way to actually get rid of attitudinal barriers is to hire people with disabilities. That is it. That is the bottom line.

So we look forward to working with you on this and we appreciate your leadership and I would be happy to answer any questions that you have.

Senator AKAKA. Thank you very much, Ms. Griffin.

Ms. Martinez, you may proceed with your statement.

TESTIMONY OF HON. KATHLEEN MARTINEZ,¹ ASSISTANT SECRETARY OF LABOR FOR DISABILITY EMPLOYMENT POLICY

Ms. MARTINEZ. Thank you very much, and I would like to say aloha and mahalo—

Senator AKAKA. Aloha.

Ms. MARTINEZ [continuing]. For having this hearing, and I want to thank you for the opportunity to testify today and discuss the efforts of the U.S. Department of Labor and its Office of Disability Employment Policy (ODEP), to improve the hiring of folks with disabilities in the Federal Government.

At the Department of Labor, Secretary Hilda Solis and ODEP are wholly committed to the goal of improving employment opportunities and outcomes for people with disabilities, no matter whether it is in what sector, be it public, private, or nonprofit.

I know this hearing is specifically focused on Federal hiring practices, and one of my guiding beliefs in leading ODEP is that the Federal Government, as the Nation's largest employer, as you said, can do a lot more to be a model and an example for everyone with regard to hiring folks with disabilities.

I am going to skip, because otherwise we might be here for a while.

At ODEP, we embrace and do all we can to encourage this trend. We were established in 2000 as an office within the Department of Labor to bring a committed focus to disability employment policy and to advance the employment of people with disabilities. I strongly believe in this mission and its importance to our economic vitality. Each person that finds a job strengthens the U.S. economy and our Nation's financial future. Implementing sound and innovative policies that improve employment opportunities for people with disabilities is especially important because this population continues to be markedly under-represented in the United States workforce.

The most recent report issued this month by the Department of Labor's Bureau of Labor Statistics shows that only 31.6 percent of working age people, 16 to 64, with disabilities are actually in the American labor force. In comparison, for people representing no disabilities, the participation rate is 76.4 percent. Closing this gap would likely yield savings for the government as it would mean that millions of Americans who are currently disconnected from the economy would begin earning income, paying taxes, and reducing their dependence on public benefits.

The President demonstrated his personal commitment to this goal when on the 20th anniversary of the Americans with Disabilities Act in July 2010 he signed the Executive Order, and I think we are pretty familiar with that. Although ODEP was one of several agencies to provide input into the development of this Executive Order, we appreciate that its actions take—that it is the actions taken in response to this order that really matter the most.

In addition to helping agencies implement the Executive Order, ODEP also provides information and technical assistance through several different methods and mediums that can be used to assist Federal agencies in becoming model employers. One of the areas

¹The prepared statement of Ms. Martinez appears in the appendix on page 43.

that we have studied extensively is the concept of accommodations. We all know we all require some type of productivity tool to work and for folks to perform their jobs, whether it is lights, whether it is chairs, whether it is pens and pencils. Most accommodations for folks with disabilities are not cost prohibitive, especially when taking into account the increased productivity that results from their use. In fact, data suggests that more than half of all accommodations cost nothing, and most employers actually report financial benefits from providing accommodations as the cost of training new employees goes down and worker productivity goes up.

I am going to skip. It is just going to take me a little longer here because of the Braille.

In addition to accommodations, we also provide a searchable online database of recruitment resources as well as a call center through our Employer Technical Assistance Center and the Employer Assistance Resource Network (EARN). This resource is available to all employers, including Federal employers, at www.askearn.org, and I encourage all Federal managers and supervisors to take a look at it.

ODEP also cosponsors the Workforce Recruitment Program (WRP), with the Department of Defense. The Workforce Recruitment Program is a recruitment and referral program that connects Federal managers and supervisors with post-secondary students and recent graduates with disabilities who are eager to prove their abilities in the workplace through summer internships or permanent jobs. Since 1995, the WRP has provided Federal employment opportunities to over 5,500 students.

Improving Federal employment outcomes for those of us with disabilities holds great potential. As a model employer, the Federal Government can be a catalyst for raising the labor participation rate for those of us with disabilities and thereby add to the economic dynamism that has made our Nation special from its earliest days. ODEP is proud to play a role in this effort and is proud of the commitment this Administration has shown to this goal.

And with that, I would be happy to answer any questions. Thank you.

Senator AKAKA. Thank you very much, Ms. Martinez.

Ms. Feldblum, you may proceed with your statement.

**TESTIMONY OF HON. CHAI FELDBLUM,¹ COMMISSIONER, U.S.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

Ms. FELDBLUM. Thank you, Chairman Akaka, for holding this hearing. My name is Chai Feldblum. I am one of five Commissioners who make up the bipartisan Equal Employment Opportunity Commission and I thank Chair Jacqueline Berrien for asking me to represent the Commission at this hearing.

It was thrilling on July 26, 2010, and indeed it is thrilling today, to read President Obama's Executive Order 13548 and to imagine that the challenge of that Executive Order would actually be fulfilled—that in 5 years, there would be an additional 100,000 people with disabilities employed in the Federal workforce. But as we all know, those clarion calls have been made before, including in an

¹The prepared statement of Ms. Feldblum appears in the appendix on page 54.

Executive Order issued in 2000 calling for the hiring of 100,000 people with disabilities within 5 years, and they have not succeeded.

So our challenge now in 2011 is to actually succeed. The time for words and clarion calls have come and gone. Now is the time for results.

We are off to a very good start because a great deal of thought went into this Executive Order, both in terms of its requirements and its many details. And I must say that we have Christine Griffin's leadership, among others, to thank for that detailed thoughtfulness. But real success will require the full engagement of three component actors: Congress, various agencies within the Executive Branch, and the workforce itself.

I start with Congress because the EEOC's authority and responsibility regarding the employment of people with disabilities in the Federal workforce derives from the statutory mandate Congress has given us. That mandate sets out our job. Given that fact, Congress must remain engaged with our efforts. It must hold our feet to the fire to see if we are carrying out our statutory responsibilities and it must ensure that we are being given the tools and the authority to carry out that mandate.

With regard to the second component actor, the executive agencies, you have arrayed before you several of the relevant agencies and part of my optimism that we will actually succeed this time comes because of some of the leaders at this table. But with regard to the EEOC, as you have heard, EEOC received its statutory authority almost 40 years ago in Section 501 of the Rehabilitation Act in which Congress told the agencies they had to have an affirmative action program plan for the hiring, placement, and advancement of people with disabilities. EEOC was given authority to review those plans, and in Title 7, Section 717, we are given broad authority for making sure that equal employment opportunity is being achieved in the Federal workforce.

So in my written testimony, I describe a number of things that EEOC is doing to carry out that statutory responsibility. I want to highlight two elements here.

The first is EEOC's Management Directive 715, which is our statement to the agencies, our instructions to them of how we expect them to carry out Congress's statutory mandate of equal employment opportunity. We tell them that they have to demonstrate commitment from agency leadership for equal employment opportunity and have successful management and program accountability. And we do not leave agencies on their own with those obligations. We tell them what data we want to see. We review that data. We give them multi-year trend analyses.

Here is my key point. Our goal at the EEOC is going to be to use the MD-715 process as effectively as possible to bring about the results called for in the President's Executive Order. There is data that we can collect through those reports. There is technical assistance we can offer based on those reports that can and should operate synergistically with the data that OPM will be collecting and technical assistance OPM will be providing through the Executive Order.

Second, the Committee had asked about the Leadership for the Employment of Americans with Disabilities Initiative (LEAD) that was started by then-Commissioner Griffin at EEOC, and my written testimony describes that. The one point I want to say here is that I view the Executive Order as an even more robust follow up to the LEAD Initiative. So we at the EEOC are very happy to be continuing the training, technical assistance, and analysis that started with the LEAD Initiative but now is part of this bigger and better effort.

Third, the final component is the workforce itself, including people with disabilities who are just waiting to step up and contribute to the workplace. As I note in my written testimony, as a person with anxiety disorder that is medicated, I am keenly aware of the stereotypes and assumptions that can hold people with disabilities back. And as the October 2010 GAO report notes, we must change managers' and supervisors' assumptions and opinions about disabilities if we are to change outcomes.

Increasing the numbers of people with targeted disabilities in the Federal workforce is a great way to begin that task. It is hard to continue believing that someone who has a mobility impairment, has cerebral palsy, who is deaf or blind, or who has a mental illness or an intellectual disability—is incapable of being a good employee when you are already working next to such a good employee.

At the same time, while targeted disabilities represent a good and essential barometer for progress, and people with disabilities must play an important role in shaping efforts to determining how those goals for people with targeted disabilities can be achieved, I believe we must also make clear that we all exist along a spectrum of ability and disability. Some of us have impairments that generate a significant amount of discrimination, fear, and myths, and some of us have impairments that generate less. Some of us do not have impairments now, but we will down the road. If we can convince supervisors and workers, both in the Federal workforce and elsewhere, that there is not a sharp divide between people with disabilities, otherwise known as “them,” and everyone else in the workplace, often known as “us,” the better off all of us will be.

Thank you very much, and I look forward to your questions.

Senator AKAKA. Thank you very much for your statement, Ms. Feldblum.

I would like to start with a question to the entire panel. Participants at the GAO forum cited attitudes, attitudes such as low expectations and bias, as the key barrier to employing people with disabilities in the Federal Government. Why do you believe this remains such a significant challenge, and what can we do to address it? Ms. Jones.

Ms. JONES. Thank you, Mr. Chairman. We believe it is a significant problem because so many of the participants at the forum discussed it and because the eight practices that were identified at the forum were, in part, derived from what participants viewed as attitudinal issues. And the eight practices are actions that the participants at the forum identified as necessary for changing attitudes.

For example, leadership, communication, and commitment shapes how others in an agency or an organization will deal with issues and a second also surveying the workforce was aimed at de-

termining what the attitudes or views of a specific organization or agency would be and could help suggest ways to change attitudes in the agency. Those are a couple of examples from the forum. Thank you.

Senator AKAKA. Ms. Griffin.

Ms. GRIFFIN. Mr. Chairman, I have looked at this for a long time in every which way and the bottom line is society still is in a place where they think people with disabilities are somehow less qualified to work. If you grow up thinking that people with disabilities need help, should be pitied, things like that, you just are never going to grasp the fact that they are just like you and they want to work. So attitudinal bias persists society-wide, so it is no surprise that it is in the Federal Government, as well.

And we have done 40 years of this disabilities awareness stuff in the Federal Government. At least once a year in October, every Federal agency has some little program where they bring in someone with a disability or they discuss accommodations or they do something to recognize employment awareness, but it never results in employment and I am not sure that it results in awareness, either.

So I have actually come to this conclusion, that the only way to actually change attitudinal bias is to hire people. Hire people with disabilities. They are the ones that actually change the attitudes of people who have any type of fear, myth, or stereotype in their head. It is only when you are working, as Commissioner Feldblum said, "You are working side by side with someone with a disability and they are doing the same job you are" that you finally say, oh, OK. This person—Chris Griffin is just like me. Kathy Martinez is just like me. They may do their job a little bit differently with an accommodation, but they are still doing the same job and they are just as capable and they are just as qualified. And that is the bottom line. It is actually getting more people with disabilities in the workplace that I think will change not only the Federal Government, but society's views overall.

Senator AKAKA. Thank you, Ms. Griffin. Ms. Martinez.

Ms. MARTINEZ. Senator Akaka, I was born blind and when I was in grade school, I was mainstreamed and was the only blind person in my class. The children in my class, in kindergarten through sixth grade, had not ever dealt with a person with a disability, so their expectations of me were just like the expectations they had of each other.

As I grew up and kind of learned about the attitudes as people grew older and older, I graduated from high school and I was a client of the Department of Rehabilitation (DOR) and I was placed in a lock factory. My case was closed and the rehabilitation counselor considered himself having placed a successful employment case. Well, I decided that was not going to be my life's work, being a punch press operator in a lock factory, and here we are today.

I think, as Christine said, I heard somebody call it contact theory. The more contact you have with somebody, the more you know them and the less you fear them. And unfortunately, because of thousands of years of systematic discrimination, people with disabilities—there is a major fear factor that we have to—that we can only address by being a part of society.

And the way that anybody feels productive, the way that most people have dignity is through work and pride and everything else that work provides. When people see us as productive, contributing members of society through our ability to contribute—we might not do things the same way as each other, but we get the job done—they will value us at a higher level. And again, we cannot emphasize enough the best way to change attitudes is to hire someone.

Senator AKAKA. Thank you, Ms. Martinez. Ms. Feldblum.

Ms. FELDBLUM. Thank you. Let me just put some context to what you just heard, because I think you are hearing the same thing from all of us. If you imagine someone having four candidates in front of them to hire and they all have the basic qualification standards, they all went to law school or they all have their engineering degree, and three of them look just like the person who is doing the hiring and one of them is blind, or three of them look just like that person doing the hiring and one of them has cerebral palsy and is using a voice box to talk—that person doing the hiring is thinking, OK, I now have to hire someone, how that person performs is going to reflect on me because I have to produce for my boss, no matter how many disability awareness programs they have gone to, they are going to figure out a reason that it is better not to hire the person who is blind or who has cerebral palsy or who is using a wheelchair. And they are going to do that because they think, I am not going to look as good to my boss because this person is not going to produce.

So what you are hearing is that the only way to change attitudes is to actually increase the numbers. And I wrote my answer here without having talked to Deputy Director Griffin before—because I am convinced, as well, that the only way you change that attitude is by forcing people to have that experience.

So the question, then, again, because your second question is what can be done, and so I think there are two answers here. One is what the Executive Order does, which is to say, we do not care how much outreach you do. We want to see your bottom line numbers. And the second, it does not do as explicitly, but I think the Federal Government can, is to start putting in the performance evaluation of that manager, how well have you done on diversity hiring, because then that person has a reason to actually push himself or herself to think, well, maybe I do want to hire this person who is blind or uses this wheelchair.

The second piece of it, though, is my understanding that it is not them and us. That is my point of saying, I am a person with a disability. You would not know it unless I come out and tell you I have anxiety disorder that is medicated. There are thousands of people out there in this country who have anxiety disorder and depression and they do not think they are people with disabilities. So remember I started by saying three people who look like the supervisor and one who does not? Well, some of those people—the supervisor him or herself could have a disability without knowing it.

Senator AKAKA. Thank you.

Ms. Griffin, from the Office of Personnel Management, I would like to ask a question about the Executive Order. As we have discussed, the President issued an Executive Order last July which required agencies to develop recruitment and hiring strategies for

people with disabilities. These plans are due next month. Have agencies responded positively to the Executive Order and have they been working with OPM to develop their strategies?

Ms. GRIFFIN. In fact, they actually have been working with us. And one of my senior advisors behind me, John Benison, can certainly testify to the numbers of phone calls and emails he gets on a daily basis, and certainly they are increasing as we get closer to the due date.

But I really do believe agencies are engaged in this, and engaged because they have to do it and they are being held accountable, which is that key piece. And they are in the process of developing their goals. They actually get to do that based on their own strategic hiring plans that they developed. So they have to look at the numbers of people they are going to hire over the next couple years and then develop their goals. So it is not—we are not forcing a number on them. They have to develop what is right for them and then we have to assess whether we are going to meet the overall goals by doing that.

In addition to them developing plans, we have not really just said, this is some new initiative and it begins when you submit your plan on March 8. We have been saying, it really is not a new concept, but it took an Executive Order to once again say to you as an agency, we are not kidding about this. We really mean you have to do it. So we are counting what agencies do during this year. We are not counting as of March 8. This is something that we have been counting for many years and we will continue to do so.

We have done a lot of trainings. Folks from Kathy's shop, including Kathy herself as well as EEOC, myself, Kareem Dale, who is the President's Special Assistant on Disability issues at the White House participates in these trainings, Rehabilitation Services Administration folks, Dinah Cohen, who is Director of the CAP Program, the centralized accommodation program with DOD. We have all been working together not only to develop the model strategies, but now roll them out in in-person trainings that we are doing for the Federal agencies. John Berry is spearheading a campaign with the Chief Human Capital Officers Council meetings every month. In between meetings, we are sending reminders to them. So there is a lot of activity, a lot of engagement, and we just are delighted to see activity in this area.

Senator AKAKA. Thank you. I am glad to hear you mention training, because we think that good training is always a challenge to changing how the Federal Government does things.

Ms. Feldblum, as you mentioned in your testimony, each year, the EEOC analyzes and reports on agency efforts to improve hiring and accommodations for people with targeted disabilities. Although the overall trend is negative, I understand that certain agencies have had some success in these efforts. My question to you is which agencies have been most successful and what lessons can we take from them to help other agencies?

Ms. FELDBLUM. Well, I list in my written testimony 11 agencies that have reached the target of 2 percent of people with targeted disabilities that the EEOC had set a few years ago. But to be honest, as I also note in that testimony, they tend to be the smaller

agencies. Some of them deal with disability issues, the Access Board, EEOC itself. So among the large agencies, the Department of Treasury actually had some of the best numbers.

And I think, in general, we find that it really does have to do with engagement by the supervisors, the line management folks, as well as really leadership from the top level. So I think we are at a point where we can actually see some significant change through a combination of having an Executive Order with these actual goals if the agencies feel like there will be some repercussions if they do not meet those goals. So that is the part about the agency commitment.

And then, two, if the agencies feel like reaching that goal fits into their strategic mission. I mean, in the directive that we sent out to them where we asked for information, we say that part of their obligation is to tell us how diversity fits into their strategic goals. So if you are the Department of Housing and Urban Development (HUD), Homeland Security, Transportation, I mean, you are worried about housing and transportation and homeland security. And part of what we are trying to say to them, based on what Congress has said, is diversity will help you achieve those strategic goals. We want you to think about how that will work.

So I think, it is not rocket science, but it does require a stick. Senator AKAKA. Thank you.

This question is for all of the agency witnesses. Your agencies provide oversight, guidance and assistance to other Federal agencies on hiring, retaining, and accommodating people with disabilities. How are you coordinating your efforts to improve employment outcomes for people with disabilities? Ms. Griffin.

Ms. GRIFFIN. I can begin by saying that one of the first things that we did, and certainly we began long before this, but in response to the Executive Order, we actually all collaborated on developing the model strategies on recruitment and hiring for the Federal agencies. So we all got together and talked about it and really actually began that process even before there was an Executive Order signed because we were hoping to issue guidance to agencies, whether we had an Executive Order or not.

