United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

OCT 7 2005

OFFICE OF CIVIL RIGHTS DIRECTIVE 2005-05

To: Bureaus/Offices Equal Employment Opportunity Officers

From: Sharon D. Eller, Director
Office of Civil Rights

Subject: Implementation of Revised Departmental Procedures on Reasonable Accommodation for Individuals with Disabilities

Effective September 7, 2005, the revised Departmental procedures on Reasonable Accommodation for Individuals with Disabilities were approved for inclusion in the Departmental Manual (373 DM 15). The reasonable accommodation procedures previously issued on July 13, 2004 were revised based on comments received from bureaus/offices and the Equal Employment Opportunity Commission. The procedures were revised to ensure full compliance with Executive Order 13164, as it relates to processing requests for reasonable accommodation under Section 501 of the Rehabilitation Act of 1973, as amended. A copy of the revised procedures is attached.

EEO Offices should ensure that the previously issued reasonable accommodation procedures are discarded and the newly revised procedures, as published in 373 DM 15 effective September 7, 2005, are distributed throughout the bureaus/offices for immediate implementation. The reasonable accommodation procedures should be integrated into existing training for managers and supervisors, as well as employees involved in the recruiting and hiring processes. The procedures must be accessible to all employees and applicants.

The procedures on Reasonable Accommodation for Individuals with Disabilities can be found on the Office of Civil Rights website http://www.doi.gov/diversity/ and the Department's Electronic Library of Interior Policies (ELIPS) website http://elips.doi.gov/app_DM.

Attachment

Distribution: All Bureaus/Offices Equal Opportunity Offices
All Bureaus/Offices Human Resources Offices

Inquiries: Ophelia Anderson, Departmental Office of Civil Rights, (202) 219-0805

Department of the Interior
Departmental Manual

Effective Date: 9/7/05
Series: Personnel Management
Part 373: Equal Opportunity
Chapter 15: Reasonable Accommodation for Individuals with Disabilities

Originating Office: Office of Civil Rights

373 DM 15

15.1 **Purpose.** This chapter provides the Departmental policy and procedures for reasonable accommodations for individuals with disabilities. It establishes the requirements and instructions by which Departmental employees will act on requests for reasonable accommodation from employees or applicants for employment.

15.2 **Authority.**

A. Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791).

B. U.S. Equal Employment Opportunity Commission (EEOC) Regulations at 29 CFR Part 1614 (Federal Sector Equal Employment Opportunity).

C. EEOC Management Directive 715.

15.3 **Policy**. The Department of the Interior (DOI) will provide reasonable accommodation for the known physical or mental limitations of a qualified employee or applicant with a disability unless the accommodation would impose an undue hardship on the DOI.

15.4 **Scope.** The policy and procedures in this chapter apply to all employees of the DOI and applicants for employment with DOI who have a disability as defined in 15.5 below.

15.5 **Definitions**.

A. Reasonable accommodation is a logical change or adjustment to a job or worksite that makes it possible for qualified employees with disabilities to perform the essential functions of the position in question. The other two categories of reasonable accommodation: modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job; and modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.

B. Individual with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

C. Physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genitourinary, hemic and lymphatic, skin, and endocrine, or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

D. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

E. Has a record of such an impairment is defined as having a history of, or being classified (or misclassified) as having, a mental or physical disability that substantially limits one or more major life activities.

F. Regarded as having such an impairment is defined as having a physical or mental impairment that does not substantially limit major life activities, but is treated by an employer as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such an impairment; or has none of the impairments defined above but is treated by an employer as having such a limitation.

G. A qualified individual with a disability is one who satisfies the skill, experience, education and other job-related requirements of the employment position the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

H. Essential functions of a job are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his/her ability to perform it.

I. Undue hardship occurs if a specific type of accommodation causes significant difficulty or expense by the agency to accomplish. In such a case, that particular accommodation does not have to be provided. Determination of undue hardship is always made on a case-by-case basis, considering such factors that include the nature and cost of the accommodation needed and the impact of the accommodation on the organization. Overall resources of the DOI will be taken into consideration. See Section 15.9, Factors in Determining Undue Hardship.

J. A request for accommodation is a verbal or written statement that an individual needs an adjustment or a change at work or in the application process for a reason related to a

medical condition. Additional information, as appropriate, may be obtained through the interactive process which follows the request.

