

**FEMA MANUAL FM 123-6-1
REASONABLE ACCOMMODATION PROGRAM
APPROVAL DATE: 01/28/2015**



DEPARTMENT OF HOMELAND SECURITY

OFFICE OF EQUAL RIGHTS

A handwritten signature in blue ink, reading "Pauline C. Campbell", is written over a horizontal line.

Pauline C. Campbell
Director
Office of Equal Rights

Date: January 28, 2015

Foreword

This Manual provides guidance and policy direction for the administration, implementation and oversight of the Federal Emergency Management Agency's (FEMA) Reasonable Accommodation Program.

Table of Contents

| | |
|---|-----------|
| Foreword..... | 2 |
| CHAPTER 1: GENERAL INFORMATION..... | 4 |
| 1-1. Purpose..... | 4 |
| 1-2. Applicability and Scope..... | 4 |
| 1-3. Supersession..... | 4 |
| 1-4. Authorities/ References..... | 4 |
| 1-5. Policy..... | 5 |
| 1-6. Definitions..... | 5 |
| 1-7. Responsibilities..... | 6 |
| 1-8. Reporting Requirement..... | 7 |
| 1-9. Forms Prescribed..... | 7 |
| 1-10. Questions..... | 8 |
| CHAPTER 2: FEMA POLICY ON REASONABLE ACCOMMODATION AND EXAMPLES..... | 9 |
| 2.1 Reasonable Accommodation..... | 9 |
| 2.2 Reasonable Accommodation Numbers..... | 9 |
| 2.3 Computer and Electronic Assistive Devices..... | 10 |
| 2.4 Reader or Sign Language Interpreter..... | 10 |
| 2.5 Telework..... | 10 |
| 2.6 Service Animals..... | 11 |
| 2.7 Reassignment..... | 11 |
| CHAPTER 3: REQUESTS FOR REASONABLE ACCOMMODATION..... | 13 |
| 3.1 Procedures..... | 13 |
| 3.2 Written Requests..... | 13 |
| 3.3 Interactive Process..... | 14 |
| 3.4 Requests for Medical Information..... | 15 |
| 3.5 Time Frames..... | 16 |
| 3.6 Extenuating Circumstances..... | 17 |
| CHAPTER 4: REASONABLE ACCOMMODATION DECISIONS..... | 19 |
| 4.1 Granting A Request..... | 19 |
| 4.2 Alternate Accommodations..... | 19 |
| 4.3 Denial of A Request..... | 19 |

| | | |
|--|---|-----------|
| 4.4 | Dispute Resolution | 20 |
| CHAPTER 5: CLAIMS | | 22 |
| 5.1 | Statutory and Collective Bargaining Claims..... | 22 |
| CHAPTER 6: CONFIDENTIALITY | | 23 |
| 6.1 | Confidentiality Requirements..... | 23 |
| CHAPTER 7: ASSISTANCE INFORMATION | | 24 |
| 7.1 | Tracking and Reporting | 24 |
| 7.2 | Inquiries | 24 |
| 7.3 | Distribution..... | 24 |
| 7.4 | Resource Assistance..... | 25 |

CHAPTER 1: GENERAL INFORMATION

1-1. Purpose

The purpose of this manual is to establish the policy and procedures for the Federal Emergency Management Agency (FEMA) on Reasonable Accommodation as it pertains to applicants for employment and employees.

Applicability and Scope

The provisions of this Manual apply to all applicants and employees who meet the definition of “employee” under 5 U.S.C. § 2105. This Manual also applies to employees hired under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, codified at 42 U.S.C. §§ 5121 et seq. FEMA employees as defined in Title 5 Section 2105 of the United States Code, such as permanent full-time and part-time employees, Cadre On-Call Response (CORE) employees, reservists, disaster local hires and applicants for any of these positions at FEMA.

1-2. Supersession

This policy supersedes FEMA Manual 1430.1, Reasonable Accommodation for FEMA, December 3, 2002.