So we really began talking about this quite some time ago and trying to strategize about how we actually got agencies to do what they were supposed to do and how we actually could help them the best. So if they were saying, "We cannot find people with disabilities," we said, "Well, we will find them for you." We will hand them to you. If they said, "Well, we want people with disabilities to fill these types of jobs," then we said we will find those types of people for you. If they said, "We have trouble retaining people once we hire them," we said, well, let us talk about that. What is going on at your agency? Are you accommodating them? Are you asking them when they are leaving why they are leaving? That is probably where you should begin.

So we have really developed a lot of strategies, and frankly, every one of our agencies, especially EEOC and Office of Disability Employment Policy, long before this point in time, have been trying to help agencies do this. I think that the differences right now, we actually have them paying attention.

Senator AKAKA. Ms. Martinez.

Ms. MARTINEZ. One of the things I wanted to comment on is in addition to helping people with disabilities who come into the Federal Government as a person with a disability, we also included in the Executive Order a focus on retaining Federal workers who become injured on the job, and I think that is a very critical part of the Executive Order, because for so long, Federal workers have just been disappearing onto the disability rolls. So one of the focuses that we have is to encourage the use of accommodations to better educate Federal employees themselves about when they become injured that they can work. And really, again, back to the mantra, the way they know that is by seeing somebody else who has a disability who may be working alongside them.

Senator AKAKA. Ms. Feldblum.

Ms. FELDBLUM. The EEOC's Office of Federal Operations (OFO) is the division within the EEOC that is in contact with agencies all the time about their equal employment opportunity obligations, which include filling out this form once a year, but obviously includes doing work all through the year. So the EEOC holds meetings four times a year of all the EEO directors, and I happen to have attended the one 2 days ago at the Commission. I am going to do a shout-out for a woman who works at the Office of Federal Operations, and if I get her name wrong, I am reserving my right to correct the name for the record, but this woman, whose name, I believe, is Lori Grant, over 6 months ago said, "Well, why can we not figure out a way to have agencies talk to each other in an easier fashion by being able to upload their documents, their best practices, for us to be able to give them feedback?" She did this amazing presentation of a web system she has now set up which harnesses technology to ensure better communication.

So there are ways to, in fact, ensure that the information gets to folks. Again, there has to be some incentive, not just for that Equal Employment Opportunity (EEO) Director to go on the webpage and learn something, but for the Deputy Secretary of some agency, or for the Secretary to feel that they want to listen to that EEO person. So getting the communication out there is only half of it. The other half is whether that is going to reach a receptive audience by someone who can make a difference.

Senator AKAKA. Thank you.

Ms. Jones, GAO observed that improved coordination could help agencies reduce duplication and take advantage of the economies of scale. This could better serve people with disabilities and make better use of taxpayers' money. Would you please elaborate on how this could be done?

Ms. JONES. Well, in terms of coordination, within agencies, the responsibility for assisting people with disabilities is often dispersed throughout the agency. So, for example, there may be some responsibilities for people with disabilities in the hiring office or the EEO-civil rights office or in the information technology office. So the idea was that there could be better communication and coordination between these offices so that they would both know what is going on but also so that they could develop a kind of, if you will, overarching program to help individuals with disabilities.

The participants mentioned that sometimes when the responsibilities are dispersed across an agency, one group of people will

think that an issue that affects persons with disabilities is being taken care of by another group. With better communication and coordination, then the different responsible parties would know what each other is doing.

Senator AKAKA. This question is for all of our agency witnesses. We have a responsibility to provide our disabled veterans with opportunities to continue their service as civilian employees. In her testimony, Ms. Martinez mentioned the Executive Order on veterans' hiring and the opportunity to coordinate these efforts to promote employment for disabled veterans. My question is, how are the disability and veterans' hiring initiatives working together to serve our disabled veterans? Ms. Griffin.

Ms. GRIFFIN. Mr. Chairman, this is something that we actually talk about at OPM all the time. We are responsible for implementing the veterans' Executive Order as well as, with my colleagues, the disability Executive Order, and we—at every training we go to, every time we speak about this, we talk about the fact that a veteran with a disability is a person with a disability and they, too, can actually have multiple vehicles into the Federal Government and, in fact, can use Schedule A as an opportunity to get in through the same type of expedient process that other people with disabilities use.

And we are encouraging agencies to actually honor and meet the goals of both Executive Orders by, in fact, hiring more veterans with disabilities. As a matter of fact, what I tell them is that in hiring reform, they have a hiring reform agenda they must meet. They have to decrease the amount of time it takes to actually hire anybody into the Federal Government. Then if they actually hire a veteran with a disability through Schedule A, they can meet the goals of the Administration's personnel reform agenda.

For us, it does not really matter how you acquire your disability. If you are a veteran with a disability, you have right and have other avenues available to you to get into the Federal Government and we owe you, I think, as a veteran with a disability, a debt and should honor that by offering you Federal employment.

Senator AKAKA. Ms. Martinez.

Ms. MARTINEZ. At the Office of Disability Employment Policy, we are working hand-in-hand with our Veterans Employment Training Office in the Department of Labor. One of the programs that we are actually handing over to them is called America's Heroes at Work, where we kind of cross-pollinate with that office to make sure that veterans with disabilities are getting information about what is out there, that employers, including Federal employers, are getting information about hiring veterans with disabilities, including information about traumatic brain injury and different disabilities that veterans acquire in the various theaters, and we have found that the collaboration has been extremely productive.

Senator AKAKA. Ms. Feldblum.

Ms. FELDBLUM. So there are two sets of laws here that I think we should be focused on in terms of veterans. The first is the Uniformed Services Employment and Reemployment Rights Act (USERRA). This is a very strong law that requires private sector employers to keep open jobs for people who have been deployed, and there is an entire section of that law that deals with veterans

with disabilities. That is a law that is actually quite strong on paper, but for it to have teeth, you need good enforcement, and I know that is in the enforcement side of the Department of Labor, USERRA is one of the things that they are very focused on.

Because again, if you think about a person, a veteran who is disabled, if that person can go back to his or her original job where the employees actually knows the person, that is the best. So we have a law that is quite strong, as I said, and on paper, it requires sometimes keeping a job open for 5 years. But employers are often not doing that. So that is one piece of the puzzle.

Second, if USERRA is not going to be applied, then I agree with Christine Griffin that certainly the Federal Government should be a place where veterans should be more than welcome. I would say, there, the fact that Congress passed the Americans with Disabilities Act Amendments Act of 2008 2 years ago, and the EEOC will shortly be issuing regulations on that, I think has helped create a renewed focus on disability rights generally.

So, for example, I have given probably four talks to Federal personnel folks, including one at Fort Meade, where I started with the ADA generally but also moved to some of the issues in terms of the Rehabilitation Act, Section 501. So I am hoping that this will all help in terms of the focus. But again, focus is just the first step and then it is about making sure we get results.

Senator AKAKA. Ms. Feldblum, I understand that the EEOC's authority to enforce compliance with disability employment laws differs within the public and private sector. What can the EEOC do to make sure Federal agencies comply, and do you believe you need additional authority to do that?

Ms. FELDBLUM. Yes. That is a great question. I have to say, I have been a civil rights employment lawyer for almost 25 years and I did not realize the extensive authority that EEOC had with regard to the Federal sector until I became a Commissioner. So right there, I think we need to increase the visibility of that authority.

But the key difference is that in the private sector, what Congress has told us is to essentially facilitate the processing of discrimination charges. So people file charges with the EEOC. We investigate. If there is reasonable cause, we try to conciliate. If that does not work, we litigate. But we are in a facilitative role.

In the Federal sector, what you, Congress, did was give us a much more direct enforcement role. That is, you said Federal agencies should not be discriminating, should be engaged in affirmative action with regard to people with disabilities, and you, the EEOC, should actually be enforcing that. Now, you did say that, but there were not a lot of, as I say, sticks and hammers that came along. You know, we can sort of slap the hands of Federal agencies. We can say, oh, bad boy. We can put them up on the website that they are not doing well. But that is where I say it has to be an ongoing communication between us and Congress, because I do not see, personally, the Congress handing us authority to fine the Department of Housing and Urban Development \$100 billion. But I think the more that you are asking us, how are agencies doing, and the more that you are thinking, how do I reward or, I do not know, penalize,

but have some repercussions, I think the more that there is good communication between us and Congress, the better off we will be.

Senator AKAKA. Thank you.

Ms. Martinez, your testimony on the Workforce Recruitment Program was especially interesting to me because I believe the Federal Government needs to do more to reach into colleges and universities to train students for Federal jobs. Would you please tell us more about how this program works and if you think it might be a useful model for other student intern programs?

Ms. MARTINEZ. Well, we are very proud of the Workforce Recruitment Program. Like I mentioned in my testimony, it has been in existence since 1995 and we partner very closely with the Department of Defense and they deserve their kudos because they hire many, many people from that program.

Let me start with something that I would like to change about it. One of the things about it that is difficult is that it is a separate program, so I would like to see people with disabilities ultimately be a part of all internship programs that are available to young people in the Federal Government. But given that has not happened, the WRP has been, I would say, very successful in that we do recruit all over the country. I think our numbers—we reach out to approximately 250 colleges and universities. We are making specific efforts to reach out to the Hispanic Colleges and Universities (HCU), and the Historically Black Colleges and Universities (HBCU). And really, the goal is to get qualified folks with disabilities in front of hiring managers and supervisors so they have their first opportunity as an intern or as a permanent job in the Federal Government.

Now, you should know also that this database has become so popular that private employers are also availing themselves of it, and we are very proud of that. But we feel like folks—there are a lot of qualified—we know that there are a lot of qualified students with disabilities who want to work and this is one way that they can have an opportunity to become a part of the Federal workforce.

Senator AKAKA. Thank you.

Now, this question is for all of the witnesses. People with disabilities tend to leave Federal service at a higher rate than other employees. In fact, they are leaving Federal service at nearly twice the rate that they are being hired. My question is, why is this and what can we do to reverse this trend? Ms. Martinez.

Ms. MARTINEZ. Well, I want to say that I think part of the problem is our lack of access to technology. Again, as a person with a visual impairment, technology, for the most part, is not accessible, and we have our 508 standards, but I think that people leave because if they do not have access to information which comes over email, Blackberries, other types of communication devices, then we cannot do our jobs, basically.

So what happens is if I do not have the appropriate technology to kind of keep me up to date with the changing technology in the government, I fall further and further behind. So if I am unable to get my emails at home over the weekend, I may have missed something very critical which might be due on Monday morning. That impacts my job performance, which impacts my desire if I have a negative job evaluation, a negative job performance, then it be-

comes very discouraging, especially when it is because of the circumstance that I have no control over. So I think what happens for many people is that the government is not purchasing accessible technology and we fall further and further behind and come discouraged.

Senator AKAKA. Thank you. Ms. Griffin.

Ms. GRIFFIN. I agree with Kathy and I think that is one of the factors in this equation when we are looking at why people leave in the Federal Government. But I think more troubling to me has always been the fact that we do not ask people why they are leaving. We do not have data. We only know anecdotally what Kathy is saying. We know we have the greatest centralized accommodation program in the world, probably, with the CAP program over at the Department of Defense, which provides technology-based accommodations for all Federal employees, but what Kathy is talking about really is not covered sometimes by what they do. And so we do have to do a better job as a government adhering to Section 508 of the Rehabilitation Act, which says, we should not contract with anyone who does not provide whatever it is in an accessible format that is updated and accessible for everyone.

But there are a lot of other factors impacting why people leave and we do not know exactly what they are. So one of the things, the strategies we are using in the model strategies and we are going to require agencies to do in compliance with the Executive Order is to start asking people who have disabilities, when they are leaving the Federal Government, why they are leaving and start providing data so that they can change what is going on.

Just to give you an example, the Chief Human Capital Officer at the Department of Health and Human Services (HHS) just told us in the last couple of weeks that although they are actually doing a lot more with regard to hiring people with disabilities, she is watching the retention rate and she is seeing people still leave. So she has immediately implemented something with her hiring managers that says you must start collecting data on why people are leaving. But we have to do that government-wide because—there are certainly barriers to employment or to keeping people employed that we are not addressing because we are just not asking the right questions.

Senator AKAKA. Ms. Feldblum.

Ms. FELDBLUM. One of the great things I think sometimes about hearings is it does force some of us as we are preparing to look at some of these questions and figure out where we need more information. So a chart that you have, I am sure was submitted for the record, and if not, we can, is this trend analysis that the Office of Federal Operations at EEOC did of individuals with targeted disabilities and it is very interesting when you parse down to see where the decreases happen and then to ask ourselves, do we know why.

So, for example, in terms of people who are deaf, in 2000, there were about 5,200 deaf people in the Federal Government and in 2009, 4,200. So that is a decrease of 1,000 people. Now, what is that about? Some of it is probably about not getting the accommodations. Is some of it that we have restructured jobs that a large number of people who are deaf had? I do not know. I mean, I plan

to go back and ask my Office of Federal Operations, and if we do know, I will submit it for the record, and if we do not, I will let you know how we are trying to figure out why.

In comparison to that, people who are blind, there were around, 2,600 people in 2000 and about 2,600 in 2009. So not a decrease there. But there, what we should focus on is that we have 2,600 blind people, that is all, out of a workforce of 2.8 million?

The other, I thought, interesting change was people with intellectual disabilities at 2,500 in 2009. It is about 1,600 decrease—2,500 in 2000 and 1,600 in 2009. Again, a thousand person decrease, as opposed to people with mental illness, 5,600 in 2000, 6,800 in 2009, a thousand person increase.

So to me, for us to be doing our job, we really do need to be digging down into these questions. And again, this is why I said that this Executive Order in 2010 is very different from the Executive Order of 2000. They are similar in that they each called for hiring 100,000 people with disabilities. The difference is that the 2010 Executive Order really went through and said, and there are various things we want you to do, including getting training, having goals, and finding out why people are leaving.

Senator AKAKA. Thank you. Ms. Jones.

Ms. JONES. Mr. Chairman, this is not really a question that the forum looked at directly, but supporting what Ms. Martinez said, participants at the forum did say that sometimes hiring managers are reluctant to look at hiring people with disabilities because they have a perception or a belief that it would be very expensive to provide accommodations for them, whereas in reality, there are many times when it is not as expensive as they might have imagined, and that is one of the reasons why one of the practices that was listed at the forum was providing a centralized budget for accommodations for people with disabilities. Excuse me.

Senator AKAKA. Thank you.

Ms. Martinez, the cost of providing accommodations, especially personal assistant services, is one issue some managers raised as a barrier to hiring people with disabilities. In your testimony, you talk about how some agencies, including the Department of Labor, include an accommodations fund in the general agency budget so that small offices do not feel burdened by the cost. This is also one of the retention strategies described in the President's Executive Order. My question is, how widely is this practice used and why is it so important?

Ms. MARTINEZ. Mr. Chairman, that is an excellent question and I will—let me start with the second part, why is it so important, and I will have to defer to my colleague, Christine, with regard to how widely it is used in the different agencies.

I can speak specifically for the Department of Labor. We started ours in 2010. It is important exactly for the reason that you said, which is that it frees up small budgets, or different departmental budgets, so that if there is an expensive accommodation, it can be absorbed by the pool.

So, for example, in the Department of Labor, there is a certain percentage that is put into our centralized accommodations fund so that if there are higher-cost accommodations, such as sign lan-

guage interpreters and personal assistant services, those can be absorbed by the entire Department.

And I would say that the savings that the government enjoys by hiring folks with disabilities with regard to the fact, A, they are not depending on benefits, B, they are paying taxes, would completely overshadow the cost of workplace accommodations or sign language interpreters.

Senator AKAKA. Ms. Griffin.

Ms. GRIFFIN. Mr. Chairman, we have not done what I would say, a widespread study on this, but just anecdotally talking to the different agencies and asking this question, the answer is it is not widely used.

One of the things I learned when I was a Commissioner at EEOC, and I am sure they could provide you with statistics on this, is that there are lots of cases and complaints filed when somebody with a disability who is a Federal employee asks for an accommodation and it is not provided, a lot of times because the person in charge of their small division, their department, thinks that their budget is going to have to cover the cost of that and that they cannot afford to do it. The wasted time and money on those cases that are clear cut types of cases under the Rehabilitation Act really could be used by the agency more appropriately in providing the accommodation.

And so one of the things the EEOC did when I was there and continues to do today is not only centralize the budget, but centralize even the decision making. So you actually take the decision making, a legally-based decision that has to be made on whether the person has a disability or not and whether they should provide the accommodation or not, take that away from the local manager so they are not thinking about it with regard to whether the employee deserves it or not or whether they can afford it or not.

And the other important factor that a lot of people do not know is that those types of accommodations for personal assistance, readers, sign language interpreters, we can actually hire them as employees using Schedule A, as well. That is a little-known piece of information that we try and remember to tell people. You can actually hire all of these folks the same way you can hire people with disabilities, expediently, so you get them the accommodations they need, and folks can hire, let us say, a sign language interpreter to do interpreter services for all the deaf employees as well as for meetings and meetings with the outside, stakeholders and other folks who may include people who are deaf. When they are not doing those duties, they actually can be assigned to do other duties within the agency. So that is a key piece of information that I think agencies do not know enough about or pay enough attention to.

Senator AKAKA. Ms. Griffin, I have been working with OPM to increase the use of telework in the Federal Government and my Telework Enhancement Act was signed into law last year. A number of the witnesses today have mentioned that telework and other workplace flexibilities can play a role in attracting and retaining people with disabilities. My question to you is how is OPM encouraging agencies to use telework and other flexibilities as a tool for people with disabilities?

Ms. GRIFFIN. Mr. Chairman, I think you know how strongly Director Berry at OPM feels about telework as an important tool for all Federal employees, especially in times of, let us say, snow closures and other events that happen within the Federal Government. So it is key that we have telework as a significant tool for all of our Federal workforce.

But more importantly for people with disabilities, this will give lots of people with disabilities who, for whatever reason, cannot utilize transportation, do not have access to transportation, to be very productive citizens and do the work right from their home. We demonstrate that with lots of people now every single day, and as you know because of your Telework Act, there is training about that and the culture change that is taking place in the Federal Government and increasing telework every day.

I think we are celebrating Telework Week this week and we have lots of people at OPM who have been encouraged, as I think other Federal agency heads have done, to telework, and we have not only employees with disabilities who are teleworking as employees for OPM this week but lots of others, as well.

This is a critical tool. We have, again—I cannot say enough about the Department of Defense CAP program, the computer and electronic accommodations program that provides us with the electronically-based accommodations for all of the Federal Government. They will, in a case where it is a reasonable accommodation for someone with a disability to telework, they will actually provide the equipment that is needed for the person to do that.

So we have—we have no excuses and no reasons not to do this. This is a wonderful tool that allows people to be productive.

Senator AKAKA. Thank you very much.

