The Architecture of Partial Obligation:

How Federal Disability Policy Subsidizes a Major Retailer Without Securing Civil Rights Compliance

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Abstract

The federal government's relationship with major commercial actors operates through multiple programs simultaneously. A single large retailer may receive federal procurement contracts, claim federal tax credits for protected class hiring, accept federal program authorization for benefit delivery, host federally funded state agency placements of disabled workers, and benefit from state and local subsidies that include federal pass through funding for facility development. Each of these federal program relationships creates some form of obligation. Few of them, individually, produce programwide Section 504 coverage. This Article maps the layered federal nexus of one major retailer, Walmart Inc., across five federal program categories, and documents the gap between federal program integration and federal civil rights coverage that results. The argument is empirical rather than doctrinal. The doctrines that produce the gap (the recipient beneficiary distinction in *DOT v. Paralyzed Veterans of America*, the tax expenditure exemption traceable to *Regan v. Taxation With Representation*, the procurement at market value exemption in federal civil rights regulations) are established. The contribution is the recognition that the doctrines operate together across multiple programs to produce a regime of partial obligation in which the federal government has integrated itself structurally with the retailer across five program categories while the corresponding civil rights obligations have not traveled with the federal money. The Article documents each layer with public data, identifies the carveouts that prevent integration from producing coverage, and proposes coordinated reform across the five programs.

Keywords: Section 504; Section 503; federal financial assistance; *Paralyzed Veterans of America*; tax expenditure exemption; procurement carveout; Work Opportunity Tax Credit; Supplemental Nutrition Assistance Program retailer authorization; vocational rehabilitation; Community Development Block Grant; disability civil rights architecture

I. Introduction

The federal government's commercial relationships with major retailers are dense, multi program, and structurally significant for the retailers involved. A large national retailer may, in the same fiscal year, receive payment from federal agencies for procurement of goods, claim federal tax credits for hiring workers from protected class targeted groups, accept federal program authorization to participate as a benefit delivery channel for federal nutrition assistance, host federally funded state vocational rehabilitation agency placements of disabled workers in employment, and benefit from state and local economic development subsidies that draw on federal pass through funding for facility development. Each of these relationships is documented in public records. Each represents a meaningful federal investment in or engagement with the retailer's commercial operations. Together they constitute a substantial federal government engagement with a single commercial actor.

The civil rights consequences of this engagement are uneven. Federal procurement contracts trigger Section 503 of the Rehabilitation Act for federal contractor affirmative action obligations toward disabled workers,[1] but federal procurement contracts at market value are excluded from Section 504's federal financial assistance category and therefore do not trigger programwide nondiscrimination obligations.[2] Federal tax credits for hiring disabled workers operate through the tax code and are not federal financial assistance for Section 504 purposes under the tax expenditure exemption traceable to *Regan v. Taxation With Representation of Washington*.[3] Federal program authorization for Supplemental Nutrition Assistance Program retailer participation positions the retailer as a federal beneficiary rather than a recipient under *DOT v. Paralyzed Veterans of America*.[4] Federally funded state vocational rehabilitation placements travel from federal money to state agency (a Section 504 recipient) to the destination employer (whose Section 504 status remains contested in the lower courts).[5] Federally funded state and local subsidies including Community Development Block Grant pass through to retailer facility development may create facility level Section 504 nexus, but the empirical mapping of which facilities receive which federal funding is incomplete.[6]

The result is what this Article calls the architecture of partial obligation. The federal government has integrated itself structurally with the retailer across five program categories. Each program produces some form of civil rights obligation. No single program produces programwide Section 504 coverage. The aggregate engagement is substantial. The aggregate civil rights coverage is patchwork.

This Article maps the architecture using Walmart Inc. as the principal case study. The selection of Walmart is dictated by documentation: Walmart's federal relationships are unusually transparent on the public record, and the company's five dimension federal nexus can be mapped with publicly available data. The selection is not a singling out. The pattern documented here is likely representative of several large national retailers whose federal engagement spans similar program categories. The case study is the vehicle for understanding the pattern; the pattern is the contribution.

Part II of the Article documents Walmart's federal procurement contracting and the Section 503 jurisdiction that follows. Part III documents the Work Opportunity Tax Credit relationship and the tax expenditure exemption that walls off Section 504 nexus. Part IV documents the Supplemental Nutrition Assistance Program retailer authorization and the recipient beneficiary distinction that prevents Section 504 reach. Part V documents the state vocational rehabilitation placement relationship and the unresolved controlling entity doctrine that determines whether Section 504 obligations

[1] 29 U.S.C. §793.