1-3. Authorities/ References

1. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 et seq.
2. Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791.
3. Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. §§ 2000, et seq.
4. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, July 2000.
5. Title 29, Code of Federal Regulations (CFR) Part 1614, Federal Sector Equal Employment Opportunity.
6. Title 29, C.F.R. Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.
7. Title 29 C.F.R. Part 1611, Privacy Act Regulations.
8. The Americans with Disabilities Act Amendments Act (ADAAA) of 2008.
9. EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act.
10. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act.
11. EEOC Work at Home/Telework as a Reasonable Accommodation, <http://www.eeoc.gov/telework.html> (Oct. 27, 2005).

1-4. **Policy**

FEMA's policy is to fully comply with the Reasonable Accommodation requirements of the Rehabilitation Act of 1973. Under the law, Federal agencies must provide Reasonable Accommodations to qualified individuals with disabilities, except in cases where this would cause undue hardship (See Section 1-6 for definitions of "Qualified Individual with a Disability" and "Undue Hardship.")

1-5. **Definitions**

- A. **Reasonable Accommodation**: Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to have employment opportunities equal to those of an individual without a disability. Reasonable Accommodations may include:
1. Making existing facilities accessible;
 2. Part-time or modified work schedules;
 3. Acquiring or modifying equipment; and,
 4. Providing qualified readers or interpreters.
- B. **Disability**: A physical or mental impairment that substantially limits a major life activity (i.e., caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, speaking, breathing, learning, reading, concentrating, thinking, and communicating), or the operation of a major bodily function.
- C. **Qualified Individual with a Disability**: An individual with a disability is qualified if: (1) he/she satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) he/she can perform the essential functions of the position, with or without Reasonable Accommodation.
- D. **Essential Functions**: Those job duties so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing 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; and/or the function is highly specialized and the individual is hired based on his/her expertise or ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.
- E. **Undue Hardship**: FEMA must provide Reasonable Accommodation for a disability unless it would cause significant difficulty or expense. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the Reasonable Accommodation and the impact of the Reasonable Accommodation on the operations of the Agency including the impact on the ability of others to

perform their duties. When determining whether a Reasonable Accommodation would constitute an undue hardship the significant difficulty or expense would be to DHS as a whole, not just to FEMA.

- F. Deciding Official: The deciding official may be a first-line supervisor or manager or other designated official, such as a Reservist Program Manager, who may be responsible for processing the accommodation request. The Disability Employment Program Manager's (DPM) role as a deciding official is limited to applicants for employment.
- G. CAP: Department of Defense Computer/Electronic Accommodations Program (CAP).
- H. Medical Information: Documentation from a medical practitioner describing duration, restrictions, and limitations to support a request for reasonable accommodation.

1-6. Responsibilities

- A. Director, Office of Equal Rights (OER) is responsible for:
 - 1. Concurring in any final decision to deny an accommodation, where a deciding official has determined that providing a particular accommodation would create an undue hardship for the Agency.
 - 2. Any information obtained regarding the medical condition or history of an applicant must be collected and maintained on separate forms and kept in separate medical files. The information must be treated as a confidential medical record, subject to limited exceptions per Chapter 6, including genetic information.
 - 3. Establishing and maintaining procedures for processing Reasonable Accommodation requests under Section 501 of the Rehabilitation Act of 1973. The purpose of such procedures is to provide employees, as well as supervisors and managers, with an easy-to-understand, step-by-step explanation of the Reasonable Accommodation process.
- B. Disability Employment Program Manager (DPM) is responsible for:
 - 1. Administering the Agency's Disability Employment Program;
 - 2. Providing technical resource information about Reasonable Accommodation to applicants for employment, employees, and management officials;
 - 3. Documenting and reporting accommodation requests for the Agency;
 - 4. Collecting and maintaining any information obtained regarding the medical condition or history of an applicant or employee;
 - 5. When necessary, obtain legal assistance from the Office of Chief Counsel.