I want to thank you for your responses. You have been generous in your time. So this is my final question for all of the witnesses. The President's Executive Order is moving us forward and bringing renewed attention to these issues across government. In your opinion, what is the most important thing the Federal Government could do to improve employment opportunities for people with disabilities, and what can Congress do to assist in these efforts?

Ms. GRIFFIN. I will begin.

Senator AKAKA. Ms. Griffin.

Ms. GRIFFIN. The most important thing they can do—we cannot say this enough—is hire them, hire them, hire them. We have done a really good job, I think, not perfect, but a good job in this country of educating people with disabilities. We have people that have all the degrees, advanced degrees, the education, the training, the skills, the abilities to do all of the jobs that we have in the Federal Government. It is not a matter of we cannot find them. It is a matter of we currently are not hiring them. We have to hire more people with disabilities. That is the most important thing that we can do.

What you can do in Congress is to help us hold the agencies accountable. The President talked a lot about this when he signed the Executive Order, when he said the difference between this one and the one that President Clinton signed was the accountability piece. He told us at OPM to make sure that we put up on a website the progress that agencies were making so that all could see and

it would be transparent to everyone whether we were meeting our goals or not.

But I think, more importantly, Congress can play a role in helping us hold agencies accountable and asking agencies that do not meet their goals what is going on. Why not? Ask OPM why agencies are not doing a good job of meeting their goals. I think that would be very helpful.

Senator AKAKA. Ms. Martinez.

Ms. MARTINEZ. Well, Mr. Chairman, I know many talented people from the State of Hawaii who would love to work for you, and I think that one thing in addition to holding folks accountable that you as leaders can do is to hire folks with disabilities. As you are role models, so follow your troops. And I think that is one very tangible thing you can do.

I also think we have to recognize that the Federal workforce, like our population as a whole, is changing, and Federal workers are aging on the job. One thing that we will have to remember while implementing this Executive Order is that many of the people who will be availing themselves of the accommodations provided for those of us with disabilities are aging Federal workers, and I think it is important to just acknowledge that our population is aging and the Federal workforce is aging. So I think there will even need to be more of an understanding about technology, about buying accessible technology and usable technology, and also about the whole accommodations process. Thank you for the opportunity.

Senator AKAKA. Thank you. Ms. Feldblum.

Ms. FELDBLUM. OK. So there really is not a telepathic bond between Deputy Director Griffin and me, but I did write down in response to your question, the most important thing, in a sense, has been done, which is require the agencies to set targeted goals, and therefore, the most important thing Congress could do is to figure out ways to convey to the agencies that it is watching this Executive Order, as well, and that it will use whatever capacities it has through various authorizing and appropriating Committees to ask for accountability.

So given that is exactly the same answer that you just heard, I want to add one other thing which goes to your question before about workplace flexibility, including telework. For 7 years before I was named to the Commission, I started and then co-directed an enterprise called Workplace Flexibility 2010, and I, in fact, worked with various folks on your staff. I think Thomas Richards was stolen by OPM, maybe, away from you, but he was someone we worked with.

I think the main thing we found there is that you need the right actors involved, which includes Congress, executive agencies, and the workforce, but as well, the private sector, and that means the private for-profit and nonprofit sector, in order to start changing the norm of how the workplace is set up, to start changing the expectations of how you are going to judge whether someone is a good employee. And it is not going to be because they showed up X-amount of time, but instead it is about what did they produce. If we can move our entire workforce model more to an outcome evaluative manner—that we are evaluating you and your outcomes and that we actually teach our managers how to do that, both inside

the public sector as well as private—that will have significant ripple effects for lots of people.

Senator AKAKA. Thank you. Ms. Jones.

Ms. JONES. Thank you, Mr. Chairman. Let me start with your second question first. The participants at the forum recognize that there are laws like the Rehabilitation Act and the Americans with Disabilities Act and regulations like the Management Directive 715 and also the Executive Order of July 2010, so the participants did not state that there were actions that Congress needed to undertake. Rather, they recognized the value of the existing laws and regulations.

With respect to your first question, in terms of improving the employment of individuals with disabilities in the Federal workforce, what the participants agreed on is that the eight practices, which were identified in the forum are key and that they need to be implemented together in order to reinforce each other. They were very clear that the practices would not work in isolation, so that agencies need to be encouraged to undertake all of them.

Senator AKAKA. Thank you very much, all of you, for your thoughts and your recommendations. Your work reminds us all of the importance of getting past stereotypes so we focus on workers' abilities and qualifications rather than their disabilities. I believe that with your leadership, we will see an improvement in employment outcomes for people with disabilities in the Federal Government. I encourage all of you to continue working together and with this Subcommittee, also, on this issue. We certainly want to make some improvements here.

The hearing record will remain open for 1 week for Members to submit additional statements or questions. And again, thank you all for your time and your responses.

This hearing is now adjourned.

[Whereupon, at 4:01 p.m., the Subcommittee was adjourned.]

A P P E N D I X

GAO

United States Government Accountability Office

Testimony
Before the Subcommittee on Oversight of
Government Management, the Federal
Workforce, and the District of Columbia,
Committee on Homeland Security and
Governmental Affairs, United States Senate

For Release on Delivery
Expected at 2:30 p.m. EST
Wednesday, February 16, 2011

FEDERAL WORKFORCE

Practices to Increase the Employment of Individuals with Disabilities

Statement of Yvonne Jones, Director
Strategic Issues



GAO-11-351T



United States Government Accountability Office
Washington, DC 20548

February 16, 2011

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss possible strategies for improving the rate of federal employment of individuals with disabilities. My testimony today is based on our October 2010 report that discussed barriers to the employment of people with disabilities in the federal workforce and leading practices that could be used to overcome these barriers.¹ To identify these barriers and leading practices, we solicited the views of a wide range of knowledgeable individuals through a survey and forum held at GAO on July 20, 2010. Participants in the forum concluded

1. Top leadership commitment is key to implementing and sustaining improvements in the employment of individuals with disabilities.
2. Accountability is critical to success.
3. Regularly surveying the workforce on disability issues provides agencies with important information on potential barriers.
4. Better coordination within and across agencies could improve employment outcomes for employees with disabilities.
5. Training for staff at all levels can disseminate leading practices throughout the agency.
6. Career development opportunities inclusive of people with disabilities can facilitate advancement and increase retention.
7. A flexible work environment can increase and enhance employment opportunities for individuals with disabilities.
8. Centralizing funding within an agency can help ensure that reasonable accommodations are provided.

The 20 forum participants represented federal agencies that oversee and provide guidance and assistance on this issue and governmental and

¹GAO, *Highlights of a Forum: Participant-Identified Leading Practices That Could Increase the Employment of Individuals with Disabilities in the Federal Workforce*, GAO-11-81SP (Washington, D.C.: October 5, 2010).

nongovernmental organizations, and others were individuals with extensive knowledge and experience in this area (for a list of forum participants, see app. I to this testimony and for details on the objectives, scope and methodology of the forum see app. I of the report). We conducted our work for the forum from March 2010 to October 2010 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient, appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions.

Summary

In brief, Mr. Chairman, participants at the forum said that the most significant barrier keeping people with disabilities from the workplace is attitudinal. Attitudinal barriers can include bias against and low expectations for people with disabilities—a focus on disabilities rather than abilities. According to participants, there is a fundamental need to change the attitudes of hiring managers, supervisors, coworkers, and prospective employees, and that cultural change within agencies is critical to this effort. Participants also discussed other barriers, including physical barriers and lack of knowledge regarding policies and procedures. For example, some participants said that there could be an erroneous belief that reasonable accommodations cannot be easily provided. Participants acknowledged that there are many existing federal programs and policies to protect the employment rights of people with disabilities, but stated that efforts to protect these rights will only make piecemeal progress until agencies change their workplace cultures.

Participants identified eight leading practices, noted above, generated by the survey that agencies could implement to mitigate these barriers and help the federal government become a model employer for people with disabilities. Participants emphasized that these practices would not work in isolation but instead need to reinforce each other.

Background

Federal employees and applicants for employment with disabilities are protected from discrimination by the Rehabilitation Act of 1973 (Rehabilitation Act).² Under the Rehabilitation Act, as amended, a person

²Pub. L. No. 93-112, § 501, 87 Stat. 355, 390-391 (Sept. 26, 1973), codified at 29 U.S.C. § 791. Section 508 of the Rehabilitation Act, as amended, also requires agencies to provide federal employees with disabilities access to information and data that is comparable to the access provided to federal employees without disabilities. See 29 U.S.C. § 794d.

is considered to be disabled if the individual has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. The Rehabilitation Act also requires that federal agencies take proactive steps to provide equal opportunity to qualified individuals with disabilities in all aspects of federal employment. Federal law also provides special hiring authorities for people with disabilities, including Schedule A excepted service hiring authority.³ However, even with existing federal provisions, concerns have been raised about the low level of employment of people with disabilities in the federal workforce.⁴

On July 26, 2010, in commemoration of the 20th anniversary of the Americans with Disabilities Act (ADA),⁵ the President signed an executive order stating that as the nation's largest employer, the federal government must become a model for the employment of individuals with disabilities.⁶ The executive order directs executive departments and agencies to improve their efforts to employ workers with disabilities through increased recruitment, hiring, and retention of these individuals.

³Under its authority to except positions from competitive examination requirements, the Office of Personnel Management has established several categories (or schedules) of excepted service positions. Schedule A authorizes a number of different excepted service appointments for positions that are not of a confidential or policy-determining character for which it is impractical to hold a competitive examination, including the appointment of attorneys and chaplains. 5 C.F.R. § 213.3102(a) and (d). Schedule A also includes the appointment (on a permanent, time-limited, or temporary basis) of individuals with intellectual disabilities, severe physical disabilities, or psychiatric disabilities. 5 C.F.R. § 213.3102(u).

⁴At a GAO forum held in March 2010 on actions that could increase work participation for adults with disabilities, experts in the issue area and officials representing a variety of views on employment of individuals with disabilities discussed the federal government's potential role in becoming a model employer of individuals with disabilities. See GAO, *Highlights of a Forum: Actions That Could Increase Work Participation for Adults with Disabilities*, GAO-10-812SP (Washington, D.C.: July 29, 2010).

⁵The ADA prohibits discrimination on the basis of disability in a number of other areas beyond employment, including public services, transportation, and accommodations. Title I of the ADA addresses employment discrimination. Pub. L. No. 101-336, 104 Stat. 327 (July 26, 1990). Title I is codified at 42 U.S.C. §§ 12111-12117.

⁶Exec. Order No. 13548, *Increasing Federal Employment of Individuals with Disabilities*, 75 Fed. Reg. 45,039 (July 26, 2010).

Practices to Mitigate Barriers

I will now briefly discuss each of the eight leading practices that agencies could implement to mitigate barriers.

1. *Top leadership commitment is key to implementing and sustaining improvements. Unless top agency officials are committed, improvements will not happen.*

Forum participants emphasized that involvement of top agency leadership is necessary to overcome the resistance to change that agencies could face when mitigating attitudinal barriers. As we have reported, perhaps the single most important element of successful management improvement initiatives is the demonstrated commitment of top leaders to change.⁷ Participants stated that agency leaders should make communicating new policies to enhance the employment of people with disabilities a priority and could demonstrate such commitment on their agency intranet and public Web sites. Participants' suggestions on this practice are consistent with the Equal Employment Opportunity Commission's (EEOC) Management Directive-715 (MD-715), which requires, as one of the six elements of a model equal employment opportunity (EEO) program, that agency officials demonstrate commitment to equality of opportunity for all employees and applicants for employment.⁸

2. *Accountability is critical to success; goals can help guide and sustain efforts and should be reflected in human capital and diversity strategy plans.*

Participants stated that agencies should enact policies and processes to ensure both individual and institutional accountability. To ensure accountability, participants discussed the importance of setting goals, determining measures to assess progress toward goals, and evaluating

⁷GAO, *Diversity Management: Expert-Identified Leading Practices and Agency Examples*, GAO-05-90 (Washington, D.C.: Jan. 14, 2005). In other reports, we have also reported that top leadership must play a critical role in creating and sustaining high-performing organizations, as well as transforming the culture of organizations and ensuring that new visions and ways of doing business take root. See, for example, GAO, *Managing for Results: Federal Managers' Views Show Need for Ensuring Top Leadership Skills*, GAO-01-127 (Washington, D.C.: Oct. 20, 2000); *Management Reform: Using the Results Act and Quality Management to Improve Federal Performance*, GAO/T-GGD-99-151 (Washington, D.C.: July 29, 1999); and *Management Reform: Elements of Successful Improvement Initiatives*, GAO/T-GGD-00-26 (Washington, D.C.: Oct. 15, 1999).

⁸MD-715 elements of a model EEO program are (1) demonstrated commitment from agency leadership, (2) integration of EEO into the agency's strategic mission, (3) management and program accountability, (4) proactive prevention of unlawful discrimination, (5) efficiency, and (6) responsiveness and legal compliance.

staff and agencies to hold them responsible. Well-reasoned goals can help guide and sustain an agency's efforts and resources to improve employment of people with disabilities. As participants stated, agencies should set goals that cover the employment life cycle from recruitment and hiring through retention, return to work, and advancement of individuals with disabilities. These goals should be reflected in agencies' human capital and diversity strategic plans. Further, participants suggested that agencies evaluate their progress toward achieving these goals using both process measures, which assess the extent to which a program is operating as it was intended, and outcome measures, which assess the effectiveness of the program. Participants concluded that what gets measured gets done. To avoid duplication of efforts, participants suggested that agencies should use measures they are already required to collect, where possible. For example, MD-715 requires agencies to collect data by disability status on applicants, new hires, promotions, awards, separations, and grade level. Finally, participants stated that if agencies made their goals and results public, they could be more proactive about increasing employment of individuals with disabilities. For example, participants suggested that agencies could post their MD-715 reports on their external Web sites.

3. *Regular surveying of the workforce on disability issues provides agencies with important information on potential barriers. Participants suggested that surveying be implemented at all stages of the employment life cycle.*

According to participants, having more information about employees with disabilities is part of a comprehensive solution to increasing the number of people with disabilities in the federal workforce. To collect this information, participants suggested that agencies survey their workforces on disability issues at least annually and at all stages of the employment life cycle. Questions related to disability status should be included on employee feedback surveys and in exit interviews, including for employees with disabilities who are leaving the agency. Participants agreed that there is a need to ensure confidentiality of survey responses to help ensure that people with disabilities are comfortable expressing their opinions regarding their agencies' policies, practices, and procedures. Participants suggested that agencies should encourage employees to update their disability status, which would allow the agency to be aware of any employees who acquire a disability after they have been hired, as well as those who originally chose not to report a disability they may have, but were willing to update their status at a later date. Focus groups could be used as an alternative method for agencies to obtain relevant information,

such as employees' perceptions of the work environment or the reasonable accommodations process.⁹

4. *Better coordination could help improve employment outcomes, as coordination within and across agencies is critical.*

Participants stated that better coordination of roles and responsibilities related to the employment of people with disabilities within and across agencies is critical to improving federal workforce outcomes. Within an agency, participants stated, responsibilities related to employment of individuals with disabilities are often dispersed among departments, such as the civil rights/EEO office, the human capital office, the office of workers' compensation, the IT department, and others. Without careful coordination, this arrangement can create barriers to hiring, providing reasonable accommodations, evaluating results of agency efforts, and other processes.

Forum participants also emphasized that better coordination across agencies can help to more effectively address barriers. While there are many agencies and programs that provide assistance to individuals with disabilities, they often have different missions, goals, funding streams, eligibility criteria, and policies that sometimes work at cross-purposes with other federal programs. The Department of Defense's Computer/Electronic Accommodations Program (CAP)¹⁰ and the Department of Labor's Jobs Accommodation Network (JAN)¹¹ were specifically mentioned as resources that federal agencies could draw on to potentially reduce duplication and take advantage of economies of scale.

5. *Training for staff at all levels can disseminate leading practices throughout the agency. This provides agencies the opportunity to communicate expectations regarding the implementation of policies and procedures related to improving employment of people with disabilities.*

⁹Participants noted that agencies must ensure that responses are appropriately protected so that employees feel safe in disclosing their status.

¹⁰CAP provides assistive technology and services to people with disabilities, federal managers, supervisors, and IT professionals across executive branch agencies.

¹¹JAN provides free consulting services for federal employers, including one-on-one consultation about workplace accommodations.

Participants stated that training for all personnel can provide agencies the opportunity to communicate expectations regarding the implementation of policies and procedures related to improving employment of people with disabilities. Participants stated that agencies must involve people with disabilities in designing training programs and, as much as possible, in conducting the training. Participants suggested that agencies implement training on the following areas:

- **Hiring:** All individuals involved in and affected by the hiring process should be provided training on Schedule A, student employment programs, disabled veterans' hiring authorities, and the competitive process, as well as the legal rights and responsibilities related to hiring individuals with disabilities.
 - **Reasonable accommodations:** All staff should receive training on reasonable accommodations rights and processes. Training should be tailored for the audience; training for human capital staff, supervisors, and IT staff should be different than training for all staff. This training would help ensure compliance with reasonable accommodations processes and policies, correct myths or misconceptions, and increase sensitivity to disability issues.
 - **Diversity awareness:** Disability issues must be included in diversity awareness training. Such training should include a rights and responsibilities component, since inclusion of employees with disabilities is a matter of law, not choice, and should be a component of core training that all employees receive at the beginning of their tenure and throughout their careers at the agency.
6. *Career development opportunities inclusive of people with disabilities could facilitate advancement and increase retention.*

Participants discussed a range of career development opportunities that agencies could offer to help improve the workforce outcomes of employees with disabilities, including details, rotational assignments, and mentoring programs at all stages of the employment life cycle. Participants noted that career development opportunities could lead to increased retention and improved employee satisfaction, and that these opportunities must be fully accessible to all employees. Participants also suggested that agencies publicize career development opportunities on their intranet and external Web sites.

-
7. *A flexible work environment can increase and enhance employment opportunities for people with disabilities. Participants emphasized telework as a key component, as well as flexible work times and job sharing.*

Participants suggested that the benefits of flexible work hours, telework—where an employee performs assigned duties at home or an alternative location—and other types of reasonable accommodations could result in cost savings for an agency. Participants noted that flexible work times and job sharing are also important. To effectively implement telework and other flexibilities for employees with disabilities, participants stated that it is critical to provide assistive technology for employees at their homes.