[2] Title VI Legal Manual, Civil Rights Division, U.S. Department of Justice, Section VI.B (excluding procurement at market value from federal financial assistance); 45 C.F.R. §84.10 (codifying the procurement carveout in Department of Health and Human Services Section 504 regulations).

[3] *Regan v. Taxation With Representation of Wash.*, 461 U.S. 540 (1983) (treating tax exemption as not a subsidy for First Amendment purposes); 45 C.F.R. §84.10 (codifying the tax expenditure exemption).

[4] *Dep't of Transp. v. Paralyzed Veterans of Am.*, 477 U.S. 597 (1986). The recipient beneficiary distinction holds that Section 504 reaches entities that themselves receive federal financial assistance, not entities that economically benefit from federally assisted programs.

[5] *Compare Doe v. Salvation Army in the United States*, 685 F.3d 564 (6th Cir. 2012) (declining to extend Section 504 to a tenant of a Section 504 recipient where the tenant did not itself receive federal financial assistance), *with* cases recognizing broader controlling entity theories in other circuits. The doctrinal landscape on whether placement destinations inherit Section 504 obligations through the funded placement relationship is unsettled.

[6] 42 U.S.C. §§5301 et seq. (Housing and Community Development Act).

travel with the federally funded placement. Part VI documents Community Development Block Grant pass through to facility level subsidies and the inconsistent facility by facility Section 504 nexus that results. Part VII addresses the architecture in aggregate, identifying the structural pattern that emerges when the five dimensions are considered together. Part VIII proposes coordinated reform across the five programs. A brief Conclusion situates the empirical findings within the broader disability rights architecture.

The Article's argument is empirical. The doctrines that produce the gap are established. The novelty is in seeing the doctrines together: each carveout is defensible against the program it addresses; the aggregate operation of the carveouts across multiple programs produces a regime of partial obligation that no single carveout was designed to produce. Recognizing the aggregate pattern is the first step toward addressing it.

II. Dimension One: Federal Procurement Contracting

This Part documents Walmart's federal procurement contracting relationship and the Section 503 obligations that follow. The procurement relationship is the most documentary of the five dimensions because federal procurement awards are reported in detail on USASpending.gov and are subject to standardized data formats.

A. The Documented Procurement Record

Public records identify Walmart Inc., under the entity name "WAL-MART STORES, INC.," as a federal procurement contractor. The procurement awards documented on USASpending.gov include a twenty-five thousand twenty-five dollar gift card purchase by the Department of Veterans Affairs, a twenty-four thousand three hundred sixty dollar trailer purchase by the Department of Homeland Security, multiple Department of Justice television purchases in the eleven thousand to twenty-two thousand dollar range, Department of Defense bifocal lens purchases, Department of Homeland Security bottled water purchases, Department of Health and Human Services miscellaneous supply purchases, and Department of the Interior Indian school supply purchases. The contracts are individually modest in dollar volume but collectively cross the Section 503 ten thousand dollar jurisdictional threshold on multiple specific awards and on aggregate volume across federal agencies.[7]

The procurement record is consistent over time. Walmart has been a federal procurement contractor across multiple administrations and across multiple federal agencies, with contracts crossing the Section 503 threshold continuously over the relevant period.

B. Section 503 Jurisdiction

Section 503 of the Rehabilitation Act applies to federal contractors with contracts exceeding ten thousand dollars and requires affirmative action to employ and advance qualified individuals with disabilities.[8] Federal contractors with fifty or more employees and contracts of fifty thousand dollars or more must develop and maintain a written affirmative action program.[9] Walmart's procurement record places the company within both threshold categories. The company has individual contracts crossing the ten thousand dollar threshold, aggregate contract volumes crossing the fifty thousand dollar threshold across the period, and a workforce far exceeding the fifty employee threshold.

[7] Aggregate procurement volumes derived from USASpending.gov queries conducted in May 2026. The procurement record extends back at least to the 2008 reporting period and shows consistent patterns of small dollar contracts across multiple federal agencies.

[8] 29 U.S.C. §793(a); 41 C.F.R. pt. 60-741 (Office of Federal Contract Compliance Programs implementing regulations).

[9] 41 C.F.R. §60-741.40(a).

The company is therefore subject to OFCCP's full Section 503 regulatory apparatus: written affirmative action program requirements, utilization goal compliance, data collection and self identification obligations, periodic compliance evaluation, and the full range of enforcement options OFCCP may invoke.

C. The Procurement Carveout and Section 504 Limits

Federal procurement at market value is excluded from federal financial assistance for Section 504 purposes by DOJ interpretive guidance and the implementing regulations of the major Section 504 enforcing agencies.[10] The exclusion operates on the reasoning that the federal government, as purchaser, is engaging in an arm's length commercial transaction rather than extending assistance to the contractor.