15.6 **Responsibilities.**

A. The Director, Office of Civil Rights is designated as the DOI management official responsible for ensuring there is DOI-wide policy on reasonable accommodation (that is, ensuring that reasonable accommodations are made for qualified employees or applicants with a disability in accordance with applicable laws, regulations, and bargaining unit agreements) and for establishing DOI procedures to facilitate the provision of reasonable accommodation. The Director, Office of Civil Rights will designate a Disability Program Manager who has administrative responsibility for the DOI-wide program.

B. The Disability Program Manager (DPM) is responsible for interpreting policy and providing guidance to bureau/office directors, managers, supervisors, employees, and applicants on matters related to reasonable accommodation. If the DPM has had any involvement with the processing of a particular request for reasonable accommodation, he/she must recuse him/herself from any involvement in the processing of an EEO claim in connection with that request.

C. The Servicing Human Resources Officer (HRO) is responsible for providing operational human resources services to the bureau/office. The HRO, or designated staff, serves as the employment officer and is responsible for conducting job analyses on vacancies to ensure that the knowledge, skills and abilities identified are related to the essential functions of the job, and that barriers are removed from the hiring process. The HRO is responsible for training human resources specialists who are involved in the application process to recognize requests for reasonable accommodation and handle them in accordance with this chapter.

D. Supervisors, managers, and Office Directors, or designated staff, shall serve as deciding officials on requests for reasonable accommodations. First-line supervisors are authorized to respond to, and make determinations on, requests for reasonable accommodation. These determinations will be made in consultation with appropriate officials such as Facilities Managers, Information Resource Management Specialists, Physicians, Human Resources Specialists, Attorneys in the Solicitor's (SOL) Office, or other individuals and organizations that can assist in determining appropriate accommodations. The supervisor/manager will serve as a liaison between the office and the Human Resources Officer. All DOI supervisors and managers are responsible for ensuring that selections of qualified individuals with disabilities are made in a non-discriminatory manner and that the procedures for the reasonable accommodation of individuals with disabilities are implemented.

E. Supervisors, managers, and designated Office of Civil Rights and Human Resources staff are encouraged to contact the Solicitor's Office personnel attorneys with questions and requests for legal advice regarding the Rehabilitation Act, including its prohibitions and requirements, and the EEOC's regulations and enforcement guidance applicable to the Rehabilitation Act and to reasonable accommodation. SOL personnel attorneys are available to provide legal advice and guidance regarding, among other things, what constitutes a "qualified

individual with a disability," and requests for reasonable accommodation, as well as bureaus/offices' reasonable accommodation assessments and decisions.

F. Employees and applicants for employment are responsible for bringing their requests for reasonable accommodation to the attention of the appropriate agency official. Employees and applicants may use an alternate dispute resolution (ADR) approach to working through their requests with deciding officials. The DOI Office of Collaborative Action and Dispute Resolution is available for assistance during the initial request as well as upon reconsideration. (Examples of means of reasonable accommodation are provided in 15.8.)

15.7 **Guidelines for Assessing and Providing Reasonable Accommodation.**

A. Overview. Accommodations are determined on a case-by-case basis, taking into consideration the needs of the applicant or employee, his/her specific disability, the essential duties of the position in question, the work environment, and the reasonableness of the proposed accommodation. In all cases where an accommodation request is not approved, the qualified individual with a disability must be consulted before an alternative accommodation is provided.

(1) An accommodation must be work-related and not for personal needs use. DOI does not have to provide as reasonable accommodations personal use items needed in accomplishing daily activities both on and off the job. Thus, DOI is not required to provide an employee with a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices if they are also needed off the job. Furthermore, DOI is not required to provide personal use amenities, such as a hot pot or refrigerator, if those items are not provided to employees without disabilities. However, items that might otherwise be considered personal may be required as reasonable accommodations where they are specifically designed or required to meet job-related rather than personal needs.

(2) The responsibility to provide reasonable accommodation does not end when the individual with a disability is placed in a position. The accommodation must also be considered in training, merit staffing processes, and any other aspect of employment that would be adversely affected if the bureau/office failed to provide reasonable accommodation.

B. Reasonable Accommodation Assessment. ***DOI bureaus/offices are required to make reasonable accommodation for a qualified individual with a disability unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of DOI.*** Such a determination must be made on an individual basis. Alternatives will be explored to determine if the accommodation is the most effective one for both the individual with a disability and the bureau/office.