Participants expressed concern that people who become unable to perform job duties because of health conditions that developed during the course of their employment are often overlooked. As we have previously reported, while some health conditions may be too severe to allow for continued employment, research shows that with appropriate and tailored supports—such as a wheelchair, a flexible work schedule, or text-reading software—some individuals with disabilities can successfully function in the work environment.¹²

8. *Centralizing funding at the agency level can help ensure that reasonable accommodations are provided. Participants stated that effective centralized funds should include accountability, flexibility, and universal availability.*

Participants stated that a perceived “lack of funding should never be the reason why reasonable accommodation does not occur” and noted that managers may incorrectly perceive how much reasonable accommodations cost and be reluctant to provide the accommodations out of their departmental or operational budgets. Participants suggested that agencies should centralize the budget for reasonable accommodations at the highest level of the agency to ensure that employees with disabilities have access to the reasonable accommodations to which they are legally entitled.¹³ The fund should be flexible enough to cover a broad range of

¹²GAO-10-812SP.

¹³These suggestions were consistent with the executive order issued in July 2010 that directs the Office of Personnel Management, in consultation with the Department of Labor and EEOC, to assist agencies in implementing the use of centralized funds to provide reasonable accommodations.

reasonable accommodations, such as personal assistants during work or training, and universally available to accommodate staff regardless of staff level, position, or location. Although the fund would be centralized, first-line managers and supervisors must still be held accountable for their part in ensuring that their staff members receive reasonable accommodations.

Finally, in addition to identifying these practices, participants agreed that participation of individuals with disabilities in the federal workforce requires comprehensive and coordinated action from agency leadership, which is best facilitated by clear and consistent governmentwide guidance. For example, participants agreed that guidance from the Office of Personnel Management and EEOC could help clarify implementing instructions for Schedule A and other hiring authority guidance. Participants recognized the technical assistance that the Office of Personnel Management and EEOC provide, but suggested that they develop additional model policies, procedures, and programs for agencies to follow.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or other members of the subcommittee may have.

Contacts and Acknowledgments

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Appendix I: List of Forum Participants

Forum participants' titles and organizations were as of the date of the forum and may have changed since.

John Benison
Senior Advisor to the Deputy Director;
Office of Personnel Management

Susanne M. Bruyère, Ph.D.
Associate Dean of Outreach and Director of
Employment and Disability Institute;
Cornell University ILR School

Dinah Cohen
Director, Computer/Electronic Accommodations
Program; U.S. Department of Defense

Janet Fiore
Chief Executive Officer; The Sierra Group

Douglas Fitzgerald
Director, Division of Federal Employees' Compensation, Office of
Workers' Compensation Programs; U.S. Department of Labor

Gary Goosman
Director, Tools on Work and Employment Readiness Initiative; U.S.
Business Leadership Network

Shelby Hallmark
Director, Office of Workers' Compensation Programs; U.S. Department of
Labor

Charma Haskins
Acting Supervisor of Rehabilitation Services, Vocational Rehabilitation
and Employment Service; U.S. Department of Veterans Affairs

Gerrie Drake Hawkins, Ph.D.
Senior Program Analyst; National Council on Disability

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Anne Hirsh
Co-Director, Job Accommodation Network; U.S. Department of Labor

Jo Linda Johnson
Director, Federal Training & Outreach Division; U.S. Equal Employment
Opportunity Commission

Reginald E. Jones
Managing Director, Office of Opportunity and Inclusiveness; U.S.
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Alison Levy
Program Manager, Selective Placement Program; U.S. Department of
Transportation

Dylan Orr
Special Assistant, Office of Disability Employment Policy; U.S. Department
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Jorge E. Ponce
Director, Policy and Evaluation Division; U.S. Department of Commerce

Robin Shaffert
Senior Director of Corporate Social Responsibility; American Association
of People with Disabilities

Jennifer Sheehy
Director of Policy, Office of Special Education and Rehabilitative Services;
U.S. Department of Education

Derek Shields
Project Director, Social Security Administration Ticket to Work
Recruitment & Outreach; Cherry Engineering Support Services
Incorporated, Division of Axiom

Marie Strahan
Chief of Staff, Office of Disability
Employment Policy; U.S. Department of Labor

Carolyn Taylor
Special Assistant to the Acting Comptroller General for Diversity Issues;
U.S. Government Accountability Office

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UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
STATEMENT OF
THE HONORABLE CHRISTINE GRIFFIN
DEPUTY DIRECTOR
U.S. OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE
FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS
UNITED STATES SENATE

on

IMPROVING FEDERAL EMPLOYMENT OF PEOPLE WITH DISABILITIES

FEBRUARY 16, 2011

Chairman Akaka, Ranking Member Johnson, and Members of the Subcommittee:

Thank you for the opportunity to testify today regarding the U.S. Office of Personnel Management's (OPM) role in improving Federal employment of people with disabilities. Improving the number of people with disabilities within the Federal government has been a major priority of this Administration. It has also been my personal goal for the last 5 years; first as a Commissioner at the Equal Employment Opportunity Commission (EEOC) and currently as the Deputy Director of OPM.

Past Trends

Securing a job with the Federal government has been a challenge for people with disabilities regardless of their education level, experience, skills, or abilities. Despite creating the Leadership for the Employment of Americans with Disabilities at the EEOC, which focused on increasing Federal employment opportunities for individuals with disabilities, I have not seen much progress over the past 5 years. In fact, there has not been much progress over the past 38 years even though the Rehabilitation Act of 1973 requires Federal agencies to have an affirmative employment program for the hiring, placement and advancement of people with disabilities. According to data from the EEOC, until Fiscal Year (FY) 2009, the number of individuals with targeted disabilities in the Federal workforce had been steadily decreasing. Targeted disabilities generally are the most severe forms of disabilities and are listed on the Government Standard Form 256 for Self-Identification of Disability. FY 2009 was the first year in which the percentage of Federal employees with targeted disabilities, including individuals within the

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United States Postal Service, remained the same as the previous year. That percentage is currently .88%.

The Department of Labor's (DOL) Bureau of Labor Statistics began reporting the unemployment rate for people with disabilities for the first time in FY 2009. The unemployment rate for people with disabilities in January 2011 was 13.6%. However, this number is deceiving because it refers only to those who are currently seeking employment. Only 27% of working age (16-64) people with disabilities are employed and there are currently 10 million working-age people with disabilities who are not working and are not currently looking for work. A large number of these individuals have attempted to gain employment, but have not been successful because of their disabilities.

Improving Federal Employment for People with Disabilities

Disability hiring is a critical part of the Obama Administration comprehensive personnel policy reform agenda. The leadership by this Administration, including OPM Director John Berry, gives me and many others hope that the tools are being put in place to ensure that applicants and employees with disabilities have the opportunity to add significant contributions to our Government. With your leadership, Mr. Chairman and other members of this Committee, I am convinced that this is the year that we will see a significant increase in employment opportunities for individuals with disabilities.

As you know, President Obama signed Executive Order (EO) 13548 on July 26, 2010, the 20th anniversary of the signing of the Americans with Disabilities Act of 1990. The EO requires Federal agencies to increase hiring opportunities for people with disabilities as well as to make special efforts to retain employees injured on the job. The Federal government has set a goal of hiring 100,000 additional individuals with disabilities over the next 5 years, including those with targeted disabilities. In addition to these benchmarks, the EO requires OPM to develop model recruitment and hiring strategies to increase the number of individuals with disabilities within the Federal government. These strategies were issued on November 8, 2010; agency plans on increasing hiring opportunities for individuals with disabilities are due to OPM by March 8, 2011. These plans will be reviewed by OPM, OMB, and President Obama's Special Assistant for Disability, Kareem Dale.

In many ways, the EO issued by President Obama strengthens EO 13163, signed by President Clinton on July 26, 2000, by increasing the accountability for Federal agencies in making sure they hire and retain individuals with disabilities within the Federal government. Under EO 13548, each agency head must appoint a senior official who will be accountable for the development and submission of the agency plan as well as the actual implementation of the plan. This allows for centralized leadership and reduces the layers of bureaucracy, and was based on the successful Veterans Employment Initiative, created by EO 13518 (November 9, 2009). Besides reporting agency progress on meeting their plan goals to the President, OPM is also required to publish the agency goals and statistics showing success or failure in meeting their goals on OPM's website. This allows for greater transparency to the American public.

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Agencies are also required, to the extent permitted by law, to increase the usage of the Federal Government's Schedule A excepted service hiring authority for persons with disabilities and increase participation of individuals with disabilities in internships, fellowships, and training and mentoring programs. This Schedule A authority is an expedient way for Federal agencies to hire people with severe physical disabilities, psychiatric disabilities, or intellectual disabilities. OPM has created two very short and creative online training courses on how to use Schedule A authority for Federal agency personnel as well as applicants with disabilities. Both can be found on www.opm.gov/disability. Schedule A also contains an authority to hire individuals for certain positions needed to accommodate employees with disabilities, such as sign-language interpreters for employees who are deaf or personal assistants for employees who need assistance with certain tasks throughout the workday.

Schedule A authority is just one of the many tools available to agencies to assist them in increasing the hiring of individuals with disabilities. Another tool that was recently developed by OPM in collaboration with the Chief Human Capital Officer Council (CHCOC), is a list of applicants with disabilities covered by the Schedule A provision referenced above who are qualified to fill a variety of entry-level positions that the Council identified as ones for which all agencies have a constant demand. These positions include: accountants, acquisition specialists, contract specialists, financial management specialists, information technology specialists, human resources specialist, and administrative specialists (such as clerks, secretaries, and human resources assistants).

Another unique aspect of EO 13548 is the return-to-work provision that requires DOL to work with Federal agencies to assist them in developing strategies to rehire employees with disabilities, who are currently receiving workers' compensation benefits under the Federal Employees' Compensation Act (FECA), through the usage of accommodations and workplace flexibilities.

Spreading the Word to Federal Agencies

In addition to the Schedule A training, OPM has partnered with the EEOC, the Department of Defense's (DOD's) Computer/Electronic Accommodation Program (CAP), DOL's Office of Disability Employment Policy (ODEP), DOL's Office of Workers' Compensation Programs, and the Department of Education's Rehabilitation Services Administration (RSA) to provide comprehensive training for Federal agencies on: the EO; the model recruitment strategies; guidance on agency plans as well as reasonable accommodation policies and procedures; DOD's CAP's ability to provide free accommodations to all Federal employees with disabilities; and DOL's return to work strategies. We continue to provide these trainings and we have four more planned over the next few weeks.

Leveraging Technology and Existing Programs

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Updated reasonable accommodation policies and procedures are a key requirement necessary for hiring and retaining employees with disabilities. Agencies that don't already partner with DOD's CAP have been advised to establish Memoranda of Understanding with that program in order to obtain free technology-based accommodations for their employees and interns with disabilities. In addition to CAP, agencies are responsible for providing and paying for all reasonable accommodations, including the ones that CAP doesn't provide, such as people-based accommodations. Examples of these types of accommodations are sign-language interpreters, readers, and personal assistants. It is very important for agencies to establish centralized funding for accommodations so that decisions based on Department or program-based budgeting do not result in decisions that discriminatorily affect employees with disabilities.

Retaining Employees with Disabilities

It is not enough to just hire people with disabilities; Federal agencies must work to retain these individuals once hired. The EEOC reports that people with disabilities leave Federal employment at a much higher rate than their non-disabled peers. In order to gain a better understanding of this phenomenon, OPM's model strategies suggest that agencies should conduct exit interviews of all employees with disabilities who are leaving Federal employment. This strategy may make the most sense as a pilot project for agencies that are experiencing significant retention problems. The data gathered would be extremely useful for all Federal agencies in establishing effective retention strategies. At a minimum, Federal agencies should examine whether employees with disabilities have equal access to available training and advancement opportunities to enhance retention.

Changing Attitudinal Barriers from the Top Down

OPM's model strategies recommend that agency leadership actively participate in the recruitment and retention of employees with disabilities. OPM recommends that agency heads should encourage all agency managers, via letter, email, or other effective means of communication, to recruit, hire, and retain people with disabilities. OPM also recommends that agency management describe the importance of doing so in order to fulfill the agency's performance goals as well as the obligations under EO 13548.

As noted in the EO, the Federal Government must make additional improvements in hiring and retaining employees with disabilities before it can regard itself as a model employer. Many studies, including the recent Government Accountability Office report, *Participant-Identified Leading Practices That Could Increase the Employment of Individuals with Disabilities in the Federal Workforce* (GAO-11-81SP) (October 5, 2010), note that attitudinal barriers continue to be the biggest challenge to overcome. This is not unique to the Federal government; however, this is where we can lead the way and become a model for the private sector. The only way to overcome attitudinal barriers is to hire people with disabilities who prove to be good employees. As the number of Federal employees with disabilities increases we should begin to see a decrease in the attitudinal bias that occurs against people with disabilities. This can be accomplished by increasing the understanding of, and use of, Schedule A authority that results in

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increased hiring of individuals with disabilities. Agency hiring managers, human resources personnel, as well as agency leaders, must be held accountable for ensuring that Schedule A and other authorities are being effectively utilized and that agency staff are working diligently to achieve agency goals for hiring people with disabilities and those with targeted disabilities. Goals should be evaluated on a regular basis, either monthly or, at the minimum quarterly, to ensure that the strategies being used are successful. Examining success on an annual basis is not an acceptable evaluation.

Reaching out to the Public

On April 26, 2010, OPM and DOL's ODEP organized a daylong historic hiring event for individuals with disabilities. More than 50 Federal agencies participated in this hiring event, which allowed individuals to apply, in advance, for positions via USAJOBS, be screened and selected for an interview by agencies, and then interviewed and provided with a tentative offer directly at the event. Over the span of a day, agencies conducted approximately 350 on-site interviews, with an additional 104 subsequently conducted telephonically. by phone.

In addition to the training that we have been providing for Federal agencies, OPM is collaborating with DOD's CAP, DOL's ODEP, the EEOC, and RSA, to explore ways in which the Federal government can provide training for service providers and people with disabilities. We recently met with leadership from RSA and vocational rehabilitation agencies to discuss how we can work with them directly to ensure that their staff is familiar with the EO and Schedule A. I have recently participated in three national conference calls for people with disabilities, agencies, and service providers where we gave an overview of the EO, reasonable accommodation policies, Schedule A authority and how to use it from an applicant's perspective. We will continue to explore other outreach opportunities with people with disabilities so that they are aware of the employment opportunities that are available in the Federal workforce.

Conclusion

Mr. Chairman and Ranking Member Johnson, thank you again for inviting me to speak to you on an issue that I feel is crucial to fostering a civil service workforce made up of the best and brightest. It cannot be overstated that our Federal agencies need talented workers to meet new challenges and complete new missions. There is an unacceptably underutilized community of talented individuals who want to work and specifically want to work for the Federal Government. No talent pool should be left untapped when it comes to the hiring process in our Federal workforce. Increasing the number of employees with disabilities in the Federal government, and retaining them, not only benefits those who seek employment and will excel when given the opportunity, but our Government is performing at its best with a skillful and diverse Federal workforce.

I am happy to respond to any questions that you may have.

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BEFORE THE

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA**

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

U.S. SENATE

February 16, 2011

I - Introduction

Chairman Akaka and distinguished Members of the Subcommittee, thank you for the opportunity to testify today and discuss the efforts of the U.S. Department of Labor and its Office of Disability Employment Policy (ODEP) to improve the hiring of people with disabilities within the Federal government.

At the Department of Labor, Secretary Hilda L. Solis and ODEP are wholly committed to the goal of improving employment opportunities and outcomes for people with disabilities no matter what sector – be it public, private, or non-profit – they want to work in. I know this hearing is focusing on federal hiring practices, and one of my guiding beliefs in leading ODEP is that the Federal government, as the Nation's largest employer, can and must do more to be a model employer of people with disabilities.

ODEP offers research and technical assistance resources which could help make the Federal government a more attractive place to work for people who may have disabilities,

but also have the skills and capacity to help the Federal government achieve its goals for the American people. We also have several projects that are specifically aimed at helping Federal agencies recruit, hire, retain, and support workers with disabilities.

II –The Big Picture: Changing Perceptions and Expectations

While I will discuss some of these efforts specifically, my most important goal for ODEP is an overarching one: The only way to achieve better employment outcomes for people with disabilities is by changing the expectations of prospective and current employees, as well as those of hiring managers and supervisors. With more than 2.5 million employees performing a comprehensive range of job duties and responsibilities, the Federal government is a logical place to start.

People with disabilities must believe that the Federal government is a place that will both welcome and nurture their talent so that they can ascend to the highest ranks of the Federal service. At the same time, federal hiring managers must understand that their agencies will better serve the public if they focus on the abilities of their job applicants and employees, rather than their disabilities.

I believe that under the leadership of President Barack Obama, the Federal government is making progress toward these goals, and never before have so many top leaders at our Federal agencies been committed to changing perceptions and expectations.

III –Why ODEP is Committed to Improving Employment Outcomes

At ODEP, we embrace and do all we can to encourage this trend. We were established in 2000 as an office within the Department of Labor to bring a committed focus to disability employment policy and to advance the employment of people with disabilities. To achieve this goal, ODEP casts a wide net and works with partners in the private and public sectors, including the Federal and State governments to create and highlight new policies and proven strategies that improve employment outcomes. For example, in July 2010, ODEP partnered with members of the entertainment industry to launch the Lights, Camera, Access initiative. Together, they created a database of 125 people with disabilities interested in careers in this sector and held a hiring event for them in October 2010. To date, two individuals with disabilities have jobs in this exciting industry and we expect more to be hired.

I strongly believe in this mission and its importance to our economic vitality. Each person that finds a job strengthens the U.S. economy and our nation's financial future. Implementing sound and innovative policies that improve employment opportunities for people with disabilities is especially important because this population continues to be markedly underrepresented in the United States' workforce. The most recent report, issued this month by the Department of Labor's Bureau of Labor Statistics (BLS) shows that only 31.6 percent of working age people (16-64) with disabilities are actually in the American labor force. In comparison, for people reporting no disabilities the participation rate is 76.4 percent. Closing this gap would likely yield savings for the government, as it would mean that millions of Americans who are currently disconnected

from the economy would begin earning income, paying taxes, and reduce their dependence on public resources. It is worth noting that monthly labor force statistics for people with disabilities became available in February 2009, as a result of a nine year collaboration between BLS and ODEP. The offices are currently working to develop a supplement to this survey to learn even more about disability in the United States.

IV - What the Administration is Doing

These statistics underscore the importance of today's hearing and the need for active, innovative, and coordinated Federal leadership to ensure that people with disabilities are fully integrated into the 21st century workforce. I agree with the recent GAO report on improving work participation for adults with disabilities [(written by another witness here today)]¹ that a vital first step in addressing this problem is making the Federal government a model employer for people with disabilities.