The exclusion has the consequence that Walmart's federal procurement contracts do not produce Section 504 coverage of the company's broader operations. The company is subject to Section 503's employment focused affirmative action obligations through its federal contractor status, but it is not subject to Section 504's broader programwide nondiscrimination obligations through its federal procurement contracts. The company's treatment of disabled customers, the accessibility of its commercial premises, the design of its goods, and its broader operations are reached by other civil rights statutes (Title III of the ADA, state disability rights statutes, ADA Title I as employer over fifteen employees) but not by Section 504 through this dimension.

D. The Documentary Significance

Dimension One is documentary in a way that the other dimensions are not. The federal contractor status is established through specific named contracts with specific named federal agencies for specific dollar values. The Section 503 obligations are established through statutory threshold crossings that are not contested. The procurement carveout from Section 504 is established through regulatory text and DOJ interpretive guidance that are not contested.

What is contested, and what the broader Article addresses across all five dimensions, is whether the architecture of obligations produced by the procurement relationship is commensurate with the scale of federal engagement with the contractor. Section 503's employment focused affirmative action is a meaningful obligation. It is not the obligation that Section 504 would produce. The question of whether the procurement carveout is correctly calibrated, given the broader federal engagement with major retailers, is a question Part VII addresses.

III. Dimension Two: Work Opportunity Tax Credit

This Part documents Walmart's relationship with the Work Opportunity Tax Credit, the federal tax credit available to employers who hire workers from designated targeted groups including vocational rehabilitation referrals, Supplemental Security Income recipients, and certain disabled veterans.

A. The WOTC Architecture

The Work Opportunity Tax Credit, codified at 26 U.S.C. §51, provides federal tax incentives to employers who hire workers from designated targeted groups. The disability targeted groups include vocational rehabilitation referrals (workers referred to employment by state vocational rehabilitation agencies), Supplemental Security Income recipients, and certain disabled veterans. The credit value varies by targeted group and qualifying hours worked, with maximum credits in the range of two thousand four hundred dollars per qualifying hire for most disability targeted groups.

[10] Title VI Legal Manual, Section VI.B; 45 C.F.R. §84.10.

The credit is claimed through the federal tax code and is administered through joint Internal Revenue Service and Department of Labor authority. State workforce agencies certify the eligibility of individual workers through the IRS pre screening notice process.

B. Walmart's WOTC Participation

Walmart's specific WOTC claim volume is not publicly disclosed in granular form. The aggregate national WOTC claims have totaled approximately one billion dollars annually in recent years across all employers. Walmart's share of the aggregate is not separately reported.

Indirect evidence supports the inference that Walmart is a substantial WOTC claimant. The company has approximately 1.6 million United States employees. The company publicly advertises its hiring of workers from disability targeted groups including workers placed through state vocational rehabilitation agencies and workers with intellectual and developmental disabilities. The company participates in Project SEARCH and similar federally funded employment programs that produce eligible WOTC hires. The combination of scale, hiring pipeline composition, and publicly stated hiring practices makes substantial WOTC claim volume implicit in the company's hiring profile.

The company's hiring of workers from WOTC targeted groups is therefore both genuine and federally subsidized. The federal government provides tax credits specifically tied to the hiring of workers from the protected populations Section 504 covers.

C. The Tax Expenditure Exemption

The tax expenditure exemption excludes tax credits and tax deductions from the federal financial assistance category for Section 504 purposes. The exemption traces to *Regan v. Taxation With Representation of Washington*,[11] which treated tax exemption as conceptually distinct from direct subsidy for First Amendment purposes. The reasoning has been carried into federal civil rights regulations.[12]

The exemption has the consequence that Walmart's WOTC participation does not produce Section 504 coverage. The federal government provides Walmart with tax credits specifically because Walmart is hiring workers from federally recognized protected populations. The Section 504 civil rights regime does not attach as a result of the subsidy. The civil rights protections those workers receive depend on other regimes: Section 503 if the employer is a federal contractor (Walmart is, through Dimension One), ADA Title I as a general employer civil rights baseline, state employment discrimination statutes, and any other applicable obligations.

The tax credit adds federal financial value to the hiring relationship without adding federal civil rights protection. The relationship is structurally a federal subsidy without civil rights conditions.

D. The Coordination Failure

The federal government provides Walmart with substantial tax credits for hiring workers from disability targeted groups while imposing no additional civil rights obligation in exchange. The hiring is subsidized; the protection of the hired worker through Section 504 is not. The coordination failure is structural: WOTC operates through tax code administration (IRS and DOL coordination), and Section 504 operates through federal civil rights enforcement (multiple agency administration), without bridge mechanisms that would condition WOTC eligibility on Section 504 acceptance or that would use WOTC claim data to target Section 504 enforcement.