C. Deciding officials (supervisors, managers, and designated officials) are responsible for:

1. Ensuring Reasonable Accommodation requests are processed expeditiously and in accordance with the procedures outlined in this manual;
2. Engaging in interactive communication with the employee;
3. Processing the accommodation request in coordination with the DPM;
4. Identifying possible accommodations; and
5. Determining whether a Reasonable Accommodation will be provided.

D. Equal Rights Advisers (ERAD's) are responsible for:

1. Promptly notifying the DPM of any Reasonable Accommodation request or inquiry that is made in a disaster operations environment; and
2. Assisting deciding officials and employees in a disaster operations environment in processing Reasonable Accommodation requests.

E. Office of the Chief Component Human Capital Officer (OCCHCO)

Identifying vacancies for which the employee may be qualified when reassignment has been identified as an appropriate accommodation.

F. Office of Chief Counsel/PLB

Advising, and interpreting the law.

1-7. Reporting Requirement

1. Agency reasonable accommodation information and activity is reported through EEOC Form 462 Report, Management Directive 715 and annual reports to DHS Civil Rights and Civil Liberties (CRCL).
2. See Chapter 7, 7-1 (Tracking and Reporting).

1-8. Forms Prescribed

- A. FEMA Form 256-0-1, Request for Reasonable Accommodation (Note: the reverse of this form is Management's Response to Request for Reasonable Accommodation);
- B. FEMA Form 256-0-2, Reasonable Accommodation Information Report Form.

Tools/reference information regarding Reasonable Accommodation may be obtained at http://on.fema.net/employee_tools/forms/Pages/fema_forms.aspx. This Manual also prescribes the use of the Department of Defense Computers Accommodation Program (CAP) online Accommodation Request Form, which

may be completed by accessing the CAP website at www.cap.mil, or by using the CAP Accommodation Request Form located in Appendix C, or by contacting the OER.

1-9. Questions

Questions concerning these procedures may be directed to the DPM in the OER.

CHAPTER 2: FEMA POLICY ON REASONABLE ACCOMMODATION AND EXAMPLES

2.1 Reasonable Accommodation

- A. A request for Reasonable Accommodation is an oral or written statement in which an employee identifies his/her functional limitation (s) and requests a modification or adjustment to (i) a job application process to enable him/her to be considered for the position; or (ii) the work environment, or to the manner or circumstances under which the position is customarily performed, to enable him/her to perform the essential functions of that position.
- B. An employee with a disability may request a Reasonable Accommodation whenever he/she chooses, even if he/she has not previously disclosed the existence of a disability. However, the individual must make the deciding official aware that he/she has a functional limitation at the time of the request. Special words, such as “*Reasonable Accommodation*,” “*disability*,” or “*Rehabilitation Act*” do not have to be used when making the request.
- C. OER will provide and/or coordinate funding during the first year of employment for employees requiring a Reasonable Accommodation. OER will also cover recurring costs such as sign language interpreters. However, non-recurring costs such as a replacement of an ergonomic chair, monitor or assistive technology software are the responsibility of the employing program office.

2.2 Reasonable Accommodation Numbers

The Agency has established the use of a reasonable accommodation numbering system for accommodations involving changes and/or modifications to government travel terms based on a disability. For example, accommodations for larger than compact rental vehicles, and luggage and airline seating expenses, require assignment of a reasonable accommodation number. Reasonable accommodation numbers will not be required for accommodation-related equipment such as monitors, assistive technology or furniture. Each accommodation number will stipulate what has been authorized and what will be unique to the employee receiving the accommodation. The Agency’s DPM or deployed ERAD’s are authorized to provide reasonable accommodation numbers for an approved reasonable accommodation.