The President demonstrated his personal commitment to this goal when, on the 20th Anniversary of the Americans with Disabilities Act in July 2010, he signed Executive Order 13548, which was titled "Increasing the Federal Employment of Individuals With Disabilities." The Executive Order sets out a comprehensive approach for increasing the Federal government's employment of people with disabilities, including those with targeted disabilities. The Executive Order requires that Federal agencies work together to develop and implement action plans to improve their hiring of people with disabilities and, importantly, that performance targets and numerical goals, including subgoals for

¹ Highlights of a Forum: Actions That Could Increase Work Participation for Adults with Disabilities (GAO-10-812SP, July 2010)

the employment of individuals with targeted disabilities, be built into the plans. Most significantly, it requires that Federal agencies build accountability into these efforts. For example, each agency must designate a senior-level official to be accountable for their plans and they must regularly report their progress to the President, the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the public. Because accountability is built into this Executive Order, we can look forward to hiring an additional 100,000 people with disabilities into the Federal government within the next 5 years.

ODEP was one of several agencies to provide input into the development of this Executive Order, but we appreciate that it is the actions taken in response to it that matter most. To this end, we will continue to work closely with OPM, OMB, the Equal Employment Opportunity Commission (EEOC), and others to implement it. For instance, working with OPM we are designing model recruitment and hiring strategies that other Federal agencies can use to increase their employment of people with disabilities. We also assisted OPM in developing training programs that can be disseminated to human resources personnel and hiring managers across the Federal government. We also stand ready to assist all Federal agencies in the development of their own plans to increase hiring of people with disabilities, and to that end, in January, we published a resource tool-kit to assist agencies in implementing the Executive Order. (The link can be found on our website at www.dol.gov/odep under Resources at <http://www.dol.gov/odep/eo13548.htm>.)

For the goals of the Executive Order to be achieved, however, it is not enough for ODEP and the other offices before you today to commit to its successful implementation. Every agency has to buy-in, which is why the EO calls for every agency to develop its own plan, which is required to provide for accountability, continuous improvement, and ongoing training.

To measure the progress agencies are making, each plan will have to include agency-specific outcome measures for hiring and job retention. Accountability should be reflected not only at the agency head level, but also in individual performance standards for hiring managers and supervisors.

In addition, agencies should share their results with stakeholders and the public, and regularly solicit input from agency workers on issues impacting the employment of people with disabilities - such as the availability of accommodations and workplace attitudes. This input should then be used to update and improve agency plans to reflect what is working and what is not.

Agencies should also provide for training at all levels on best practices that can promote the recruitment, hiring, promotion, and retention of people with disabilities. Such best practices should include strategies on career development, the utilization of flexible work environments, the successful implementation of centralized accommodation funds, and action-oriented recruitment strategies that tap into organizations. A centralized

accommodation fund is a pooling of agency resources that can decrease the costs of providing necessary equipment, assistive technology, and services to workers.

V – Beyond the Executive Order

In addition to helping agencies implement the Executive Order, ODEP also provides information and technical assistance through several different methods and mediums that can be used to assist Federal agencies in becoming model employers.

Accommodations

First, we need to make it easier for workers with disabilities to get the necessary accommodations to perform their jobs. Most accommodations are not cost-prohibitive, especially when taking into account the increased productivity that results from their utilization. In fact, data suggests that more than half of all accommodations cost nothing, and most employers actually report financial *benefits* from providing accommodations, as the costs of training new employees goes down and worker production goes up.

Despite these lessons, there still exists an erroneous belief among some employers that reasonable accommodations cannot easily be provided. To help address this concern, ODEP provides technical assistance through the Job Accommodation Network or JAN, which provides practical solutions that benefit both the employer and employee. JAN was established in 1983 and is the country's leading source of free, expert guidance on workplace accommodations. Each month it handles an average of 2,500 phone calls,

1,300 e-mail inquires, and 60,000 website visitors. (JAN can be reached at: www.askjan.org or by phone at 1(800) 526-7234 (Voice) and 1(877) 781-9403 (TTY).)

In an effort that is aimed specifically at Federal agencies, ODEP supports the appropriate use of centralized accommodations funds, which are an effective way to finance accommodations for agency workers. In FY 2010 the Department of Labor established its own Department-wide accommodation fund for providing reasonable accommodations to qualified employees and applicants with disabilities.

Recruitment and Hiring

In addition to helping those who already have jobs access the accommodations they need to be successful, ODEP also has several initiatives to help employers recruit, hire, and retain qualified applicants with disabilities.

We provide a searchable online database of recruitment resources as well as a call center through our Employer Technical Assistance Center, and the Employer Assistance Resource Network (EARN). This resource is available to all employers at www.askearn.org. I encourage all Federal managers and supervisors to use it.

ODEP also co-sponsors the Workforce Recruitment Program, or WRP, with the Department of Defense. The WRP is a recruitment and referral program that can connect Federal managers and supervisors with postsecondary students and recent graduates with disabilities who are eager to prove their abilities in the workplace through summer or

permanent jobs. WRP provides work experience for students through temporary as well as permanent jobs. Some WRP interns remain in their intern agency as permanent employees. Since 1995, WRP has provided Federal employment opportunities to over 5,500 students. A good example of a WRP success story is Nadia I. While a graduate student in social work, Nadia worked as an intern at the Department of Defense in 2001. Nadia used that experience to launch her Federal career and today she is a public health analyst at the Department of Health and Human Services. Another example is Rachel D. Rachel started working as an WRP intern with the President's Committee on the Employment of People with Disabilities in the Summer of 1999. She gained even more experience with WRP internships at the Department of Commerce and DOL and accepted a permanent Federal job in October 2002. Rachel now works at OPM as a program analyst. This searchable database is available to Federal Human Resource Specialists, Equal Opportunity Employment Specialists, and other hiring officials in Federal agencies at the WRP Federal website at: <https://wrp.gov>.

DOL also partners with the District of Columbia (DC) Public School System and the DC Department of Disability Services to operate Project Search, a small intensive work experience that targets high school seniors with developmental disabilities that are graduating without a standard diploma. Project Search brings these students to a classroom within DOL staffed by a certified Special Education teacher and two job coaches. Within these supports, students are placed in job rotations to learn soft skills and other job skills necessary to prepare them for entry-level jobs in the Federal government. In the first year, two of nine students who completed the program were

hired by DOL as office automation clerks. One student works in DOL's Career Assistance Center and the other in the Veterans' Employment Training Service. Two other Federal agencies, the Department of Health and Human Services and the Department of Education are now also establishing this results-oriented program in their agencies.

Also, with the support of our sister agencies, the Department has made important progress in promoting the Schedule A hiring authority, an important tool for increasing the numbers of new Federal hires with disabilities and highlighting individuals with disabilities as an untapped source of excellent applicants. We also see an opportunity to coordinate efforts to implement the Executive Orders on Veterans Hiring and Hiring Individuals with Disabilities. The employment rate for disabled veterans, like that of people with disabilities, remains too low. The sharing of information and best practices among all the agencies implementing these initiatives, including the Departments of Defense and Veterans Affairs, may enhance employment outcomes for both populations.

VI – ODEP's Role in the Future as the Face of the Federal Workforce Changes

While I am proud of the work ODEP is doing today, I am also focused on addressing the issues that we know are going to be important to the workforce in the future. We must recognize that the Federal workforce, like our population as a whole, is changing. Federal workers are aging on the job, and we know that people are more likely to experience an onset of disability after the age of 50. At the same time, experienced workers are also often the most valuable. This means that we must learn to take better

advantage of emerging, assistive technologies and workplace flexibility models. Research shows that strategies like telework and flextime contribute greatly to a more inclusive workplace and can dramatically enhance the employability of people with disabilities. ODEP has conducted some of this research and we will continue to disseminate this information across the Federal government.

VII - Conclusion

Improving federal employment outcomes for people with disabilities is a major undertaking but it also holds great potential. As a model employer, the Federal government can be a catalyst for raising the labor participation rate of people with disabilities and thereby add to the economic dynamism that has made our nation special from its earliest days. ODEP is proud to play a role in this effort and is proud of the commitment this Administration has shown to this goal. Working with your Committee, we will make our country stronger by improving job opportunities in the Federal government for people with disabilities. This will improve the lives of individuals, strengthen our economy, and result in a government better able to respond to the needs of its people.

Thank you again for this opportunity to testify and I am ready to answer any questions you may have.

**STATEMENT OF
CHAI FELDBLUM, COMMISSIONER
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BEFORE THE
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
U.S. SENATE**

FEBRUARY 16, 2011

Good afternoon, Mr. Chairman and Members of the Committee. My name is Chai Feldblum and I am one of the five Commissioners who make up the bipartisan U.S. Equal Employment Opportunity Commission (“EEOC” or “Commission”). I appreciate the opportunity to appear before you today on behalf of the EEOC and, in particular, I appreciate Chair Jacqueline Berrien asking me to represent the Commission at this hearing.

It is a privilege to speak on the important topic of improving the employment of people with disabilities. This is an issue to which I have devoted a significant portion of my professional legal career. In addition, as a person with anxiety disorder that is controlled through medication, I have a keen interest in ensuring that all persons are considered on their merits and not judged based on assumptions or stereotypes.

The Committee has asked the EEOC to provide information in the following areas: (1) the Leadership for the Employment of Americans with Disabilities (LEAD Initiative); (2) how the Commission is working with other agencies to meet the goals of the recent Executive Order on increasing the federal employment of people with

disabilities; (3) barriers to improving employment outcomes for people with disabilities; and (4) recommendations to improve the hiring and accommodation of people with disabilities in the federal government.

As you know, on July 26, 2010, the 20th anniversary of the Americans with Disabilities Act of 1990, President Obama issued Executive Order 13548, "Increasing Federal Employment of Individuals With Disabilities." The President defined the issue as follows: "Individuals with disabilities currently represent just over 5 percent of the nearly 2.5 million people in the federal workforce, and individuals with targeted disabilities currently represent less than 1 percent of that workforce." And the President issued a challenge, noting that "As the Nation's largest employer, the Federal Government must become a model for the employment of individuals with disabilities."

As the agency charged with enforcement of the nation's civil rights employment statutes, including Sections 501 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, the EEOC has a vital role to play in ensuring that the federal government truly becomes a model employer of individuals with disabilities. At the same time, Federal agencies have a vital role and obligation in ensuring that they are active partners in this effort through our mutual enforcement responsibilities under the civil rights laws.

The EEOC is responsible for administrative oversight of the internal equal employment opportunity (EEO) programs within federal agencies, including the agencies' EEO complaint processes and affirmative employment programs. The EEOC also provides an opportunity for federal EEO complainants to request a hearing before an

EEOC administrative judge. Finally, the Commission decides appeals from final agency actions on EEO complaints.

The EEOC, through the promulgation of regulations and guidance, including EEOC's Management Directive 715, has provided a roadmap for federal agencies toward becoming model EEO employers under the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. Under Management Directive 715, federal agencies are required to engage in an ongoing self-assessment to identify any potential barriers to EEO within their workforces. If barriers are identified, agencies must set forth and adhere to an action plan to eliminate any barriers to equal opportunity. Agencies must report the results of their assessment annually to the EEOC, including workforce data on issues such as recruitment, hiring, career development and attrition.

The Office of Federal Operations (OFO) at the EEOC includes a talented and committed group of staff who analyze and review these annual reports. Expert staff conduct multi-year trend analyses of these reports to assess how well agencies are progressing. The OFO staff then provide in-depth feedback to the agencies on their EEO effort, both in written form and often with in-person technical assistance.

As you know, people's negative reactions to a wide range of disabilities may serve to unlawfully preclude individuals from enjoying equality of opportunity in employment. Any federal employee or applicant for federal employment who is subjected to such unlawful discrimination can avail themselves of the federal sector EEO complaint process, for which the EEOC has oversight.

However, in assessing how well federal agencies are doing with regard to achieving model EEO status under the Rehabilitation Act, the EEOC has focused on particularly severe disabilities, which we call "targeted" disabilities. People with targeted disabilities are a subset of people with disabilities. The definition of "targeted disabilities" was established in December 1979, and consists of the following impairments: deafness; blindness; missing extremities; partial paralysis; complete paralysis; epilepsy; severe intellectual disabilities, psychiatric disabilities; and dwarfism. The criteria used to select these disabilities included the severity of the impairments, the feasibility of recruitment of people with these disabilities, and the availability of comparative workforce data. Because of unreliable data on the total population of people with disabilities, these disabilities were selected to serve as the initial barometer to assess progress in the federal sector.

The EEOC publishes a variety of reports assessing how well federal agencies are progressing in their EEO and affirmative employment efforts. One such report is the Annual Report on the Federal Work Force. This report shows data on the rate of employment of people with targeted disabilities within the federal government. Our most recent report reveals that the trend of the employment of individuals with targeted disabilities over the past ten years has not been positive. From fiscal year (FY) 2000 to FY 2009, the total workforce of the federal government increased by 368,634 employees, for a net increase of 15.1%. In contrast, the number of federal employees with targeted disabilities **decreased** from 27,231 in FY 2000 to 24,663 in FY 2009, for a net decrease of 9.43%.

The LEAD Initiative

In 2006, under the leadership of then EEOC Commissioner, and now OPM Deputy Director, Christine Griffin, the EEOC launched the Leadership for the Employment of Americans with Disabilities (LEAD Initiative) to spur improvement in the hiring of people with disabilities. Under the auspices of that Initiative, EEOC set a goal for all federal agencies to have individuals with targeted disabilities make up two percent of their workforces. Unfortunately, as of 2009, no large federal agency has met that goal.¹

The LEAD Initiative is one of the EEOC's efforts to address the declining number of employees with targeted disabilities in the federal workforce through a national outreach and education campaign. This Initiative seeks to:

- reverse the trend of decreasing participation in federal employment by people with targeted disabilities;
- increase the awareness of hiring officials about the declining numbers of people with targeted disabilities in federal employment;
- educate federal hiring officials about how to use special hiring authorities to bring people with disabilities on board, particularly those with targeted disabilities;

¹ In 2009, eleven agencies reached that goal, although many of these agencies are relatively small and a number of them deal with disability issues. Those eleven agencies are the Army & Air Force Exchange Service, the Architectural & Transportation Barrier Compliance Board, the Committee for Purchase from People Blind or Severely Disabled, the Equal Employment Opportunity Commission, the Federal Mediation and Conciliation Service, the Inter-American Foundation, the Marine Mammal Commission, the National Council on Disability, the Office of Navajo & Hopi Indian Relocation, the Occupational Safety and Health Review Commission, and the Trade and Development Agency.

- educate applicants with eligible disabilities about how to apply for Federal jobs using the special hiring authorities available, such as Schedule A; and
- supply prospective employees and employers with information and resources on the recruitment of hiring of people with disabilities, and the provision of reasonable accommodations to such individuals.

Since its launch, the LEAD Initiative has engaged in the following activities:

- The EEOC hosts a LEAD webpage with a multitude of resource information (see www.eeoc.gov/eeoc/initiatives/lead/index.cfm).
- With the assistance of the Department of Labor's (DOL) Office of Disability Employment Policy (ODEP), the EEOC has developed and published several guides designed to increase the use of the Schedule A hiring authority, which allows federal agencies to streamline the hiring of individuals with severe disabilities (see www.eeoc.gov/eeoc/initiatives/lead/abcs_of_schedule_a.cfm).
- In partnership with the Department of Defense (DOD) and the Census Bureau, the EEOC developed, piloted, and launched the first comprehensive training course for individuals who serve as disability program managers in the federal workforce in August, 2009. This training was and continues to be desperately needed, as too often agency personnel are given this designation without being fully versed on how to integrate a

- In conjunction with OPM and ODEP, the EEOC participated in a Federal government hiring event this past April limited solely to jobseekers with disabilities. Unlike a traditional hiring fair, representatives from many agencies reviewed resumes prior to the event and invited prospective candidates for job interviews.
- Most notably, the EEOC has reached thousands of federal officials through outreach events and conferences, educating them on the government's obligations to hire and advance individuals with disabilities, as required by the Rehabilitation Act of 1973, as well as in EEOC Management Directive 715.

The goal of the LEAD Initiative is to offer concrete solutions to increase the employment of people with disabilities, including people with targeted disabilities, in the federal sector. Information about the LEAD initiative is available on the EEOC website at www.eeoc.gov/eeoc/initiatives/lead/index.cfm, or by simply searching for the term LEAD from our home page at www.eeoc.gov.

Meeting the Goals of Executive Order 13548

Given the EEOC's long-standing work in this area, we have been delighted with the additional visibility and energy added to this effort by the President's Executive Order 13548, issued in July 2010.

The memo issued by OPM last November to implement the Executive Order, *Model Strategies for Recruitment and Hiring of People with Disabilities as Required Under Executive Order 13548* (available at <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=3228>), is an excellent guide for agencies to achieve the requirement of the Executive Order. We were pleased to be consulted by Deputy Director Griffin in the development of that memo and to offer our contributions and insights.

A significant part of our contribution comes from the understanding we have developed regarding the reasons for the under-employment of individuals with targeted disabilities. Staff in our Office of Federal Operations have examined this issue with the goal of identifying solutions and successful practices. A strategic, cross-functional team reviewed data and engaged several interested federal sector stakeholders in discussions on key issues and produced recommendations to improve employment opportunities for individuals with targeted disabilities. The product of that team's efforts is a 2008 report containing extensive analysis of the issue along with recommendations on how agencies can improve the percentage of people with targeted disabilities in the federal workforce. The report is posted on our web site (www.eeoc.gov/federal/reports/pwtd.html) and can be found by searching for "Improving the Participation Rate of People with Targeted Disabilities."

In addition, as directed by Executive Order 13548, the EEOC and OPM have joined forces to launch a series of training sessions to help agencies comply with the

Executive Order. DOD, DOL, the Department of Education, and the White House have all participated in these sessions. Two training sessions have been held thus far, reaching more than 800 federal officials.² Several more are planned for the coming months.

Management Directive 715

A key tool in helping to bring about the goals of the President's Executive Order will be ongoing and vigorous use of EEOC's Management Directive 715 (MD-715) that I mentioned earlier in my testimony.

MD-715 directs agencies to establish goals in the hiring of persons with targeted disabilities, and requires that agencies report to the EEOC on their efforts and progress to remove barriers to the employment of individuals with targeted disabilities. As I noted, our staff in the Office of Federal Operations reviews MD-715 reports annually and conducts multi-year trend analyses, comparing the data submitted with each annual report to earlier data submitted by the federal agencies. This is done so that we can identify those areas where agencies need to direct their efforts to improve and so that we can assess the effectiveness of those efforts.