(1) The first step in determining an appropriate accommodation after a request is received from a qualified individual with a disability is to review the accommodation requested to determine if it is reasonable. The reasonableness of the proposed accommodation means that the accommodation "seems reasonable on its face, i.e., ordinarily or in the run of cases," "plausible," or "feasible," as defined by the Supreme Court in U.S. Airways v. Barnett, 535 U.S. 391 (2002). Furthermore, an accommodation must also be effective. An accommodation is

effective if it meets the needs of the individual in question. In the context of job performance, this means that the reasonable accommodation enables the individual to perform the essential functions of the position. Similarly, a reasonable accommodation enables an applicant with a disability to have an equal opportunity to participate in the application process and be considered for the job. A reasonable accommodation allows an employee with a disability an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy. If it is determined that the requested accommodation is not "reasonable," the supervisor or manager who made the determination must consult with the employee with the disability and ask for suggestions as to what alternative accommodations would enable him/her to perform the essential functions of the job.

(2) When providing auxiliary aids (e.g., assistive technology, ergonomic equipment, TTY, interpreter), the supervisor or manager should give preference to that requested by the individual with the disability, unless that which was requested constitutes an undue hardship.

(3) Accommodations need to be made to the ***known*** physical or mental limitations. DOI bureaus/offices are not obligated to make an accommodation for a job interview, or for an existing job, until the applicant or employee has communicated his/her needs. Bureau/Office officials involved in the application process should ensure that vacancy announcements explain what the application process involves and indicate to whom interested parties should make requests for reasonable accommodation if needed for the application process. Managers and supervisors should review EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (revised October 17, 2002), Question 40, at www.eeoc.gov, which describes a situation in which a supervisor might have to ask an employee if he/she needs a reasonable accommodation even if the employee does not communicate a need for one.

(4) The reasonableness of a particular accommodation may be clarified by considering the following questions:

(a) Is the accommodation necessary for the performance of essential duties?

(b) What effect will the accommodation have on the bureau/office's operation and the employee's job performance?

(c) To what extent does the accommodation compensate for the limitations of an employee with a disability?

(d) Will the accommodation give the employee the opportunity to function, participate, or compete on a more equal basis with co-workers?

(e) Are there alternatives that would accomplish the same purpose?

15.8 **Means of Reasonable Accommodations.** Examples of the kinds of actions that may constitute reasonable accommodation are listed below. Reasonable accommodation may include, but shall not be limited to the following:

A. Making facilities readily accessible to and usable by a person with a disability.

B. Job restructuring, including part-time or modified work schedules.

C. Acquisition or modification of equipment or devices.

D. Appropriate adjustment or modification of examinations.

E. Provision of readers and interpreters (see Appendix I).

F. Accommodations for meetings, conferences, training and seminars.

G. As a last resort, reassignment.

15.9 **Factors in Determining Undue Hardship.**

A. The following are some factors that may be considered in determining whether an employee's or applicant's requested accommodation would impose undue hardship.

(1) The overall size of the program with respect to the number of employees, number and type of facilities, and size of budget.

(2) The type of operation, including composition and structure of the workforce.

(3) The nature and cost of the accommodation.

B. The bureau/office, in identifying resources for providing reasonable accommodations, must consider all DOI sources of funding before rendering any determination that an accommodation presents an undue hardship. Further, the bureau/office may seek assistance through non-DOI sources (see Appendix II).

15.10 **Acting on Reasonable Accommodation Requests.**

A. Initiating Request for Reasonable Accommodation. When an employee or applicant makes a request for reasonable accommodation, either on his/her own behalf, or through a family member, health professional, or other representative acting on the individual's behalf, the following requirements apply:

(1) For an employee, the ***request may be made verbally or in writing*** to his/her supervisor, another supervisor or manager in his/her immediate chain of command, the Office Director, the Office of Civil Rights, the Disability Program Manager, the Servicing Personnel

Office, or other appropriate office. The employee's request must state, at a minimum, that he/she needs an adjustment or change at work for a reason related to a medical condition.

(2) For an applicant for employment, the request ***may be made verbally or in writing*** to the Servicing Personnel Office, the Office of Civil Rights, the Disability Program Manager, the interviewer from the office having the vacancy for which he/she wants to be considered, or any bureau/office employee with whom he/she has had contact. The applicant's request must state, at a minimum, that he/she needs an adjustment or change in the application process for a reason related to a medical condition.