- A. Purchases for accommodations (equipment, services, travel, etc.) must be tracked using the following budget object classes in the financial system:

| | |
|------|--|
| 2112 | Travel (accommodation) |
| 2529 | Other services (accommodation) |
| 2540 | Stenographic services (CART accommodation) |
| 2541 | Sign language interpreters |

| | |
|------|---|
| 2562 | Tuition and/or registration (accommodation) |
| 2641 | Supplies (accommodation) |
| 3122 | Furniture (accommodation) |
| 3161 | Instruments and Apparatus (accommodation) |
| 3172 | IT Software (accommodation) |
| 3173 | IT Hardware (accommodation) |
| 2338 | IT Communications (accommodation) |

2.3 Computer and Electronic Assistive Devices

DHS/FEMA has an interagency agreement with the Department of Defense (DOD), to provide computer and electronic assistive devices to accommodate FEMA employees with disabilities. Examples of such accommodations include voice recognition/keyboards, telecommunication devices, training on assistive technology, screen readers/magnification, assistive listening devices, captioning devices and needs assessments. To request such an accommodation, the employee or the supervisor must complete DOD's Computer/Electronic Accommodations Program (CAP) online request form at, www.cap.mil or, as a second option, complete the attached CAP Request an Accommodation Form located in Appendix C. The DPM in the OER shall be notified of any CAP accommodation activity.

2.4 Reader or Sign Language Interpreter

When an employee has a recurring, predictable need for accommodation, such as a reader or sign language interpreter, FEMA may be obligated to provide it, regardless of whether or not the employee has requested it. When an employee does make such a request, the employee's immediate supervisor should facilitate the accommodation. Readers and sign language interpreters may not always be immediately available. Therefore, supervisors should plan activities requiring such services in advance to ensure their availability. The DPM will process requests from applicants for employment at headquarters, the regions, and for applicants for employment as CORE and reservist employees. The Federal Coordinating Officer (FCO), or his/her designee(s), in conjunction with the ERADs at disaster sites will facilitate processing requests from applicants for employment for positions as local hires. The DPM is available to provide technical assistance and information regarding resources for sign language interpreters.

2.5 Telework

Employees may request to work from home as a Reasonable Accommodation using the procedures for making a request for accommodation outlined in this manual. Telework is available to permanent full-time, part-time and CORE employees. Such requests may require supporting information from the employee's health care provider about the disability and the access and

functional needs the employee may have in performing work from home. The spirit and intent of the definition of disability is that the impairment is of a significant duration and has some element of permanency, which may likely extend beyond six months. Even if the employee is ineligible under FEMA's telework policy (See FEMA Manual 123-9-1, 2-2(c)(6)) the employee may be granted telework under this paragraph. However, the employee is not excused from maintaining acceptable performance and conduct standards established by the Agency.

Employees with short term medical conditions may request to work from home for a period of time not to exceed six months, and can make those requests as specified in FEMA's Telework Policy Manual 123-9-1.

2.6 Service Animals

A service animal is an animal that performs a task or tasks for a person with a disability to help overcome limitations resulting from the disability. In general, a service animal must be individually trained and the work or tasks performed by the service animal must be directly related to the individual's disability. The use of therapy and emotional support animals will be evaluated on a case by case basis.

An individual must first notify his/her immediate supervisor or the DPM that he or she has a disability and that he or she requires the use of a service animal. This can be accomplished orally or in writing through the Agency's Reasonable Accommodation request process.

Unless the disability is obvious, the requesting employee may be required to provide information from their health care provider describing the specific work or tasks that the animal performs for the employee. Recognizing the variety of environments where FEMA employees may deploy, employees must ensure that the service animal stays in the control of the employee at all times, and is the sole responsibility of the employee; ensure that the service animal receives all the vaccinations as required by the veterinarian and the jurisdiction in which the animal is housed and/or works, and maintain documentation in the employee's possession indicating such. The DPM is available to provide additional information about the use of a service animal at FEMA.