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[11] 461 U.S. 540 (1983).

[12] 45 C.F.R. §84.10 (codifying the tax expenditure exemption in the HHS 2024 Section 504 final rule).

The coordination failure can be addressed without amending Section 504 or expanding the federal financial assistance category. Targeted WOTC amendment conditioning credit eligibility on civil rights acceptance is one path. Administrative coordination between IRS, DOL, and Section 504 enforcing agencies is another. Neither requires legislative action that disturbs the broader Section 504 architecture.

IV. Dimension Three: SNAP Retailer Authorization

This Part documents Walmart's relationship with the Supplemental Nutrition Assistance Program. Walmart is the largest single retailer of SNAP-eligible food in the United States. The relationship is structurally significant for the company and for the program. The civil rights consequences of the relationship are determined by the recipient beneficiary distinction in *Paralyzed Veterans of America*.

A. Walmart's SNAP Footprint

Walmart's share of national SNAP redemptions has been reported in the range of twenty to twenty-five percent of total program volume across recent fiscal years.[13] The share is higher in rural and food desert markets, where Walmart often functions as the largest or only large format grocery retailer within a substantial geographic radius. In some markets, Walmart's presence is the principal SNAP delivery infrastructure available to program beneficiaries.

The company maintains SNAP authorization across substantially all of its United States retail locations. The authorization is granted by the United States Department of Agriculture Food and Nutrition Service under 7 U.S.C. §§2011 et seq. and 7 C.F.R. pt. 278.

B. The Recipient-Beneficiary Distinction

DOT v. Paralyzed Veterans of America held that Section 504 reaches only entities that themselves receive federal financial assistance, not entities that economically benefit from federally assisted programs.[14] The case involved a challenge by disability rights organizations to the Department of Transportation's conclusion that Section 504 did not apply to commercial airlines generally. The airlines benefited economically from federal grants to airport operators; the question was whether that economic benefit made them recipients of federal financial assistance within the meaning of Section 504. The Court held that it did not.

Applied to SNAP, the doctrine produces the conclusion that Walmart is a beneficiary rather than a recipient of federal financial assistance. The federal benefit flows to the SNAP recipient. The recipient spends the benefit at Walmart. Walmart is paid for goods at market rates. Walmart's position is structurally parallel to the airline's: an economic beneficiary of the federal program without direct receipt of federal funds.

The doctrinal classification has the consequence that Walmart's SNAP participation does not produce Section 504 coverage. The company is not a Section 504 recipient by reason of its SNAP authorization, however operationally significant the authorization is to the company's commercial operations.

[13] U.S. Dep't of Agric., Food & Nutrition Serv., *SNAP Retailer Management Year End Summary* (reporting retailer redemption shares); Numerator, *SNAP Spending Analysis* (2024) (estimating Walmart's share of national SNAP redemptions at approximately 25 percent), *as reported in* Supermarket News (Oct. 22, 2024).

[14] 477 U.S. 597, 605–07 (1986).

C. The Operational Integration That the Doctrine Does Not Address

The *Paralyzed Veterans* doctrine was developed against a factual configuration of diffuse economic benefit from federally subsidized infrastructure. Airlines benefited from airport improvements in diffuse ways across many actors; no airline's commercial existence depended on the federal program. The doctrine's reasoning was calibrated to that factual configuration.

The SNAP-Walmart relationship in food desert markets does not fit the diffuse beneficiary configuration. The relationship is operationally integrated: USDA cannot deliver SNAP at scale in many markets without Walmart, and Walmart's grocery operations in those markets depend substantially on SNAP redemptions for foot traffic, ancillary basket sales, and competitive positioning. The relationship is mutually constitutive in the markets where it operates most intensively.

The mutually constitutive character of the relationship is not addressed by the *Paralyzed Veterans* doctrine because the doctrine was not developed against operationally integrated facts. The doctrine's reading of the recipient beneficiary distinction may or may not survive sustained attention to operationally integrated configurations of federal program participation. The question is doctrinally open for cases that present the right facts. The doctrinal question is not addressed in this Article, which focuses on the empirical mapping of the layered nexus rather than on doctrinal reform of any particular carveout.[15]

D. The Civil Rights Consequence

The civil rights consequence is that Walmart's SNAP authorization, which is the most operationally significant federal program relationship the company maintains in many markets, does not produce Section 504 coverage. The company's treatment of SNAP recipients at the point of sale, including accessibility of stores, accessibility of products, and the broader accessibility of the SNAP transaction experience, is reached by Title III of the ADA and by state accessibility statutes, but not by Section 504 through this dimension.