(3) ***A verbal request for accommodation is deemed accepted when made.*** For record-keeping purposes only, the employee or applicant may also submit the request in writing. Otherwise, the request for accommodation will be documented by the individual to whom the request was made. (A sample confirmation of request for accommodation is provided at Appendix III.) ***The bureau/office must not wait until a written request or other recordkeeping form is received before processing a verbal request for reasonable accommodation.***

(4) DOI bureaus/offices must not require the requesting individual to use any particular words, for example, the Rehabilitation Act and the phrase "reasonable accommodation" when requesting reasonable accommodation.

(5) ***If a requested accommodation is approved and is of the type that will be needed on a repeated basis (e.g., sign language interpreter), the individual does not have to submit an additional request each time the accommodation is needed.*** In such cases, the bureau/office must provide the accommodation on an as needed basis. The EEOC has issued federal sector decisions holding that in some circumstances where an individual has a recurring, predictable need for accommodation, the agency may be obligated to provide the accommodation as needed, whether or not the individual has requested it.

(6) ***All requests for and provision of reasonable accommodations must be kept confidential.*** An employer may not disclose that an employee is receiving a reasonable accommodation because this usually amounts to a disclosure that the individual has a disability. The ADA specifically prohibits the disclosure of medical information except in certain limited situations, which do not include disclosure to coworkers. Managers and supervisors should review EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (revised October 17, 2002), Question 42, which provides guidance on ways to respond to other employees' inquiries without violating confidentiality.

B. Timelines for Acting on Requests for Reasonable Accommodation.

(1) Upon receipt of an employee's request for reasonable accommodation, the official who received the request will forward it to the employee's supervisor/manager in no more than ***five (5) business days.*** Upon receipt of an applicant's request for reasonable accommodation, the official who received the request will forward it to the supervisor/manager who has the vacant position for which applied. The supervisor/manager must review the request and issue a written decision to the employee or applicant within ***ten (10) business days*** (in

instances where no medical documentation is required) from the date the supervisor/manager received the verbal or written request. The written decision must state whether the proposed accommodation will be made and include a specific description of the actions to be taken. After the issuance of a written decision to grant an accommodation, the deciding official will provide the accommodation within ***twenty (20) business days*** from the date the request was received by the deciding official absent such extenuating circumstances as described in 15.10B(4) below. In any event, the deciding official will keep the employee or applicant informed on delivery of the accommodation. Notwithstanding the timeframes authorized by these procedures, some accommodations can be provided in less time. Failure to respond promptly to a request for reasonable accommodation may constitute a violation of the Rehabilitation Act. In instances where reasonable accommodations can be provided in less time than prescribed in these procedures, bureaus/offices must make every effort to do so.

(2) If medical documentation is required by the deciding official, he/she will issue a written decision to the employee in no more than ***ten (10) business days*** from the date the medical documentation was received. At the deciding official's option, medical information submitted in connection with a request for reasonable accommodation may be reviewed by a DOI medical officer, who will provide an advisory opinion to the deciding official. The bureau/office also has the right to have medical information provided by the employee or applicant reviewed, at the organization's expense, by a medical expert of the organization's choosing. ***Bureaus/Offices must not request medical documentation in support of every accommodation request, regardless of circumstances.***

(3) Pursuant to the Privacy Act, medical documentation submitted in support of any request for reasonable accommodation will be ***sealed and maintained in secure storage,*** separate from Official Personnel Files, by the Servicing Personnel Office. In addition, individuals who have access to information necessary to make a decision about whether to grant a requested accommodation may not disclose this information except as follows:

(a) supervisors/managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s);

(b) first aid and safety personnel may be told if the disability might require emergency treatment;

(c) government officials may be given information necessary to investigate DOI bureau/office's compliance with the Rehabilitation Act;

(d) the information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers; and

(e) EEO officials may be given the information to maintain records, evaluate, and report on bureau/office's performance.

Where medical information is disclosed to any of the foregoing officials, bureau/office officials must inform those individuals about the confidentiality requirements attached to such information.