2.7 Reassignment

A. Reassignment is a form of Reasonable Accommodation that must be provided 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. However, reassignment is the accommodation of last resort. There are specific considerations in the interactive process when responding to a request for reassignment, such as:

1. Reassignment is a “last resort” accommodation that must be considered if there are no effective accommodations that would enable the employee to perform the essential functions of his/her current job, or if all other possible accommodations would impose undue hardship on the Agency.
2. Reassignment is available only to employees, not to applicants. In addition, 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.
3. In considering whether there are positions available for reassignment, the DPM will work with OCCHCO and the individual requesting the accommodation to identify: (1) vacant positions within the agency for which the employee may be qualified, with or without Reasonable Accommodation; and (2) positions which OCCHCO has reason to believe will become vacant over the next 60 business days and for which the employee may be qualified. The agency will first focus on positions that are equivalent to the employee’s current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, FEMA will consider vacant lower level positions for which the individual is qualified.
4. Reassignment may be made to a vacant position outside of the employee’s commuting area if the employee is willing to relocate. As with other transfers not required by management, FEMA will not pay for the employee’s relocation costs. In the event that a vacant position is not available, FEMA will expand its search for vacancies at other DHS components.

CHAPTER 3: REQUESTS FOR REASONABLE ACCOMMODATION

3.1 Procedures

- A. An employee may request a Reasonable Accommodation orally or in writing from his/her immediate supervisor or the DPM. Any request must be documented on FEMA Form 256-0-1, Request for Reasonable Accommodation (Appendix A).
- B. An applicant for employment may request a Reasonable Accommodation orally or in writing from any FEMA employee with whom she/he has contact in connection with the application process. The FEMA employee with whom the applicant makes their request should notify the DPM in the OER as soon as they become aware of the request. An applicant for employment may also request Reasonable Accommodation directly from the DPM. An oral request will be documented by the DPM on FEMA Form 256-0-1, Request for Reasonable Accommodation (Appendix A).
- C. Should an employee or applicant request a Reasonable Accommodation after receiving an offer of employment (Offer Letter), he/she must notify a first-line supervisor in the program office for which they will be assigned, and the DPM within (2) business days of receipt of the Offer Letter. The two-day notification period is established to ensure accommodations are processed prior to an employee's first day on the job.
- D. A family member, health professional or other representative may request an accommodation on behalf of a FEMA employee or applicant. The request should be directed to the same person(s) to whom the applicant or employee would make the request as outlined above. The deciding official must then communicate with the employee to determine the most effective accommodation.
- E. FEMA has an affirmative duty to accommodate an employee with an obvious disability to ensure effective reasonable accommodation solutions are provided.

3.2 Written Requests

- A. To enable FEMA to keep accurate records regarding requests for accommodation, employees and applicants for employment seeking a Reasonable Accommodation should follow up an oral request by completing the FEMA Form 256-0-1 Request for Reasonable Accommodation (Appendix A) and providing it to the deciding official.

- B. The FEMA Form 256-0-1 Request for Reasonable Accommodation should be filled out by the requesting employee as soon as possible following an oral request, but it is not a requirement for processing to commence. FEMA will begin processing the request as soon as it is made, whether or not the form has been completed. If the requesting employee or applicant does not fill out the form, the deciding official on the request must do so.
- C. The FEMA Form 256-0-1 Request for Reasonable Accommodation is not required to be filled out repeatedly when an individual needs a Reasonable Accommodation on a recurring basis. The written form is required only for the first request although appropriate notice by the employee must be given each time the accommodation is needed.

3.3 Interactive Process

- A. The requesting employee and FEMA deciding official must talk to each other about the request, the process for determining whether an accommodation will be provided, and the accommodation and possible alternatives to the requested accommodation.
- B. Communication is a priority throughout the entire process. The FEMA deciding official will have the principal responsibility for identifying possible accommodations. He/she will take a proactive approach considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation. The DPM is also available to provide assistance.
- C. The FEMA deciding official will: (1) explain to the applicant or employee that he/she will be making the decision on the request; and (2) describe what will happen in the processing of the request. This initial discussion should happen as soon as possible.
- D. On-going communication is particularly important when the specific functional limitation is unclear, an effective accommodation is not obvious, or the employee or applicant and the FEMA deciding official are considering different possible accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the deciding official and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.
- E. The deciding official or any other FEMA official who receives information in connection with a request for Reasonable Accommodation must share such information with other Agency officials only on a need-to-know basis only when the Agency official(s) needs to know the information in order to make a determination or to implement the Reasonable Accommodation request.