The federal authorization creates substantial reputational and operational value for the company. The federal civil rights obligation does not follow.

V. Dimension Four: State Vocational Rehabilitation Placements

This Part documents Walmart's relationship with state vocational rehabilitation agencies. The relationship operates through federally funded state agency placements of disabled workers in Walmart employment. The relationship is structurally significant for both parties: Walmart receives workers prescreened and supported by state agency services, and the state agencies achieve placement outcomes that justify their federal funding.

A. The VR Funding Architecture

State vocational rehabilitation agencies are direct recipients of federal financial assistance under the Rehabilitation Act.[16] The agencies use federal funds to identify, support, and place disabled workers in employment.

[15] The narrow reading of *Paralyzed Veterans* that distinguishes operationally integrated federal program participation from diffuse economic benefit is developed in a separate working paper by the author. The argument is mentioned here for completeness but is not the subject of the present Article.

[16] 29 U.S.C. §§720 et seq. (State Vocational Rehabilitation Services Program). State agencies receive federal grants and provide rehabilitation services to eligible individuals with disabilities, including counseling, training, employment placement assistance, and post placement support.

Placement at a host employer like Walmart is one of the principal outcome measures by which VR agency performance is assessed. The agencies have institutional incentives to develop ongoing placement relationships with large employers willing to accept VR-supported workers at scale. Walmart's publicly advertised disability hiring program makes the company a natural destination for VR placements.

B. The Placement Relationship

The placement relationship is mediated by the state agency. The disabled worker is identified, assessed, and prepared for employment by the state agency under federal grant funding. The worker is then placed at Walmart, where the worker becomes a Walmart employee subject to Walmart's terms and conditions of employment. Some VR placements include continuing state agency support during the early employment period; others transition the worker to standard employment status once the placement is stabilized.

Walmart's role in the placement is the employer's role. Walmart hires the worker, pays the worker, and supervises the worker's employment. Walmart may receive Work Opportunity Tax Credit benefits for the hire if the worker meets WOTC targeted group criteria. Walmart may receive recruitment value from the prescreened workforce the state agency provides. Walmart does not, in the conventional sense, receive federal financial assistance for the placement.

C. The Controlling-Entity Doctrine

Whether Walmart, as the placement destination, inherits any Section 504 obligation through the federally funded placement relationship is the question that the circuit courts have not resolved. The doctrinal question turns on whether the controlling entity or operational integration analysis developed in some Section 504 cases extends to placement destinations of federally funded state agency programs.

The Sixth Circuit, in *Doe v. Salvation Army in the United States*,[17] declined to extend Section 504 to a tenant of a Section 504 recipient where the tenant did not itself receive federal financial assistance. The case involved a different factual configuration from VR placement, but the reasoning has been read by some courts as suggesting that downstream beneficiaries of federally funded relationships do not inherit Section 504 obligations through the upstream funding.

Other circuits have read controlling entity theories more broadly, permitting Section 504 reach to entities that exercise operational control over the activities of a federally funded entity in ways that affect protected class outcomes. The case base is sparse and the doctrinal landscape unsettled. No Supreme Court resolution exists.

D. The Practical Consequence

The unsettled doctrine has the consequence that disabled workers placed through state VR agencies at Walmart cannot confidently assert Section 504 coverage in advance of litigation. The workers' Section 504 status depends on the circuit they happen to be in and the specific configuration of the placement relationship. Litigation to establish coverage is itself burdensome and uncertain.

In practice, disabled workers placed through VR at Walmart receive civil rights protection from Section 503 (through Walmart's federal contractor status established in Dimension One), Title I of the ADA (as a baseline employer obligation), and state employment discrimination statutes. The additional protection that Section 504 might supply, if controlling entity doctrine reaches the placement destination, remains uncertain.

[17] 685 F.3d 564 (6th Cir. 2012).

The federally funded placement relationship therefore produces a worker population whose civil rights status is partially but not fully secured. The state agency that funded the placement is a Section 504 recipient with full obligations. The destination employer is a Section 503 federal contractor with affirmative action obligations but uncertain Section 504 status. The gap between the two is the workspace where the placed worker actually performs the job.

VI. Dimension Five: CDBG Pass-Through and Facility-Level Subsidies

This Part documents Walmart's relationship with federal pass through funding for facility development through state and local economic development authorities. The relationship is the most empirically opaque of the five dimensions because the federal share of state and local subsidies to private retailers is rarely separately reported.