In conducting our analytical review, we rely not just on the data provided by agencies but on other data sources as well, including workforce data gathered by the Office of Personnel Management and the Census Bureau. We also engage stakeholders to get their assessment of how well an agency is progressing in its effort to become a model employer of individuals with targeted disabilities. Periodically, we provide on-site

² One was held on October 20, 2010 at the Office of Personnel Management; the other occurred on January 20, 2011 at the Department of Agriculture.

technical assistance to agencies and interview employees to get their perspective. On an annual basis, we use this information to provide extensive feedback to agencies with the goal of moving them toward model employer status.

All of these efforts are part of the EEOC's ongoing mission to promote workplace policies and practices that foster an inclusive work culture for all, including individuals with disabilities.

Barriers to the Employment of Persons with Disabilities

In our 2008 report, we identified forth a number of barriers to the employment of people with targeted disabilities in the federal workforce. As we noted:

OFO interviewed several groups about the declining number of federal employees with targeted disabilities. In particular, potential impediments to and best practices for improving the hiring and advancement of PWTD in the federal work force were discussed. Reasons for the decline included: (1) the increased use of contractors for positions at lower grade levels, which may adversely affect PWTD because those positions are eliminated; (2) the reluctance of managers to use special hiring authorities, such as Schedule A; and (3) the misperception of managers that people with targeted disabilities are not likely to be the best candidates, or to be qualified to successfully perform professional jobs within their agency. As well, because the selection process often relies heavily on the interview, a manager's bias may affect how s/he judges the qualifications and/or interview skills of a PWTD. Further, PWTD may be discouraged from applying for federal jobs where the vacancy announcements are hard to understand, the online application process is unnecessarily difficult, or the position requires a security clearance (PWTD may not be eligible for a security clearance if they need a job coach or personal assistant).³

At its core, a significant obstacle to overcoming discrimination -- and particularly

³Improving the Participation Rate of People with Targeted Disabilities, *supra*, at p. 23.

discrimination against individuals with disabilities -- are the false assumptions that supervisors have regarding the capacity of individuals with disabilities to perform a range of jobs. In addition, the lack of awareness by supervisors of how reasonable accommodations can enable people with disabilities to become qualified for a job hinders the ability of many people with disabilities to demonstrate their capacities.

The EEOC has the ability to monitor the hiring decisions of agencies and to make such agencies report their employment statistics on an annual basis. But it will require ongoing education, training, and accountability to ensure that supervisors actually change their hiring and retention practices.

The passage of the ADA Amendments Act of 2008 (ADAAA), which restored the definition of "disability" under both the ADA and the Rehabilitation Act, and the EEOC's impending issuance of final regulations to implement that law, present the Commission with a perfect opportunity to remind and re-educate federal agencies about their non-discrimination obligations, as well as the benefits of creating a more inclusive environment for individuals with disabilities.

Although individuals with targeted disabilities were clearly covered under the ADA and section 501 of the Rehabilitation Act prior to the passage of the ADA Amendments Act, we hope that the current law will prompt agencies to re-evaluate their policies for providing reasonable accommodations in order to respond to what are likely to be an increased number of accommodation requests, and to examine policies that may – intentionally or unintentionally – exclude qualified individuals with disabilities from the federal workforce. Furthermore, the EEOC's emphasis on barrier removal has taken

on added significance with the acknowledgement that more workers with disabilities are and will be present in the federal workforce.

The EEOC conducts an extensive amount of training, through classes, conferences and seminars. In delivering relevant information and solutions to federal agencies, we expect agencies to use the information to create more effective EEO programs. In turn, agency officials must be committed to addressing problems. Management must learn to treat individuals with disabilities appropriately, and to be held accountable when they do not. Individuals with disabilities represent a tremendous untapped pool of talent in our country who are capable of successfully competing in the labor market, and who wish to be employed and to make a contribution to their families, communities, and nation.

Recommendations

In our report, “Improving the Participation Rate of People with Targeted Disabilities,” we provide recommendations for federal agencies to help them increase hiring and the provision of reasonable accommodations to persons with targeted disabilities. Some of the recommendations include:

- Demonstrate top-level commitment for employing persons with targeted disabilities;
- Provide managers with training on special hiring authorities for hiring people with disabilities;

- Provide managers with training on reasonable accommodation;
- Enhance clout of disability programs within federal agencies;
- Ensure accountability;
- Recognize success.

Our report contains many other recommendations that agencies can use to improve the federal employment outlook for persons with disabilities.

In summary, the EEOC is making every effort to address the under-employment of individuals with disabilities, including targeted disabilities, in our country, by requiring the nation's largest employer, our federal government, to be a model employer for this community. We use all of the tools available to us, from the adjudication of cases, to education, outreach, and training, to the monitoring of reports and publishing an annual report on the federal workforce. Our decisions and our report are on the EEOC website, with information that reflects the performance—good or bad—for every federal agency.

The EEOC remains committed to supporting and enforcing the ADA, the Rehabilitation Act, and the new Executive Order 13548. We remain committed to eliminating the barriers to the employment of persons who can provide their great talent to the federal workforce: individuals with disabilities.

Thank you. I will be glad to answer any questions you may have.

BACKGROUND
Improving Federal Employment of People with Disabilities
FEBRUARY 16, 2011

Background

The Federal government strives to be a model employer and has taken many steps toward that goal. However, additional work is needed, especially in the area of hiring and accommodations of persons with targeted disabilities¹. Several Federal agencies, including the Department of Labor (DOL), Department of Defense (DOD), the Equal Employment Opportunity Commission (EEOC), and Office of Personnel Management (OPM), have responsibilities for overseeing agency efforts and providing guidance and assistance to Federal agencies related to the hiring, retaining, and the provision of reasonable accommodations for individuals with disabilities in the Federal workforce.

The Rehabilitation Act of 1973² requires that agencies take proactive steps to provide equal opportunity to qualified individuals with disabilities. To help agencies achieve this, there are special hiring authorities for people with disabilities, including Schedule A hiring authority, which allows noncompetitive appointment of people with certain severe disabilities,³ as well as appointments and noncompetitive conversion for veterans who are 30 percent or more disabled.⁴

Despite increased efforts by key agencies and the availability of special hiring authorities, the number and percentage of individuals with targeted disabilities employed in the Federal workforce has declined steadily over the past 16 years. Employment of these individuals reached its peak in Fiscal Year 1994 with 32,337 employees, or 1.24 percent of the permanent Federal workforce.⁵ In Fiscal Year 2009, that number had dropped to 24,663, or 0.88 percent of the Federal workforce.⁶ Individuals with targeted disabilities have also been separating from the Federal service at nearly twice the rate that they are being hired.⁷

¹ According to the Equal Employment Opportunity Commission, targeted disabilities include deafness, blindness, missing extremities, paralysis, seizure disorders, distortion of limbs or spine, mental illness, and severe or intellectual impairments.

² 29 U.S.C. § 791

³ 5 C.F.R. § 213.3102(u). Schedule A is an excepted service appointing authority available for certain situations or jobs when it is impractical to use standard qualification requirements and competitive procedures.

⁴ 5 U.S.C. § 3112

⁵ U.S. Equal Employment Opportunity Commission, Office of Federal Operations, *Improving the Participation Rate of People with Targeted Disabilities in the Federal Work Force*, January 2008, available at <http://www.eeoc.gov/federal/reports/pwtd.pdf>

⁶ U.S. Equal Employment Opportunity Commission, Annual Report on the Federal Work Force Fiscal Year 2009, available at <http://www.eeoc.gov/federal/reports/fsp2009/index.cfm>

⁷ U.S. Equal Employment Opportunity Commission, Office of Federal Operations, *Improving the Participation Rate of People with Targeted Disabilities in the Federal Work Force*, January 2008, pg. 19, available at <http://www.eeoc.gov/federal/reports/pwtd.pdf>

GAO Findings

Last Congress, the Subcommittee requested that the Government Accountability Office (GAO) study best practices that Federal agencies could use to optimize the employment of individuals with disabilities. Specifically, GAO looked into leading practices and barriers related to 1) hiring employees with disabilities in the Federal workforce and 2) designing and implementing systems to provide accommodations for Federal employees with disabilities. On July 20, 2010, GAO held a forum to explore these issues and invited experts and advocates from across the agencies and the disability community to participate. GAO released its report on the findings from that forum on October 5, 2010, and GAO will testify on its findings.⁸

GAO found that forum participants felt that general attitudes and bias against people with disabilities are still the biggest barrier keeping people with disabilities out of the workplace. They also identified eight key practices that agencies could implement to help the federal government become a model employer for people with disabilities, including strong commitment from top leadership, agency accountability, regular workforce surveys on disability issues, better coordination within and across agencies, training for all staff, fully accessible career development opportunities, flexible work environments, and centralized funding for accommodations. For more information on GAO's findings, you can view the report at <http://www.gao.gov/new.items/d1181sp.pdf>.

Executive Order 13548

On July 26, 2010, President Obama issued an executive order titled, *Increasing Federal Employment of Individuals with Disabilities*.⁹ This order directs OPM to work with the DOL, the EEOC, and the Office of Management and Budget (OMB) to design model recruitment and hiring strategies to help agencies increase their employment of people with disabilities. These agencies also must develop mandatory training programs for both human resources personnel and hiring managers on the employment of individuals with disabilities.

The executive order requires that each agency, in consultation with OPM and OMB, develop an agency-specific plan for promoting employment opportunities for individuals with disabilities, including performance targets and numerical goals for employment of individuals with disabilities. Each agency is also required to designate a senior-level agency official to be accountable for enhancing employment opportunities for individuals with disabilities and individuals with targeted disabilities within the agency.

In addition, OPM, working with the DOL and EEOC, is required to identify and help agencies in implementing strategies for retaining Federal workers with disabilities, including training, the use of centralized funds to provide reasonable accommodations, increasing appropriate accessible technologies, and ensuring the accessibility of physical and virtual workspaces.

⁸ U.S. Government Accountability Office, *Participant-Identified Leading Practices that Could Increase the Employment of Individuals with Disabilities in the Federal Workforce*, October, 2010, available at <http://www.gao.gov/new.items/d1181sp.pdf>

⁹ Executive Order 13548 on Increasing Federal Employment of Individuals with Disabilities, available at <http://edocket.access.gpo.gov/2010/pdf/2010-18988.pdf>

Office of Personnel Management

As the lead human resources office of the Federal government, OPM is responsible for establishing policies and programs to assist Federal agencies in hiring and retaining a diverse workforce. OPM supports and advises agencies on their human capital practices and upholds the merits system principles that, among other things, prohibit discrimination in the Federal government. OPM also plays a key role in ensuring that job seekers, human resource professionals and hiring managers all understand the Federal disability hiring programs and authorities and how they can gain access to reasonable accommodations for themselves or their employees.

On November 8, 2010, John Berry, Director of OPM, released model recruitment and hiring strategies for agencies to use to increase their employment of people with disabilities, as required under Executive Order 13548.¹⁰ These model strategies contain detailed guidance on what agencies should include in their plans. Agencies have 120 days from the release of this guidance, until March 2011, to submit their plans to OPM.

Office of Disability Employment Policy (ODEP)

The Office of Disability Employment Policy at the Department of Labor develops and influences disability-related employment policy and practices that promote and increase in the employment of people with disabilities.

ODEP manages a number of programs that help facilitate the employment of people with disabilities throughout the workforce, including the Federal government:

The Workforce Recruitment Program is a resource for Federal agencies and private businesses nationwide to identify qualified college students and recent graduates for temporary and permanent employees from a variety of fields.

The Alliance Initiative is a cooperative program that works with organizations committed to improving workplace practices for people with disabilities to develop and implement model policies, initiatives and strategies that increase recruiting, hiring, advancing, and retaining workers with disabilities. Alliances can be formed through this initiative with Federal, state, and local government agencies; trade and professional associations; businesses; labor unions; educational institutions; and others.

America's Heroes at Work is working to address the employment challenges of returning Service Members living with Traumatic Brain Injury (TBI) and/or Post-Traumatic Stress Disorder (PTSD). This program gives employers and human resources professionals tools to help these returning Service Members succeed in the workplace. This program is managed jointly by ODEP and DOL's Veterans' Employment and Training Service (VETS).

¹⁰ <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=3228>

ODEP also manages the website Disability.gov, which provides disability-related resources on programs, services, laws, and regulations that affect people with disabilities. The site contains information for people with disabilities on a variety of topics, including employment, benefits, civil rights, community life, education, emergency preparedness, housing, health, technology, and transportation.

Equal Employment Opportunity Commission

The EEOC is responsible for enforcing Federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex, national origin, age, disability or genetic information.

For the Federal government, the EEOC provides leadership and guidance to Federal agencies to help ensure compliance with its regulations. The EEOC also monitors and evaluates Federal agencies' affirmative employment programs, provides agencies with educational materials, and helps agencies identify and eliminate barriers to equal employment opportunity. In addition, the EEOC publishes an annual report on the Federal workforce, which includes information on agencies' progress toward model Equal Employment Opportunity programs.¹¹

The LEAD Initiative, or the Leadership for the Employment of Americans with Disabilities Initiative, at the EEOC was established to address the under-employment of individuals with severe disabilities in the Federal workforce. This national education and outreach campaign is working to encourage Federal agencies to hire and advance more individuals with severe disabilities by reversing the trend of decreasing participation in Federal employment, increasing hiring officials' awareness of the declining numbers of people with disabilities in Federal employment, educating Federal hiring officials and applicants about available special hiring authorities, and supplying information and resources on recruitment, hiring, and reasonable accommodations.

Computer/Electronic Accommodations Program (CAP)

The Computer/Electronic Accommodations Program (CAP) at the Department of Defense provides assistive technology and services for Federal employees with disabilities free of charge to Federal agencies. CAP helps agencies accommodate employees by assessing the needs of the employee, purchasing the needed technology, training the employee on how to use it, and following up to ensure the needs of the individual and the agency continue to be met.

¹¹ The most recent EEOC annual report on the Federal workforce is available at <http://www.eeoc.gov/federal/reports/fsp2009/index.cfm>

Additional Resources

A list of applicable laws and Executive orders is available at <http://www.opm.gov/disability/Laws.asp>

National Council on Disability, *Federal Employment of People with Disabilities*, March 31, 2009, available at http://www.ncd.gov/newsroom/publications/2009/pdf/Federal_Employment_of_People_with_Disabilities.pdf

U.S. Equal Employment Opportunity Commission, Office of Federal Operations, *Improving the Participation Rate of People with Targeted Disabilities in the Federal Work Force*, January 2008, available at <http://www.eeoc.gov/federal/reports/pwtd.pdf>

U.S. Equal Employment Opportunity Commission, *Annual Report on the Federal Work Force Fiscal Year 2009*, available at <http://www.eeoc.gov/federal/reports/fsp2009/index.cfm>

U.S. Equal Employment Opportunity Commission, *Annual Report on the Federal Work Force Fiscal Year 2008*, available at <http://www.eeoc.gov/federal/reports/fsp2008/index.html>

U.S. Equal Employment Opportunity Commission, *Annual Report on the Federal Work Force Fiscal Year 2007*, available at <http://www.eeoc.gov/federal/reports/fsp2007/index.html>

U.S. Government Accountability Office, *Participant-Identified Leading Practices that Could Increase the Employment of Individuals with Disabilities in the Federal Workforce*, October, 2010, available at: <http://www.gao.gov/new.items/d1181sp.pdf>

STATEMENT

BY

DINAH F. B. COHEN

DIRECTOR, COMPUTER/ELECTRONIC ACCOMMODATIONS PROGRAM
OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS

REGARDING

UTILIZING ASSISTIVE TECHNOLOGY TO IMPROVE FEDERAL EMPLOYMENT
OPPORTUNITIES FOR PEOPLE WITH DISABILITIES

BEFORE THE

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE
FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

FEBRUARY 16, 2011

Mr. Chairman, Distinguished Members of the Committee, it is an honor to submit this testimony regarding the Department of Defense (DoD) Computer/Electronic Accommodations Program (CAP) and the program's efforts to improve employment outcomes for people with disabilities with the Federal Government.

The Rehabilitation Act of 1973 requires DoD and all other Federal agencies to accommodate the disabilities of employees and applicants for employment and make programs and activities accessible not only to employees, but also to other people with disabilities, including members of the public. In response to the Rehabilitation Act, DoD, in Fiscal Year 1990, established CAP, an innovative program to fund the purchase of accommodations for DoD employees who needed assistive technology to access computer or telecommunications systems. Based on the success of the program over the years, CAP has expanded to serve other Federal agencies and to provide rehabilitation and recovery-support services to wounded Service members.

CAP's mission is to provide assistive technology and services to Federal employees with disabilities and wounded Service members to increase their access to information and employment opportunities. CAP is a program in the TRICARE Management Activity, under the direction of the Assistant Secretary of Defense for Health Affairs. The goals of the CAP office to support its mission were clearly established from the start. Today, these goals have been augmented with the broader program scope, to include the following goals:

- ensure that Federal employees with disabilities have the assistive technology they need to do their jobs in today's information environment;

- support Federal organizations and programs to ensure equal access to DoD information and services;
- support Executive Order 13548, to Increase Federal Employment of Individuals with Disabilities, so as to achieve Federal agency goals of increasing the employment of people with disabilities;
- support managers to address the issues of a changing and aging workforce and help them retain employees when they acquire disabilities;
- support the Military Health System by providing assistive technology, and the ability to retain the technology, to wounded Service members during their recovery and rehabilitation;
- support Executive Order 13518, Employment of Veterans in the Federal Government, by working closely with the Office of Personnel Management (OPM) and the Veterans Employment Program Offices to increase employment of disabled Veterans; and
- ensure that Federal agencies comply with Federal laws and regulations that require computer and telecommunication systems to be accessible to people with disabilities.

Pilot Program

The CAP began as a pilot program with a \$10.7 million budget for five years, from 1990-1994. One of its original goals was to increase the employment of people

with disabilities in DoD's workforce. During this timeframe, CAP filled over 6,000 requests for computer and electronic accommodations for DoD employees with disabilities, helping with recruitment, placement, and retention of a more diverse workforce.

Due to the success of the pilot, DoD continued to support the centrally funded model with a budget of two million dollars per year. By centralizing the funding for accommodations, no manager in an individual DoD organization needed to worry about the cost of accommodations when hiring or retaining a person with a disability. Furthermore, by centralizing the expertise and knowledge, CAP staff was able to increase organizational impact versus the prior decentralized DoD model. These two factors have served the disability community extremely well by removing two significant impediments to employment.

The program has since provided over 98,000 accommodations for DoD and non-DoD employees with disabilities and wounded Service members who are recovering at Military Treatment Facilities. In Fiscal Year (FY) 2010 alone, CAP provided 2,482 accommodations for DoD employees with disabilities, 3,404 accommodations for non-DoD agency employees, and 6,138 accommodations for wounded Service members.