(4) Every attempt must be made to process requests for reasonable accommodation in as short of a time as possible. Extenuating circumstances may delay the provision of reasonable accommodation within the stated time frame. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. These can include, but are not limited to, situations in which equipment is on back order, the vendor typically used by the organization has unexpectedly gone out of business, or the accommodation requires restructuring facilities.

(5) The supervisor/manager, Office Director, or designee, who is responsible for making a decision on a request for accommodation will identify him/herself as the deciding official to the employee or applicant and consider the following in determining whether an accommodation can be provided:

(a) the employee's or applicant's specific disability and existing limitations;

(b) the essential duties of the particular job;

(c) the work environment; and

(d) whether the proposed accommodation would result in undue hardship for the organization.

(6) The supervisor/manager, Office Director, or designee, must confer with the employee or applicant where the specific limitation, problem, or barrier is unclear, where an effective accommodation is not obvious, or where the parties are choosing between different possible reasonable accommodations. Information about reasonable accommodations, including telephone help for identifying specific reasonable accommodations, is at Appendix II.

(7) The supervisor/manager, Office Director, or designee, may consult with other officials, such as Facilities Managers, Information Resource Management Specialists, Physicians, Human Resources Specialists or the Disability Program Manager to process requests for reasonable accommodation, if necessary.

(8) When necessary, expedited processing of a request for an accommodation should occur. Expedited processing might be necessary where the accommodation is needed to apply for a position or to participate in a specific activity that is scheduled to occur shortly. ***Failure to respond promptly to a request for reasonable accommodation, especially in those situations where the accommodation could be provided in an expedited manner, may result in a violation of the Rehabilitation Act.***

(9) If there is either a delay (beyond the timelines prescribed in these procedures) in processing a request for reasonable accommodation, or after a request is approved, a delay in

delivering the accommodation, the deciding official must notify the employee or applicant of the reason for the delay, and to the extent possible, keep the employee or applicant informed of the date on which the request is expected to be completed. In the event of such a delay, the supervisor/manager, or deciding official, must investigate whether there are temporary measures that could be taken to assist the individual with a disability.

(10) Supervisors and managers are strongly encouraged to implement practices that will reduce barriers that could make it difficult to provide effective accommodations. Possible practices include: establishing a central pool of readers and interpreters, and implementing funding mechanisms that will avoid charging individual offices for the cost of accommodations. (See EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 20, 2000), Question 12, available on EEOC's website.)

(11) Each bureau/office is reminded that it should take steps to anticipate and limit impediments that may cause unnecessary delay in providing reasonable accommodation, by reviewing and modifying, in advance of a specific request, any policies that might affect the bureau/office's ability to respond promptly to requests for reasonable accommodation. Among the policies that should be reviewed are those that affect: the purchasing or leasing of equipment; the hiring of, or contracting for, readers, interpreters, or other assistants; and the flexibility to approve leave or to restructure work schedules. (See EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 20, 2000), Question 15, available on EEOC's website.)

C. Requesting Medical Information.

(1) The deciding official may request medical information sufficient to substantiate that the individual has a disability and needs reasonable accommodation, but ***must not request medical documentation where:***

(a) the disability and need for accommodation are obvious or otherwise already known; or

(b) the individual has already provided DOI with sufficient information to document the existence of the disability and his/her functional limitations.

Requests for medical information will follow the requirements set forth in the EEOC's Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (July 27, 2000), available on EEOC's website.

(2) When the standards for requesting medical information have been met, as identified in 15.10C(1) above, the deciding official may request information or documentation regarding:

(a) the nature, severity, and duration of the individual's impairment;

(b) the activities that the impairment limits;

(c) the extent to which the impairment limits the individual's ability to perform the activities; and/or

(d) why the individual requires reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workforce.

(3) The deciding official has the right to request relevant supplemental medical information only if the initial medical documentation submitted did not clearly explain the nature of the disability, or the need for the reasonable accommodation, or did not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace, or, in the case of an applicant, assist him/her with the application process. If relevant supplemental medical information is requested, the deciding official must explain to the employee or applicant why the documentation already submitted was insufficient and identify the medical documentation still needed.

(4) When a deciding official is entitled to request medical information under the standards set forth above, the deciding official may have that information reviewed by the agency's medical expert at the agency's expense, in order to assist in making a decision on the request.