A. Documented State and Local Subsidies

The Good Jobs First Subsidy Tracker has documented substantial state and local subsidies to Walmart over the past three decades. Aggregate documented subsidies have exceeded one billion dollars by the mid-2000s and have likely grown substantially since. The subsidies include tax increment financing, property tax abatements, free or discounted land, site preparation, infrastructure funding, sales tax rebates, and other forms of state and local economic development support.

The Good Jobs First documentation establishes that state and local subsidization of Walmart's expansion has been a consistent feature of the company's growth across the United States. The aggregate value of the subsidies is substantial in absolute terms and significant relative to the federal procurement contracts documented in Dimension One.

B. The Federal Pass-Through Question

State and local subsidies sometimes draw on federal pass through funding. Community Development Block Grants, codified at 42 U.S.C. §§5301 et seq., are administered by the Department of Housing and Urban Development and distributed to state and local entitlement jurisdictions that may use the funds for a wide range of community and economic development purposes, including infrastructure that supports private retail development.

Where a specific Walmart store's development included CDBG-supported infrastructure or site preparation, the federal share of the subsidy creates Section 504 nexus at that specific facility. The doctrinal mechanism is the pass through of federal financial assistance through the state or local recipient to the ultimate user of the federally supported infrastructure. The federal financial assistance status traveling through the pass through is the basis for Section 504 reach.

The empirical mapping of which specific Walmart stores received which specific federal pass through funding is incomplete. State and local economic development agencies do not consistently disclose the federal share of subsidies provided to private retailers, and the federal share is not consistently traced through to specific facility development decisions. A complete mapping would require facility by facility investigation through state and local public records, HUD CDBG documentation, and economic development agency disclosures.

C. Facility-Level Section 504 Nexus

For Walmart facilities whose development relied on CDBG-supported infrastructure, Section 504 applies to the activities the federal funds supported. The doctrinal scope of the application depends on the Civil Rights Restoration Act of

1987's program or activity definition[18] and the principally engaged test that determines whether a private corporation's entire operation is covered or only a geographically separate facility.[19]

For a typical private retailer, the principally engaged test would not produce entity wide coverage from facility level pass through. The retailer is principally engaged in commerce, not in providing the services that the federal pass through funded. The facility level coverage applies to the specific store rather than to the company's broader operations.

The result is that some Walmart facilities, identifiable through detailed pass through tracing, are Section 504 recipients with respect to the activities federal funds supported. Other Walmart facilities are not. The variability across the company's facility base is invisible to disabled customers, who cannot determine from any visible feature of a store whether the store carries Section 504 obligations.

D. The Patchwork Coverage Problem

The facility level variability creates a patchwork coverage problem. A disabled customer at one Walmart store may, in principle, have Section 504 rights with respect to certain store features supported by federal pass through funding. A disabled customer at another Walmart store may not. The customer has no way to determine the difference. The civil rights regime is rendered practically opaque by the empirical complexity of the pass through tracing.

The patchwork is not the product of any single doctrinal carveout. It is the product of the interaction between federal pass through funding mechanisms, the Civil Rights Restoration Act's program or activity definition as applied to private corporations, and the absence of disclosure requirements that would make facility level coverage status visible to affected populations. The pattern is structural, not particular to Walmart, and reaches across the major retail sector wherever federal pass through funding has supported facility development.

VII. The Architecture in Aggregate

This Part addresses the five dimensions in aggregate. The argument is that the dimensions, considered together, produce a structural pattern that no single dimension produces alone. Recognizing the pattern is the contribution of the Article.

A. The Aggregate Federal Engagement

Walmart's federal engagement, mapped across the five dimensions, is substantial. The company receives federal procurement payments documented in USASpending.gov records. The company claims federal tax credits for hiring workers from disability targeted groups. The company operates under federal authorization to participate in the principal federal nutrition assistance program. The company hosts federally funded state agency placements of disabled workers. The company has benefited from state and local subsidies that include federal pass through funding for facility development.

The aggregate federal engagement spans multiple statutory and regulatory regimes, multiple administering agencies, multiple program purposes, and multiple time periods. The engagement is consistent across administrations, geographically distributed, and structurally important to the company's commercial operations in ways that the individual dimensions do not fully capture in isolation.

[18] 29 U.S.C. §794(b).

[19] 29 U.S.C. §794(b)(3).

B. The Aggregate Civil Rights Coverage

The aggregate civil rights coverage produced by the federal engagement is patchwork. Section 503 applies to employment through the procurement dimension. ADA Title I applies to employment as a baseline employer obligation. Title III of the ADA applies to public facing operations. State accessibility statutes apply to public facing operations. State employment discrimination statutes apply to employment. Section 504 applies to specific facilities supported by federal pass through, where the pass through can be traced. Section 504 may apply to the placement destination relationship through controlling entity theories in some circuits.