CAP Expansion

On October 30, 2000, the President signed into law Public Law 106-398, the National Defense Authorization Act for FY 2001, including 10 U.S.C. 1582 Section 1102, Assistive Technology Accommodations Program. This provision grants CAP the

authority to “provide assistive technology, assistive technology devices, and assistive technology services to any department or agency in the Federal Government upon the request of the head of the agency.” Today, CAP has partnership agreements with 68 Federal agencies, including the Departments of Agriculture, Commerce, Energy, Health and Human Services, Homeland Security, the Interior, Justice, Labor, State, Transportation, the Treasury, and Veterans Affairs.

Wounded Service Members Initiative

Recognizing a successful model for centrally providing assistive technology to employees with disabilities, DoD expanded the scope of CAP again in 2004 to ensure that wounded Service members could access the real solutions they needed during rehabilitation to access computer and telecommunication systems. Furthermore, it was recognized by CAP and the medical providers that the ability to use assistive technology during the early phases of recovery can greatly improve rehabilitation outcomes and future employment opportunities.

CAP’s Wounded Service Members Initiative is designed to cover Active Duty Service members, to include Guard or Reserve who are on active duty orders, to include Title 10 orders. The initiative operated exactly as others in the past, until Public Law 109-364 was enacted on October 17, 2006. This statute allows Service members to keep the assistive technology that CAP provides them upon separation. On September 9, 2008, DoD Instruction (DoDI) 6025.22, “Assistive Technology for Wounded Service Members,” was signed, establishing policy for assistive technology programs in the

Military Health System. The DoDI secures CAP's eligibility to provide assistive technology to Service members and allows Service members to retain the equipment after separation from service, enabling them to pursue education and employment opportunities. CAP works closely with medical providers, therapists, case managers, family members, and wounded Service members to ensure that they receive appropriate assistive technology for their needs.

Needs Assessment Services

In order to best determine what assistive technology may increase productivity for an employee, CAP provides individual needs assessments and evaluations. This process is conducted in a variety of manners to ensure that the customer's functional limitations are reviewed while considering the required job duties. In comparing the two, CAP staff members recommend assistive technologies that will bridge the gap between functional limitations and job requirements. The needs assessment can be part of a larger iterative process and may include a team of individuals, including a supervisor, reasonable accommodations coordinator, information technology support staff, and other key individuals. The CAP accommodations experts work closely with the employee or Service member to assist him or her in selecting the technology that best suits his or her needs. To do so, CAP has designed several avenues to ensure successful assessment experiences.

CAP Technology Evaluation Center (CAPTEC)

CAPTEC, located in the Pentagon, is a state-of-the art demonstration and assessment facility. Since its inception in 1995, CAPTEC has provided services to approximately 27,000 customers. People seeking solutions to accessibility issues can see a variety of equipment and software, compare solutions, and ensure that the assistive technology will be compatible with their current information environment. This facility also enables managers to see how assistive technology removes barriers for people with disabilities, and is key for helping agency leaders develop new strategies for improving disability employment outcomes. These services are also available to Pentagon visitors and via video teleconference. In FY 2010, services were provided to 856 DoD employees, 896 non-DoD Federal employees, and 129 employees from non-governmental organizations.

Remote Assessment Services

Because many employees do not have access to CAPTEC, CAP provides needs assessments via telephone and the online accommodation process. These alternate assessment options are tapped by thousands of employees each year and help them select the most appropriate accommodation(s) for their disabling condition(s). The online process was recognized in December 2008, when CAP was honored with the 2008 President's Quality Award for Management Excellence. This award, given to Executive Branch agencies, was given to CAP for expanding electronic government and using online tools to assess and accommodate Federal employees with disabilities and wounded

Service members. In FY 2010, 2,364 requests for accommodations were submitted via CAP's online needs assessment.

In many cases, CAP recommends individuals to visit a local independent living center or assistive technology center to ensure full awareness of the assistive technologies available to meet their work needs. At times, CAP also purchases needs-assessment services from vendors to ensure that a professional recommendation is available and supports an agency's reasonable accommodation procedures that need documentation.

Assistive Technology Services

Once the needs assessment is conducted, employees and Service members are prepared to select the most reasonable and appropriate accommodation. The types of assistive technology and accommodations supplied by the CAP office are generally grouped into five categories:

- equipment for people with dexterity disabilities, including alternative keyboards, input devices, and voice-recognition software;
- equipment for people with hearing loss, including assistive listening devices, personal amplification systems, text telephones, videophones, and captioning services;
- equipment for people with vision loss, including screen readers, Braille terminals, magnification software, and closed circuit televisions (CCTVs);
- equipment for people with communication disabilities, including augmentative communication boards and other text-to-speech devices; and,

- equipment for people with cognitive impairments, including cueing and memory aids, literacy software, and screen readers.

CAP also provides installation, integration, and training support services to ensure that customers are able to fully use the potential of the devices. At times, this includes providing sign language interpreting services, personal assistant services, and other accommodations to ensure full access to training.

Barriers to Improving Employment Outcomes

Since its establishment in 1990, CAP has worked with several Administrations and leaders on initiatives to improve employment outcomes for Federal employees with disabilities and disabled veterans. It is clear that a holistic strategy must be implemented in order to remove the remaining barriers to positive outcomes. CAP, as a centrally funded and staffed model, removes the cost of accommodations as a barrier for many employees with disabilities. CAP's approach to providing accommodations throughout the employment lifecycle has helped in removing more barriers, from recruitment and placement, through training, promotion, and retention. CAP is able to support employees and other agencies' initiatives to help increase employment opportunities for people with disabilities with the following programs:

- *Workforce Recruitment Program for College Students with Disabilities*: Co-sponsored by DoD and the Department of Labor (DOL), this program provides summer internships for post-secondary students with disabilities at a variety of

Federal agencies. CAP provides assistive technology for summer interns at no cost to the employing agency, to increase accessibility and productivity.

- *Telework*: CAP provides assistive technology, computers, and all-in-one printing devices for employees with disabilities who use Telework as a form of reasonable accommodation. Telework allows employers to retain valuable employees while decreasing the costs associated with disability leave. CAP works closely with the Administration and the General Services Administration on implementing Telework solutions for employees with disabilities. In FY 2010, CAP provided 173 Telework accommodations.
- *Workers' Compensation*: CAP assists employees with disabilities who have filed a Workers' Compensation claim in their return to work. To assist in lowering the cost, CAP examines case reviews and introduces the needs-assessment process to assist employees in finding unique methods of working in a modified, improved, and more productive environment. CAP provides the assistive technology that will replicate an individual's work environment in an alternative location while in recovery. In FY 2010 alone, CAP provided 265 Workers' Compensation accommodations.
- *Work-Life Wellness*: CAP is also committed to preventing injuries that occur within the workplace through preventative techniques and accommodating injuries when they do occur. In FY 2010, CAP conducted over 32 onsite ergonomic evaluations for employees to help them avoid musculo-skeletal disorders and to identify potential accommodations when necessary. CAP has taken a proactive

approach by educating Federal employees on the prevention of repetitive stress injuries that can result from work areas that lack proper ergonomic configuration. The information and resources that CAP provides can ultimately increase employee productivity and minimize the potential of work-related injury.

As employment barriers are removed via reasonable accommodations, it is important to note that two significant barriers remain: *attitudinal barriers* and *information technology systems barriers*. The opportunity to address these barriers across the Federal sector is available through two initiatives: Executive Order 13548, to increase employment of individuals with disabilities, and through a proposed refresh of the accessibility standards of Section 508 of the Rehabilitation Act of 1973. In addition, with respect to information technology systems barriers, each Federal employer has an opportunity to ensure that any reasonable accommodation(s) that it provides to an employee with a disability is fully compliant with the requirements of section 501 and section 504 of the Rehabilitation Act, as applied to each individual employee with a disability.

Another critical area to removing employment barriers is a need to improve access to information and services. CAP addresses this challenge by providing online information and services and providing communications to stakeholders in a variety of accessible and user-friendly formats. CAP's website, <http://cap.tricare.mil>, centralizes information on assistive technology, assessments, employment resources, and more. The website also contains video testimonials of Federal employees and wounded Service members, highlighting how assistive technology empowers their employment and

productivity. CAP also provides assistive technology and disability employment information through a monthly newsletter; a national electronic mailing list; FaceBook, Twitter, and YouTube social media accounts; and partnerships with Federal and non-governmental agencies that distribute CAP content, including Disability.Gov.

CAP's Way Ahead

CAP's vision is to increase the employment of people with disabilities and disabled Veterans by ensuring that they have access to accommodations throughout DoD and the rest of the Federal Government. As the nation faces challenges with economic recovery, homeland security, and wars in multiple theaters, CAP provides a vital resource to ensure that Federal employees with disabilities and disabled veterans have the tools they need to do their demanding jobs. Furthermore, as reported by the U.S. Census Bureau, the aging population will have a dramatic impact on disability in America. By 2050, 25 to 30 percent of the U.S. population will be over the age of 60 and household disability will become part of everyday experience for Americans. CAP will be a partner in the Federal effort to improve workplace conditions for both employees who are aging and employees with disabilities. In this regard, CAP will continue to be a resource for agencies in their assistive technology accommodation needs and help ensure the Federal Government is a model employer of people with disabilities.

In March 2010, CAP partnered with OPM, DOL, and the Equal Employment Opportunity Commission (EEOC) to provide training for over 500 individuals in Washington, DC. This event, "Call to Action: Hiring People with Disabilities," targeted both disability employment specialists and human resource specialists. Building on the

success of this event, OPM, EEOC, and CAP continue to partner today, including recent training for 400 individuals regarding Executive Order 13548. CAP's role in support of the Executive Order is clear as OPM's guidance, published on November 8, 2010, described CAP as an innovative approach to provide reasonable accommodation and charged agencies to establish and/or continue their partnerships with CAP. These training sessions are being modified by OPM, EEOC, and CAP and will be delivered at Federal Executive Boards across the country. CAP is also working to ensure that the training sessions are available via webinars to allow Federal personnel to access the information from anywhere in the world.

Recognizing the federal human resource and information technology processes and systems need to change, CAP will continue to break down employment barriers by providing needs assessments and assistive technologies while working to educate other sectors on the reasons and changes needed in their work to truly create a model employment environment for people with disabilities.

Conclusion

Mr. Chairman, DoD continues to perform exceptional assistive technology accommodation support services for Federal employees with disabilities and wounded Service members. Our efforts demonstrate DoD's obligation and dedication to improve the employment opportunities for employees with disabilities and disabled veterans. I am proud of the work CAP has done over our 20 years of disability accommodation service. We need to continue to work together to truly become a model employer so that employees with disabilities can access employment, information, and opportunities at the

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same level of their non-disabled peers. I look forward to working with my Federal partners and you to help achieve the goal of becoming an employer of choice.

Mr. Chairman, thank you for the opportunity to provide testimony today.

[END]

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April 7, 2011

The Honorable Daniel K. Akaka
Chairman, Subcommittee on Oversight of Government Management,
The Federal Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs
United States Senate

Subject: Posthearing Questions Related to the Federal Employment of People with Disabilities

On February 16, 2011, I testified before your Subcommittee at a hearing on “Improving Federal Employment of People with Disabilities.”¹ The testimony was based on our report summarizing the discussion of stakeholders and individuals knowledgeable on the issues who participated in a forum on the federal employment of individuals with disabilities that GAO held on July 20, 2010.² Forum participants identified barriers to the employment of individuals with disabilities in the federal workforce and leading practices that could be used to overcome these barriers.

This letter responds to your written questions following the hearing and is taken largely from the results of the forum.

1. How are executive agencies tracking the hiring and retention of individuals with disabilities and is the information that is necessary for GAO evaluation of executive agency programs being collected and maintained by the agencies?

Forum participants emphasized the importance of agencies tracking both processes and outcomes. Such information is vital for agencies to track their own efforts, identify shortfalls, and pinpoint improvement opportunities.

For evaluation of programs, agencies and GAO could use data that agencies are required to collect by the Equal Employment Opportunity Commission (EEOC) and Office of Personnel Management (OPM). EEOC is responsible for providing agencies with policy guidance and

¹GAO, *Federal Workforce: Practices to Increase the Employment of Individuals with Disabilities*, GAO-11-351T (Washington, D.C.: Feb. 16, 2011).

²GAO, *Highlights of a Forum: Participant-Identified Leading Practices That Could Increase the Employment of Individuals with Disabilities in the Federal Workforce*, GAO-11-81SP (Washington, D.C.: October 5, 2010).

standards for establishing and maintaining effective affirmative employment programs through its Management Directive 715 (MD-715), which also includes a framework for agencies to determine whether barriers to equal employment opportunities (EEO) exist and to identify and develop strategies to eliminate barriers to participation. Under MD-715, EEOC requires agencies to report the results of their analyses annually. For example, MD-715 instructs agencies to maintain accurate information on employees' disability status and to periodically resurvey their workforces. MD-715 further requires agencies to collect data by disability status on applicants, new hires, promotions, awards, separations, and grade level.

In addition, as part of an executive order stating that the federal government must become a model for the employment of individuals with disabilities, the Office of Management and Budget, OPM, EEOC, and the Department of Labor are required to review the effectiveness of the definition of targeted disability and replace, update, or revise it as appropriate.³ According to OPM's November 2010 guidance to agencies for implementing the executive order, OPM recently updated the Standard Form-256, (SF-256) *Self-Identification of Disability*. A bridge document detailing the differences between the updated SF-256 and the form previously used was provided as part of the guidance.

2. Are there steps that executive agencies could undertake to facilitate consistent and effective evaluation and oversight of their programs and policies for the hiring and retention of individuals with disabilities?

As I indicated in my testimony, participants at GAO's July 2010 forum on disabilities identified 8 specific practices that could be used together to overcome barriers to the employment of people with disabilities in the federal workforce. Participants concluded

1. Top leadership commitment is key to implementing and sustaining improvements in the employment of individuals with disabilities.
2. Accountability is critical to success.
3. Regularly surveying the workforce on disability issues provides agencies with important information on potential barriers.
4. Better coordination within and across agencies could improve employment outcomes for employees with disabilities.
5. Training for staff at all levels can disseminate leading practices throughout the agency.
6. Career development opportunities inclusive of people with disabilities can facilitate advancement and increase retention.
7. A flexible work environment can increase and enhance employment opportunities for individuals with disabilities.

³Exec. Order No. 13548, *Increasing Federal Employment of Individuals with Disabilities*, 75 Fed. Reg. 45,039 (July 26, 2010).

8. Centralizing funding within an agency can help ensure that reasonable accommodations are provided.

Participants in GAO's July 2010 forum on disabilities emphasized that these practices would not work in isolation, but instead need to reinforce each other. Forum participants also noted some examples of specific steps that agencies could take in the area of evaluation and oversight, which include

- Making their goals and results public. Participants suggested that publicly reporting results could make agencies more proactive about increasing employment of individuals with disabilities. They could do this by, for example, posting their MD-715 reports on external Web sites. This would be similar to the requirement in the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 that calls for federal agencies to post statistical data on EEO complaints filed by their current and former employees or applicants for employment.
- Inviting employees to update their disability status through the SF-256. Participants stressed that encouraging employees to regularly update this optional form would allow the agency to be better aware of any employees who acquire a disability after they have been hired, as well as those who originally chose not to fill out the form. Further, this would facilitate compliance with MD-715, which instructs agencies to maintain accurate information on employees' disability status and to periodically resurvey their workforces. Participants noted that agencies must ensure that responses are appropriately protected so that employees feel safe in disclosing their status.
- Holding exit interviews with employees. Participants noted that this would provide agencies an opportunity to learn about employees' perceptions of the work environment, reasonable accommodations process, and other factors. In general, exit surveys request demographic information, type of separation (e.g., voluntary, involuntary, retirement, etc.), reason for leaving, and future intentions for employment.

Further, the recently issued executive order requires that agencies develop a specific plan for promoting employment opportunities for individuals with disabilities. These plans are due to OPM for review on April 11, 2011.

3. The Administration is making significant efforts to improve employment outcomes for people with disabilities. What recommendations, if any, do you have for legislation to improve these outcomes?

The forum was framed so that participants would address efforts that did not require legislative changes, so we did not obtain participants' views as to whether legislative efforts were needed. All of the practices forum participants identified can be implemented without new legislation. However, it is possible that recommendations for new legislation may be realized in our ongoing work.

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**Post-Hearing Questions for the Record
Submitted to the Honorable Christine Griffin
From Senator Daniel K. Akaka**

**“Improving Federal Employment of People with Disabilities”
February 16, 2011**

- 1. Schedule A hiring authority is a noncompetitive hiring authority that is available to agencies for hiring people with severe disabilities. I understand it is not very widely used. Why do you believe this is the case, and what should be done to encourage its use in appropriate circumstances?**

Schedule A has not been widely used for a number of reasons. Although available as a hiring tool for managers for many years, most government human resources (HR) personnel, disability program managers and supervisors were not familiar with the authority, and training on this topic was limited. For those who had knowledge of it, few had the support of their leadership to ensure that their agency was implementing an affirmative employment program for people with disabilities as required by the Rehabilitation Act of 1973, as amended.

However, we are beginning to see an increase in the use of Schedule A by agencies. Notably, President Obama’s Executive Order 13548, *Increasing Federal Employment of Individual With Disabilities*, requires agencies to increase the use of Schedule A and to provide mandatory training. To help agencies achieve those goals, OPM has developed two online trainings for Federal HR and hiring managers and one for applicants. In addition, a team of individuals from OPM, the Department of Labor (DOL), the Equal Employment Opportunity Commission (EEOC), the Department of Education’s Rehabilitation Services Administration, the Department of Defense (DOD) and the White House have provided in-person trainings for more than 1,500 Federal employees in DC and 4 other cities with active Federal Executive Boards. It is our goal to continue to provide more training over the next few months.

One benefit of increased use of Schedule A is that agencies are also experiencing a decrease in time to hire as a result, which helps them achieve their hiring reform goal of an average of 80 days from job posting to job offer.

- 2. New hires in the Federal government are generally subject to a one-year probationary period, but a two-year probationary period is currently required for people with disabilities hired under Schedule A. Do you believe this longer probationary period is appropriate, and is the Office of Personnel Management considering reducing it?**

OPM does not currently have a position on any proposal to change the two-year probation period for employees hired using excepted service appointment authorities.

We note, however, that a two-year probation period is not unique to individuals with disabilities. Federal employees who are hired under any type of excepted service appointment authority (for example, attorneys hired using Schedule A) also serve a two-year probation period.

3. What role does the Office of Personnel Management play in overseeing compliance with disability employment laws -- and do you believe you need additional authority?