(5) If the employee or applicant is unable to provide sufficient information in support of the request, the deciding official may request that the individual be examined by a healthcare professional of the organization's choice and at the organization's expense. Any such medical examination must be limited to determining the existence of a disability and/or the functional limitations that require an accommodation. Where a medical examination is warranted, the deciding official must explain to the individual that failure to agree to take the medical examination could result in a denial of the accommodation.

D. Reassignment. Reassignment is a ***"last resort"*** form of reasonable accommodation that must be provided, absent undue hardship, to an employee who, because of a disability, can no longer perform the essential functions of the position he/she holds, with or without reasonable accommodation. Reassignment is available only to employees, not to applicants. Reassignment may be made only to a vacant position. The law does not require that agencies create new positions or move employees from their jobs in order to create a vacancy.

(1) ***If the deciding official determines that no reasonable accommodation will enable the employee to perform the essential functions of his/her position, the deciding official must, in consultation with the employee, consider reassignment of the employee to a vacant funded position for which he/she is qualified.*** The determination on qualifications will be made by the Office Director, or designee, in consultation with the Servicing Human Resources Officer. If any such position(s) is identified, a determination will be made as to whether the employee would need an accommodation to perform in any such position.

(2) Reassignment to a vacant funded position may occur first within the bureau/office and geographical area where the employee is already employed. In the event a position can not be found in the employee's current bureau/office and geographical area, a suitable position may be identified in a different bureau/office within the employee's current geographical area. In the event a position can not be found within the employee's current geographical area, a suitable position may be identified in a different geographical area, regardless of bureau/office, provided the employee has indicated the new geographical location is acceptable to him/her.

(3) If an employee is reassigned to a different geographical area, the employee must pay for any relocation expenses unless the transferring bureau/office routinely pays such expenses when granting voluntary transfers to other employees. If the employee is willing to be reassigned to a different geographical area, the Office Director, or designee, shall confer with the Servicing Personnel Officer in that geographical area to determine whether the employee is qualified for any particular position(s) available in that area. If any such position(s) is identified, a determination will be made as to whether the employee would need an accommodation to perform in any such position. If a suitable position is identified in another geographical area which the employee has indicated is acceptable, and the needed accommodation is found to be reasonable, such position must be offered to the employee.

E. Denial of Request for Reasonable Accommodation.

(1) A decision denying a request for reasonable accommodation ***must be in writing*** and specifically explain the reasons why the request was denied (e.g., why the medical documentation was inadequate to establish that the individual has a disability or needs reasonable accommodation, why the requested accommodation would not be effective, or why the accommodation would pose an undue hardship).

(2) A decision denying the proposed accommodation but offering an alternate accommodation in its place, must explain both the reason for the denial of the requested accommodation and the reason that the alternate accommodation will be effective.

(3) ***All denials of reasonable accommodation must be reviewed by the Servicing Human Resources Officer, or designee, prior to issuance.*** If the issue is availability of resources for the proposed accommodation, then the Office Director, or designee, will seek assistance from all sources (DOI as well as non-DOI) in determining the availability of additional resources prior to issuance of denial.

(4) A written copy of each denial of reasonable accommodation will be provided to the employee and the Servicing Personnel Office. The written notice of denial must inform the individual that if he/she believes that he/she has been subjected to illegal discrimination, he/she has the right to file a Complaint of Discrimination, in accordance with 29 CFR 1614. In addition, the individual may have rights to pursue his/her claim with the Merit Systems Protection Board (MSPB) or the negotiated grievance procedures. The notice will explain procedures available for reconsideration.

15.11 **Reconsideration.**

A. Individuals with disabilities can request prompt reconsideration of a denial of reasonable accommodation.

B. If an individual wishes reconsideration, he/she should first ask the deciding official to reconsider the decision. The individual may present additional information in support of his/her request. The deciding official must respond to the request for reconsideration within ***five (5) business days*** of receipt of the request.

C. If the deciding official does not reverse his/her decision, the individual may ask the Office Director, or designee, to do so. The Office Director, or designee, must respond to this request within ***ten (10) business days*** of receipt.

D. If the deciding official was the Office Director or designee, and he/she did not reverse the decision, the individual may ask the next level of management within the organization, or his/her designee, to do so. Such requests must be responded to within ***ten (10) business days*** of receipt.

E. Alternative dispute resolution (ADR) processes may also be used to resolve disputes of denials of reasonable accommodation. Whether under the EEO process, MSPB process, grievance process, or informal dispute resolution processes, where available, the objective is to permit quick and thoughtful reconsideration of a denial.