The aggregate coverage is real but uneven. It reaches some of the company's operations comprehensively and other operations not at all. The reach depends on dimensions of the federal engagement that the disabled customer or worker cannot observe directly and may not be able to establish without litigation.

C. The Pattern of Partial Obligation

The pattern that emerges from the aggregate analysis is partial obligation. The federal government has integrated itself structurally with the retailer across five program categories. The civil rights coverage that follows is partial in three distinct senses.

First, the coverage is partial in scope. Each dimension produces some form of civil rights obligation, but no dimension produces programwide Section 504 coverage. The obligations cumulate but do not aggregate into the broader nondiscrimination regime that Section 504 represents.

Second, the coverage is partial in clarity. Several dimensions produce obligations that are doctrinally uncertain, geographically variable, or empirically opaque. The unsettled controlling entity doctrine in Dimension Four and the facility level patchwork in Dimension Five are the principal examples. The disabled person engaging with Walmart cannot determine from observable features what civil rights obligations attach.

Third, the coverage is partial in enforcement. Section 503's employment focused obligations are subject to the documented enforcement gap in OFCCP's Section 503 enforcement record. Title III enforcement requires private litigation that imposes substantial burdens on disabled plaintiffs. State enforcement varies across jurisdictions. The enforcement architecture does not match the scale of the federal engagement.

D. The Doctrinal Coherence of Each Carveout in Isolation

The carveouts that produce the partial obligation pattern are each individually defensible. The recipient beneficiary distinction in *Paralyzed Veterans* addressed a specific factual configuration and produced reasoning that prevented Section 504 from reaching diffuse economic beneficiaries of federally subsidized infrastructure. The tax expenditure exemption in *Regan* addressed First Amendment doctrine in a tax exempt status case and produced reasoning that has been carried into federal civil rights regulations. The procurement at market value exemption reflects the federal government's interest in operating as a commercial purchaser without imposing civil rights conditions on its vendors. The Civil Rights Restoration Act's principally engaged test for entity wide coverage was designed to prevent overextension of Section 504 to private corporations engaged primarily in commerce.

Each carveout reflects reasoning about the specific program or doctrine it addresses. The reasoning is not unreasonable when considered in isolation.

E. The Aggregate Incoherence

The aggregate of the carveouts, considered together across multiple federal programs and multiple disability civil rights doctrines, produces a regime that none of the individual carveouts was designed to produce. The federal government has substantial engagement with the retailer. The civil rights coverage is patchwork. The retailer captures the benefit of the federal engagement (procurement revenue, tax credits, program authorization, state agency placements, facility subsidies) while bearing only fragmentary civil rights obligations toward the protected populations the engagement involves.

The aggregate is the architecture of partial obligation. It is not the product of any single doctrinal failure. It is the product of multiple individually defensible doctrines operating together across multiple programs without coordination among them.

The structural problem this Article identifies is not the existence of any particular carveout. The structural problem is the absence of coordination across the federal disability civil rights architecture that would prevent the aggregate from producing a regime of partial obligation.

VIII. Coordinated Reform

This Part proposes coordinated reform across the five federal program categories. The proposals operate at multiple levels: administrative coordination, regulatory amendment, statutory amendment, and enforcement intensification. The reforms address the pattern of partial obligation rather than any single carveout.

A. Administrative Coordination Across Federal Agencies

The five federal program categories are administered by different federal agencies: General Services Administration and individual procurement engaged agencies for Dimension One, IRS and DOL for Dimension Two, USDA Food and Nutrition Service for Dimension Three, Department of Education Rehabilitation Services Administration for Dimension Four, and HUD for Dimension Five. The civil rights enforcement responsibilities are similarly distributed across agencies: OFCCP for Section 503, multiple agency civil rights offices for Section 504 where applicable, and Department of Justice for ADA enforcement.

Coordination across these administering agencies would produce data sharing arrangements, joint enforcement initiatives, and shared targeting priorities. The coordination operates within existing statutory authority where the disclosure exceptions permit and may require targeted statutory amendment where existing exceptions do not reach the specific data sharing needed.

B. WOTC Conditioning on Section 504 Acceptance

The Work Opportunity Tax Credit statute can be amended to condition credit eligibility on the employer's acceptance of Section 504 obligations toward the workers the credit subsidizes. The amendment does not require the employer to become a Section 504 recipient with respect to all of its operations. It conditions the WOTC benefit on Section 504 acceptance with respect to the specific employment relationship the credit subsidizes.

The amendment closes the structural incoherence at the WOTC level. The employer that wants the credit accepts the civil rights obligation. The employer that does not want the obligation does not claim the credit. The tradeoff operates within the existing tax incentive structure.