One of OPM's strategic goals is to help agencies recruit and hire the most talented and diverse Federal workforce possible to serve the American people. OPM provides leadership and policy direction to Federal agencies for compliance with all hiring, advancement and retention rules in accordance with Merit System Principles. In particular, Executive Order 13548 provided OPM with the responsibility, in consultation with DOL, EEOC, and the Office of Management and Budget (OMB), to develop model recruitment and hiring strategies for agencies to use to increase their employment of people with disabilities.

The Executive Order increases the accountability of agencies for developing and implementing strategic plans to enhance recruitment and retention of individuals with disabilities and requires regular reporting on progress to OPM and the White House. As agency performance is evaluated, the Administration will consider whether and what further tools are needed to ensure the goals of the Executive Order are met.

4. The President's Executive Order has reinvigorated efforts to improve employment of people with disabilities in the Federal government. What suggestions do you have for sustaining efforts over time?

We believe that the training, increased understanding and use of Schedule A authorities, the hiring programs established by the agencies pursuant to Executive Order 13548, as well as the great employees with disabilities that will be hired as a result of the EO will help sustain the increased hiring of employees with disabilities. However, it will be insufficient to reach the goal of 100,000 over the next 5 years because this goal cannot be achieved without due diligence. We must ensure that agencies are watching their retention rate as well as their hiring rate and adjust their hiring accordingly. Also agencies must be developing mechanisms to evaluate why employees with disabilities are leaving their agencies. It is imperative that we assess and take the necessary actions to retain good employees. Finally, agencies must establish the hiring of people with disabilities as part of their annual strategic human capital plan as well as their agency's strategic plan to ensure ongoing sustainability.

5. The Administration is making significant efforts to improve employment outcomes for people with disabilities. What recommendations, if any, do you have for legislation to improve these outcomes?

Increasing hiring of individuals with disabilities is a critical part of the Obama Administration's comprehensive personnel policy reform agenda, including the *Federal Hiring Modernization Act*, which the Administration proposed in the 111th Congress. The overall effort to create a hiring process that is easy to understand and use, for both applicants and hiring managers, will be beneficial for all qualified applicants seeking Federal employment. More specifically, Congress could consider legislation that would serve to improve the outcomes and sustainability of federal employment of people with disabilities. A measure could possibly be achieved during the re-authorization of the Rehabilitation Act - the first law to address Federal employment of people with disabilities. There are no specific Administration proposals at this time, but OPM would be happy to work with Committee and Congress to consider such issues.

**Post-Hearing Questions for the Record
Submitted to the Honorable Kathleen Martinez
From Senator Daniel K. Akaka**

**“Improving Federal Employment of People with Disabilities”
February 16, 2011**

- 1. The President’s Executive Order has reinvigorated efforts to improve employment of people with disabilities in the Federal government. What suggestions do you have for sustaining efforts over time?**

A commitment from agency leadership is critical to sustaining efforts over time to improve employment opportunities for people with disabilities. Agencies with committed senior management are significantly more likely to train employees adequately, provide needed technical support, and monitor progress related to this issue. Additionally, implementing a centralized accommodation fund to ensure that reasonable accommodations are provided from a fund that pools agency resources can decrease overall costs and reduce the financial impact on individual office budgets. Further, training all individuals involved in the hiring process on key policies and processes including Schedule A and other hiring authorities, reasonable accommodations policies and procedures, access to career development and advancement opportunities, and diversity awareness will yield sustained results. In this increasingly knowledge and technology based workplace, accessibility, interoperability and usability of all workplace electronic and information technology are also integral to this effort.

- 2. What role does the Department of Labor play in overseeing compliance with disability employment laws -- and do you believe you need additional authority?**

The Department of Labor’s mandate is to foster, promote, and ensure the welfare of the wage earners, job seekers, veterans, and retirees of the United States, including those with disabilities; to improve their working conditions; to promote opportunities for profitable employment; and to protect their work-related benefits and rights. Worker protection agencies within the Department administer and enforce many disability laws. The Office of Federal Contract Compliance Programs (OFCCP) enforces affirmative action and equal employment opportunity for employees and applicants of Federal contractors and subcontractors. OFCCP enforcement authority includes Section 503 of the Rehabilitation Act of 1973, as amended (commonly referred to as Section 503) and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212. These laws prohibit Federal contractors and subcontractors from discriminating on the bases of disability and protected veteran status (including disabled veterans). They also require that certain Federal contractors and subcontractors take affirmative action to increase employment opportunities. On July 23rd 2010, OFCCP published an Advance Notice of Proposed Rulemaking for the regulations implementing Section 503 of the Rehabilitation Act of 1973 to solicit public input on how to strengthen the

regulations prohibiting discrimination and requiring certain Federal contractors to take affirmative action to employ and advance in employment of qualified individuals with disabilities. OFCCP is currently reviewing those comments and developing a proposed rule designed to increase employment opportunities for job applicants and employees with disabilities.

The Civil Rights Center (CRC), in DOL's Office of the Assistant Secretary for Administration and Management, administers and enforces the disability nondiscrimination laws and other civil rights laws that govern the Nation's public workforce development system. These laws include Section 188 of the Workforce Investment Act of 1998 (WIA); Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act (ADA); and their implementing regulations. CRC's jurisdiction encompasses a wide range of programs and activities, including (but not limited to) Adult, Dislocated Worker, Youth, and other programs authorized by WIA; Trade Adjustment Assistance (TAA) programs authorized by the Trade Act of 1974; Employment Service programs authorized under the Wagner-Peyser Act; the Job Corps program; the Senior Community Service Employment Program (SCSEP) authorized by the Older Americans Act; and other programs and activities operated by One-Stop partners through the One-Stop workforce development system, including programs authorized under the American Recovery and Reinvestment Act (ARRA).

We have not identified any additional authority we would need in overseeing compliance with these disability employment laws.

- 3. Your testimony mentions emerging, assistive technologies that are available or being developed to help accommodate people with disabilities. Please provide additional information about these technologies and what is being done to help employees and agencies learn about and take advantage of them.**

The tremendous advance of technology in the last 20 years has become a great equalizer for people with disabilities who are job seekers or who wish to move ahead in their professions. Federal agencies, like any other employer, are recognizing that it makes good business sense to give all employees the electronic tools they need to be productive.

Taking advantage of this technological revolution, the Department of Labor's Office of Disability Employment Policy (ODEP) recently focused on promoting universal design in information technology (including emerging Web 2.0 and 3D Internet technologies), and on increasing the availability of assistive technology for use in the workplace to benefit job seekers and employees with disabilities. We have pulled together national experts from industry, government and the consumer world to better understand the role assistive technology should play in the recruitment, retention, and advancement of people with disabilities in the workplace. As part of this effort, we have focused on both private sector employers and the Federal government.

In support of the President's Executive Order (EO) on the Increased Federal Employment of People with Disabilities, ODEP has taken the lead to work with OPM, EEOC, and GSA in the development of a new, comprehensive strategy to assist federal agencies to procure and promote these accessible innovations and to ensure that all Federal online systems are accessible. ODEP's goal in this area is to advance the development and adoption of accessible, interoperable, and usable information and communication technology (ICT) in the Federal workplace.

ODEP is currently developing a model framework as a next step in promoting the acquisition and adoption of accessible technology within agencies and across government. This framework can be used by OPM as part of a toolkit and/or guidance to advise and assist agencies in implementing their plans to meet the President's EO. The framework will address all aspects of the employee lifecycle, with a particular focus on supporting the retention and advancement of people with disabilities by ensuring equal opportunity in the workplace. This framework will provide policy, strategies and best practices that can be incorporated into agencies' plans and assist them in meeting their EO performance targets and goals. This framework is an important next step in implementing ODEP's vision of the accessible workplace of the future.

- 4. Your testimony suggests that we should broaden our focus to providing accommodations to serve our aging workforce. With so many Federal workers reaching retirement age, it is important that we allow those who wish to continue to work to do so. Please elaborate on this idea, including how we could encourage agencies to adopt this broader focus.**

The prevalence of disability within the aging workforce is approximately 42 percent for those people 65 and over (Disability Status 2000—Census 2000 Brief, March 2003). To address this issue, the Office of Disability Employment Policy (ODEP) held a roundtable discussion in December 2010, entitled Disability Implications of an Aging Workforce: Developing an Action Strategy, which was attended by more than 30 subject matter experts from the aging and disability communities. A set of specific recommendations will be forthcoming from this Roundtable in 2011 to include, but not be limited to, promoting the importance of workplace flexibility both to enable mature workers to remain in the workforce, as well as to enable others to re-enter and remain in the workforce. ODEP will work with Federal agencies to review and implement these recommendations as appropriate.

- 5. The Administration is making significant efforts to improve employment outcomes for people with disabilities. What recommendations, if any, do you have for legislation to improve these outcomes?**

ODEP, in partnership with the Department of Labor's Employment and Training Administration (ETA) and CRC, recommends that Workforce Investment Act (WIA)

reauthorization focus on changes that will strengthen the ability of the One-Stop system to provide effective services to people with disabilities. Reauthorization offers an opportunity to add legislative language that will increase the focus on disability-related requirements and the identification of possible discrimination against members of protected groups, including individuals with disabilities. In particular, ODEP recommends that language be added to further emphasize that One-Stop Career Centers must be both architecturally and programmatically accessible to all participants, including individuals with disabilities. See also our response to Question 2.

Further, public listening sessions conducted during 2010 yielded a wealth of information, including calls for support for collaboration, accountability, blended funding resources and common data collections across systems. ODEP will use information from these listening sessions, in combination with other evidence based research, to work with other agencies to promote a coordinated strategy across Federal agency jurisdictions. This coordinated strategy is necessary to address the multiple barriers to employment faced by youth and adults with disabilities, so that they have opportunities for integrated employment at a rate that is the same as individuals who do not have disabilities.

**Post-Hearing Questions for the Record
Submitted to the Honorable Chai R. Feldblum
From Senator Daniel K. Akaka**

**“Improving Federal Employment of People with Disabilities”
February 16, 2011**

- 1. The President’s Executive Order has reinvigorated efforts to improve employment of people with disabilities in the Federal government. What suggestions do you have for sustaining efforts over time?**

EEOC has long emphasized, through its Management Directive 715 and predecessors, a commitment to equal employment opportunity. We believe the best way to sustain the current momentum is to use our authority under MD-715 vigorously.

Under this authority, EEOC requires agencies to develop systems for the evaluation of program effectiveness and barrier identification and elimination; ensure that the agency has adequate data systems for effective analyses of applicant flow, on-board workforce and personnel transactions data; provide current guidance for the development of program plans to all component and field installations; establish agency-wide objectives and develop and submit program plans; and prepare accomplishment reports and plan updates for timely submission to EEOC.

As part of its process of review of agencies’ reports submitted pursuant to Management Directive 715, EEOC will aggressively scrutinize agencies’ compliance with Section 501 of the Rehabilitation Act. We will focus specifically on whether agencies have policies or practices that deny equal employment opportunities to individuals with disabilities, as well as whether they have effective plans to increase the employment of individuals with disabilities.

The Commission will also work with the Office of Management and Budget and the Office of Personnel Management to develop a new SF-256 that will make it easier for federal employees to self-identify their disability. This will improve the government’s ability to capture this important data and obtain a clear picture of the number of employees with disabilities in the federal government.

Finally, we need continued public accountability. Leaders at federal agencies receive the message loud and clear when the President and Congress pay attention to an issue. Having the President and the Congress review and publicly assess the progress the government is making as a whole will keep a strong light shining on this issue. In addition, having the President and the Congress review and publicly assess the progress of federal agencies, particularly the cabinet level agencies which employ approximately two-thirds of all Federal workers, should serve as a powerful motivator for those agencies to stay the course and systemically integrate efforts to improve the hiring and retention of persons with disabilities.

2. The Administration is making significant efforts to improve employment outcomes for people with disabilities. What recommendations, if any, do you have for legislation to improve these outcomes?

While Executive Order 13548 represents a tremendous step forward in the effort to hire and retain more individuals with disabilities, we believe that a coordinated strategy across the Federal government is necessary to continue implementation and determine next steps. We will keep Congress informed of the progress.

Finally, we encourage Congress to explore avenues which will allow all Federal government managers and supervisors to receive training on all civil rights laws, with a focus on their responsibilities under the Rehabilitation Act.

**Post-Hearing Questions for the Record
Submitted to Ms. Dinah Cohen
From Senator Daniel K. Akaka**

**“Improving Federal Employment of People with Disabilities
February 16, 2011**

1. Your testimony states that CAP has the authority to provide services to any Federal department or agency at the request of the head of the agency. However, I understand that not all agencies take advantage of CAP. Why do believe this is and what can be done to ensure all Federal employees have access to this assistance?

Answer: The Computer/Electronic Accommodations Program (CAP) authorization to provide services to other federal agencies was primarily focused on small agencies that did not have an established infrastructure to provide accommodations and services. In its first year, the Office of Management and Budget requested CAP to focus on the Small Agency Council members. By expanding beyond the Department of Defense (DoD) to serve 68 other federal agencies, CAP covers approximately 85-90 percent of the Executive Branch agencies. Several large agencies, such as the Departments of Education and Housing and Urban Development, the Internal Revenue Service (although the rest of Treasury is a CAP partner), and the Social Security Administration, are not CAP partners, as they have centrally-funded and/or coordinated accommodations programs similar to CAP. CAP did not focus on serving agencies that had established programs, since CAP was granted the authority but did not and has not received any specific appropriations for these partnerships. As DoD funds all CAP services for DoD and non-DoD partner agencies, further expansion to large federal agencies is not possible at this time.

2. Do the Federal agencies and departments that do have an agreement with CAP take full advantage of your services? If not, what can be done to ensure they better understand the services CAP provides and make it available to their employees?

Answer: When agencies first establish partnerships with the Computer/Electronic Accommodations Program (CAP), they tend to show new interest and high activity levels. Once the novelty of the partnership erodes, CAP struggles to engage agencies to be creative in using assistive technology to help across the employment lifecycle – including the recruitment, placement, training, and retention of employees with disabilities.

Each year, CAP provides a stakeholders report to each partner agency's designed point of contact (POC) as identified in the CAP partnership agreement. The stakeholders report provides an executive summary of annual activities and attaches the actual number of accommodations, total cost-savings, involvement in employment lifecycle programs, and trends comparing services over the partnership years. CAP also provides detailed information on its various initiatives in the federal sector, including interagency disability employment training events, programs designed to increase employment and retention of

people with disabilities, and other activities for partners to engage to help become a model employer of people with disabilities. CAP receives very little feedback from partner agencies regarding its recommendations and ideas due to the lack of authority of the agency's CAP partnership POC to move the program forward.

Since 2002, CAP has provided a myriad of training workshops and interagency events to engage CAP POCs and other stakeholders in the field. The partners' level of involvement or use of CAP reflects the overall lack of interest of employment of people with disabilities, lack of senior leadership involvement and overall agency accountability. CAP suggests that the CAP partnership POC be aligned with the agency's Senior Executive Service member that is designated as the agency's Executive Order POC for the Office of Personnel Management. By ensuring this individual's involvement with CAP, a higher level of senior management participation will increase the partner's authority to create change and hold the agency more accountable to utilizing CAP and assistive technology in agency strategic planning, analysis and desire for continuous improvement as it seeks to be an employer of choice for people with disabilities. This will also help break down communication barriers between the headquarters organization and field activities, enabling more people with disabilities across the Nation access to federal employment and career opportunities.

3. Over the years, CAP's authority and scope has been expanded a number of times to provide assistive technology and services to more Federal employees with disabilities. Do you believe CAP's current authority and scope are adequate to serve the needs of the Federal disability community or are there areas in which additional authority would be helpful for fulfilling CAP's mission?

Answer: The Computer/Electronic Accommodation Program (CAP)'s current scope based on the definition of assistive technology and services from the National Defense Authorization Act of 2001 is sufficient for today's assistive technology and service needs that a centrally-funded accommodations model can effectively implement and manage. CAP recommends agencies create and manage centralized resource pools for interpreting and personal assistant services at an agency level.

Furthermore, CAP currently serves agencies in the Executive Branch. The Legislative and Judicial branches can only use CAP for information and referral services and needs assessments services, but not for the procurement of free assistive technology. At this time, CAP cannot handle a larger customer scope.

4. In her testimony, Ms. Martinez mentioned emerging, assistive technologies that are available or being developed to help accommodate people with disabilities. Please provide information about these technologies and what is being done to help employees and agencies learn about and take advantage of them.

Answer: The Computer/Electronic Accommodations Program (CAP) is indirectly involved in the development of assistive technologies. Since CAP fills over 12,000 requests for assistive technologies each year, its staff engages the assistive technology

vendor community for information and procurement unlike any other organization in the world. This information and procurement influence, along with staff time researching new devices at the leading assistive technology conferences, help evolve the next generation of technologies.

Over the past two decades, CAP has taken more formal steps in partnering with federal laboratories to increase technology transfer and dual-use applications to impact employment productivity for people with disabilities. These activities include partnering with the Defense Advanced Research Project Agency and the Federal Laboratory Consortium. However, CAP's main influence in this emerging technologies arena involves the discovery and removal of integration and interoperability barriers. When a CAP customer requires assistive technology, CAP staff must work closely with an agency's information technology organization to ensure the hardware and/or software is certified and will properly function within the agency's parameters. This work brings CAP, the agency, and assistive technology vendors to create new models and platforms enabling all assistive technology users to benefit from the information and updated integration model.

Noticeable advancements in assistive technologies include the videophone for deaf individuals, portable note-taking devices and magnification devices for individuals who are blind or have low vision, and tools like the LiveScribe Pen for individuals with cognitive impairments or traumatic brain injury requiring a memory aid. As new devices such as these become available, CAP posts the information on its website, cap.tricare.mil. Assistive technology details are provided by disability type. In some cases, assistive technology videos and customer testimonials are available to demonstrate the power of the new devices to enable federal employees with disabilities and wounded Service members to be more productive members of today's federal workforce. All of the CAP videos are available at the CAP YouTube channel at www.youtube.com/user/TheDoDCAP#.

As accurately stated by Ms. Martinez, emerging and integrating assistive technologies are equipping individuals with disabilities to be more productive and successful in today's computer and telecommunications work environment. Improved inclusion of CAP in the emerging technologies discussions among developers, federal agencies, and researchers would allow the conversation to best focus on real needs of federal employees with disabilities. CAP is exploring the addition of a staff member to focus on the intersection of individual accommodation and system accessibility to help bridge employee needs with Section 508 implementation.

5. The Administration is making significant efforts to improve employment outcomes for people with disabilities. What recommendations, if any, do you have for legislation to improve these outcomes?

Answer: The Computer/Electronic Accommodation Program does not recommend further legislation at this time, as the Executive Order contains the needed elements for success if agencies are truly held accountable to its requirements.