F. Pursuing any of the reconsideration procedures identified above, including seeking reconsideration from the deciding official, appealing to the next level of management within the organization and participating in informal dispute resolution process, does not affect the time limits for initiating statutory and collective bargaining claims. An individual's participation in any or all informal dispute resolution processes does not satisfy the requirements for bringing a claim under EEO, MSPB, or negotiated grievance procedures.

15.12 **Information Tracking and Reporting.**

A. The deciding official must complete the "Information Reporting Form" (Appendix IV) and submit it to the bureau/office Servicing Human Resources Office within ***10 business days*** of the decision. The deciding official must attach to the form copies of all information he/she received as part of processing the request. ***Medical documents must be sealed, marked as Confidential Medical Information, and maintained in secure storage by the Servicing Human Resources Office***. Such medical documents will not be kept with the employee's Official Personnel Folder. Such medical documents may be disclosed to: a DOI official who is involved in making a determination concerning a subsequent request by the employee for an accommodation to his/her disability when the disability and need for accommodation are not obvious or otherwise already known; the bureau/office EEO officials responsible for preparing the report listed in 15.12C below; first aid and safety personnel *if* the disability might require emergency treatment; government officials needing information to investigate DOI's compliance

with the Rehabilitation Act; and in certain circumstances, workers compensation offices or insurance carriers.

B. The bureau/office Servicing Human Resources Office must maintain these records for the length of the employee's tenure with DOI or for five (5) years, whichever is longer.

C. The bureau/office EEO official will prepare an annual report, to be made available to the DOI, Office of Civil Rights. The report will contain the following information, presented in aggregate:

(1) the number of reasonable accommodations, by type, that have been requested in the application process and whether those requests have been granted or denied;

(2) the jobs (occupational series, grade level, and office) for which reasonable accommodations have been requested;

(3) the types of reasonable accommodations that have been requested for each of those jobs;

(4) the number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;

(5) the number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;

(6) the reasons for denial of requests for reasonable accommodation;

(7) the amount of time taken to process each request for reasonable accommodation; and

(8) the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

D. In addition, the report will provide a qualitative assessment of the bureau/office's reasonable accommodation program, including any recommendations for program improvement or changes in the reasonable accommodation policies and procedures.

E. The DOI, Office of Civil Rights shall prepare an aggregate report making such information available to all DOI employees. The report will be published on the DOI website.

F. The DOI, Office of Civil Rights shall retain for at least three (3) years, and be able to provide to the U.S. Equal Employment Opportunity Commission, information or any cumulative records used to prepare said annual report that tracks DOI's performance with regard to reasonable accommodation. Tracking performance over a three-year period is critical to enable an agency to assess whether it has adequately processed and provided accommodations.

Appendix I

Utilizing Sign Language Interpreters

1. **Scheduling Interpreter Services**. The individual or office scheduling a meeting or an event that will require interpreting services (staff meeting, training, office function, etc.) is responsible for arranging for presence of interpreters. Currently, most DOI bureau/offices meet interpreter needs for employees by contracting for such services.

An employee who knows sign language or who is taking a sign language class is not an acceptable substitute for an interpreter.

2. **Work Events Outside the Workplace**. Bureau/Offices will provide an interpreter for an employee who is hearing impaired and who, as part of their job, attends a DOI meeting or event outside of the workplace. If the employee attends a conference or training program sponsored by an outside organization, the sponsoring organization is principally responsible for providing interpreters. DOI will provide interpreters, however, if the sponsoring organization fails to do so.

Appendix II

Selected Reasonable Accommodation Resources

A. U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice), 1-800-800-3302 (TTY), Web: http://www.eeoc.gov/

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. 12101 et seq., and the regulations, 29 C.F.R. 1630. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The three main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title 1 regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. 1630.2(o), (p), 1630.9; (2) Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, and (3) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act. The Technical Assistance Manual includes a 200-page Resource Directory, including federal and state agencies and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents: (1) Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations; (2) Enforcement Guidance: Workers' Compensation and the ADA; (3) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities; (4) Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964; and (5) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act.

All of the above-listed documents, with the exception of the Technical Assistance Manual are also available through the Internet at http://www.eeoc.gov/policy/guidance.html/. All of these documents provide guidance that applies to federal agencies through the Rehabilitation Act of 1973, 29 U.S.C. 791.

B. Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TTY), Web: http://janweb.icdi.wvu.edu/

JAN is a free consulting service that provides information about job accommodations, the Americans with Disabilities Act (ADA), and the employability of people with disabilities.

C. Computer/Electronic Accommodations Program (CAP)

(703) 681-8813 (Voice/TTY), Fax: (703) 681-9075, Web: http://www.tricare.osd.mil/cap E-mail: cap@tma.osd.mil

CAP has a memorandum of understanding with the DOI to provide assistive technology and accommodation services for employees with disabilities.

D. ADA Disability and Business Technical Assistance Centers (DBTACs)
1-800-949-4232 (Voice/TTY), Web: http://www.adainfo.org/

The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

E. Registry of Interpreters for the Deaf
(703) 838-0030 (Voice), (703) 838-0459 (TTY), Web: http://www.rid.org/

The Registry offers information on locating and using interpreters and transliteration services.

F. RESNA Technical Assistance Project
(703) 524-6686 (Voice), (703) 524-6639 (TTY), Web: http://www.resna.org/

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

* information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products);
* centers where individuals can try out devices and equipment;
* assistance in obtaining funding for and repairing devices; and
* equipment exchange and recycling programs.

G. Department of the Interior Accessible Technology Center
(202) 208-5481 (Voice), (202) 208-6248 (TTY), Web: http://www.doi.gov/atc/

The DOI Accessible Technology Program opened in October 2000 to support employees with disabilities by determining the appropriate assistive technology and ergonomic solutions for the individual. These accommodations are a surprisingly affordable way to enable employees with a disability to have equal access to information technology that is essential in today's work place.

H. U.S. Geological Survey Disability Resource Center
(703) 648-4870 (TTY), (703) 648-7770 (Voice), Email: jdallos@usgs.gov

The Disability Resource Center (DRC), which is available to all of DOI, provides an opportunity for managers, supervisors and employees to try state of the art assistive technology for reasonable accommodation of employees with disabilities. The DRC features five workstations with specialized communications and technology solutions for a range of disabilities: dexterity disabilities; cognitive disabilities; and an accessible science demonstration lab.

Appendix III

Confirmation of Request for Reasonable Accommodation

1. When the disability and need for accommodation are not obvious or already known, please describe the stated disability and need for reasonable accommodation.

_____
_____
_____
_____
_____
_____
_____
_____

2. An accommodation is requested for the stated disability. (Be as specific as possible concerning the accommodation being requested, e.g., adaptive equipment, reader, interpreter.)

_____
_____
_____
_____
_____

3. If accommodation is time sensitive, please explain:

_____
_____
_____
_____

Signature: _____ Date: _____

Office: _____

Position: _____ Title: _____ Series: _____ Grade: _____

Appendix IV

Reasonable Accommodation Information Reporting Form

(Completed by the deciding official for each request for reasonable accommodation)

Name of individual requesting reasonable accommodation:

_____

Office of requesting individual: _____

1. Date reasonable accommodation requested: _____
   Who received request: _____

2. Job held or desired by individual requesting reasonable accommodation (including occupational series, grade level, and office):

   _____

3. Reasonable accommodation needed for: (check one)
   _____ Application process
   _____ Performing job functions or accessing the work environment
   _____ Accessing benefit or privilege of employment (e.g., attending a training program or social event)

4. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, removal of architectural barrier):

   _____
   _____
   _____

5. Date reasonable accommodation request referred to deciding official (i.e., Supervisor, Manager, Office Director, or Personnel Management Specialist):

   _____

   Name of deciding official: _____

6. Reasonable accommodation: (check one)
   _____ Approved
   _____ Denied (If denied, attach copy of the written denial letter/memo.)

7. Date reasonable accommodation approved or denied: _____

8. Type(s) of reasonable accommodation provided (if different from what was requested):
_____
_____

9. Date reasonable accommodation provided (if different from date approved):
_____

10. If time frames outlined in the Reasonable Accommodation Procedures were not met, explain why.
_____
_____
_____

11. Was medical information required to process this request? If yes, explain why. List the documents submitted on behalf of the individual.
_____
_____
_____

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Job Accommodation Network, disability organization, Disability Program Manager): _____
_____
_____

13. Comments: _____
_____
_____
_____

Submitted by: _____ Date: _____
Phone Number: _____