The political feasibility of the amendment depends on the broader political appetite for adding strings to a tax credit that has had bipartisan support as a no strings hiring incentive. The tradeoff, however, is between a tax expenditure that subsidizes disability hiring without protecting hired workers and a tax expenditure that subsidizes disability hiring and protects them. The latter is more consistent with the federal government's stated commitments to disability rights.

C. SNAP Retailer Authorization Conditioning on Accessibility

USDA Food and Nutrition Service regulations governing SNAP retailer authorization can be amended to condition authorization on accessibility compliance at the point of sale. The amendment operates through administrative rulemaking and does not require statutory action.

The conditioning would require authorized retailers to maintain physical accessibility of stores, accessibility of products' essential point of sale information, accessibility of staff assistance, and parallel obligations. The conditioning does not require Section 504 compliance in the conventional sense; it requires accessibility compliance as a freestanding term of the federal authorization.

A more durable version of the conditioning would amend the SNAP statute itself, 7 U.S.C. §§2011 et seq., to require accessibility compliance as a condition of authorization. The statutory amendment is more durable than the regulatory amendment, at the cost of higher political activation energy.

D. Controlling-Entity Doctrine Clarification

The unsettled controlling entity doctrine in Section 504 case law produces the uncertainty in Dimension Four. Clarification could come through Supreme Court resolution of a circuit split, through DOJ interpretive guidance setting forth the federal government's position on the question, or through targeted regulatory amendment at the Section 504 enforcing agencies that defines the controlling entity standard for federal regulatory purposes.

The DOJ and regulatory amendment paths operate within existing statutory authority and produce clarification without waiting for Supreme Court adjudication. The clarification would settle the doctrine for federal civil rights enforcement purposes and would produce greater predictability for disabled workers placed through federally funded state agency programs.

E. Facility-Level CDBG Disclosure

HUD CDBG administration can be augmented with disclosure requirements that would make facility level pass through to private retailers transparent. The disclosure would identify federal pass through funding by recipient retailer and facility, producing public information about which facilities carry Section 504 nexus through pass through.

The disclosure operates through administrative rulemaking at HUD. The disclosure does not change the substantive law of Section 504 reach. It changes the empirical accessibility of the information that determines whether Section 504 reach applies to a specific facility.

F. Section 503 Enforcement Intensification

OFCCP's Section 503 enforcement can be intensified through systematic compliance evaluation targeting, public reporting, agency coordination, capacity building, and credible use of debarment authority. The intensification operates within existing statutory authority.

G. The Package

The proposals canvassed in this Part operate together as a coordinated package. No single proposal closes the architecture of partial obligation. Together they address the architecture at multiple levels and through multiple mechanisms. The package can be pursued incrementally, with administrative coordination and regulatory rulemaking producing near term gains while statutory amendments produce longer term durability.

The package does not require revisiting any of the underlying disability civil rights statutes in their core provisions. The package operates through administrative implementation, regulatory amendment of specific program rules, and targeted statutory amendment of specific federal subsidy programs to align the subsidy structure with the civil rights protection structure.

IX. Conclusion

The architecture of partial obligation is not the product of any single doctrinal failure. It is the product of multiple federal programs operating across multiple administering agencies with multiple individually defensible doctrinal carveouts that, in aggregate, produce a regime in which the federal government engages substantially with a major retailer while imposing only fragmentary civil rights obligations toward the protected populations the engagement involves.

The Walmart case study illustrates the architecture with unusual documentary clarity. The five dimensions of federal engagement are public on the record. The civil rights consequences of each dimension are doctrinally established or doctrinally unsettled in identifiable ways. The aggregate pattern is what emerges when the dimensions are considered together.

The pattern is not unique to Walmart. The pattern is structural and reaches across the major retail sector and likely beyond, to other industries with comparable federal engagement profiles. The pattern is the proper subject of disability civil rights analysis and reform, not because any single carveout is uniquely problematic, but because the aggregate of the carveouts produces a regime of partial obligation that no single carveout was designed to produce.

Recognizing the pattern is the first step toward addressing it. The Article proposes coordinated reform across the five federal program categories, operating through administrative coordination, regulatory amendment, statutory amendment of specific subsidy programs, and enforcement intensification. The reforms do not require revisiting the underlying disability civil rights statutes in their core provisions. The reforms operate within and adjacent to the existing architecture to produce coordination across federal programs that the current architecture lacks.

The federal commitment to disability rights, expressed in statutes, regulations, and international representations, is substantial. The architecture of partial obligation does not match that commitment. Closing the gap is administrative and institutional work, not doctrinal reconstruction. The path forward is recognizable. What is required is the will to pursue it.

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