3.4 Requests for Medical Information

- A. If a Reasonable Accommodation is requested and the need for accommodation is not obvious or otherwise already known to the deciding official, FEMA may require that the individual provide documentation about the disability and his or her access and functional needs. A request for medical documentation may be made to the individual and/or the individual may be asked to obtain information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor. This must not be an effort to gain all details of an individual's medical history. Information provided by the medical practitioner should only address the disability in question, and the accommodation the practitioner believes is necessary to allow the individual with a disability to perform the essential functions of the position to which the person is assigned. For example, the employee is requesting telework because of side effects associated with a medical treatment program. The requested information may include:
1. The nature, severity, and duration of the individual's impairment;
 2. The major life activity or activities that the impairment limits;
 3. The extent to which the impairment limits the individual's ability to perform the major life activity or activities; and/or,
 4. Why the individual requires the particular Reasonable Accommodation requested, as well as how the accommodation will assist the individual in applying for a job, performing the essential functions of the job, or, enjoying a benefit or privilege of the workplace.
- B. If a deciding official believes that medical information is necessary in order to evaluate a request for Reasonable Accommodation, he/she must coordinate such request with the DPM in the OER prior to requesting such information.
- C. When medical documentation is submitted to the deciding official, he/she must provide all such documentation to the DPM at the conclusion of the process for recordkeeping and privacy purposes.
- D. In order to get the most helpful information possible, all requests for medical documentation should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.
- E. The individual requesting the accommodation will be asked to sign a limited release of medical information specific to the accommodation requested.
- F. If the information provided by the health professional, or by the individual requesting the accommodation, is insufficient to determine whether an accommodation is appropriate or possible, the deciding official may ask for further information with the following caveats:

1. He/she will explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and why it is necessary for a determination of the Reasonable Accommodation request. The individual may then ask the health care, or other appropriate medical professional to provide the information requested. FEMA may submit a list of specific questions for this purpose.
2. If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability within the meaning of the Rehabilitation Act and needs a Reasonable Accommodation, the deciding official, in consultation with the DPM, may request that the individual be examined by a physician chosen by FEMA, at FEMA's expense.
3. In some cases, the individual requesting the accommodation will supply medical information directly to the deciding official without being asked. In these cases, the deciding official will consider such documentation and if additional information is needed, the deciding official will follow the process as set forth in this section. The failure to provide appropriate documentation or to cooperate in the Agency's efforts to obtain such documentation can result in a denial of the Reasonable Accommodation.
4. Any exceptions to this process will be handled on a case-by-case basis.

3.5 Time Frames

- A. FEMA will attempt to process requests for Reasonable Accommodation and provide accommodations, as appropriate, within ten (10) business days from the date of receipt of the request. FEMA recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain additional supporting information. In general, requests for Reasonable Accommodation will be processed as follows:
 1. Requests from applicants for employment should be expedited when necessary to ensure the applicant's ability to compete for the position. However, this process should not exceed ten (10) business days.
 2. If a request from an employee is processed by the supervisor, the request should be processed, and the accommodation, if granted, provided within fifteen (15) business days from the date of receipt of the request. Requests for accommodation should be expedited when the accommodation is needed to enable the employee to participate in an Agency activity scheduled to occur in the near future.
 3. If the deciding official believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability and/or to identify the access and functional needs, the deciding official will request the information as soon as possible after his or her receipt of the request for accommodation. FEMA recognizes that the need for

documentation may not become apparent until after the interactive process has begun.

4. In cases where medical documentation is needed, the accommodation, if granted, will be provided within ten (10) business days for an applicant, and within fifteen (15) business days for an employee, from the date the deciding official receives the relevant information, absent any extenuating circumstances.
5. Where the DPM is the deciding official (applicant for employment) on a request for Reasonable Accommodation, he/she will make a decision on the request and the accommodation, if granted, will be provided within fifteen (15) business days from the date of the request. If medical documentation is necessary, the decision will be provided within fifteen (15) business days of receipt of the medical information, absent any extenuating circumstances.
6. If the DPM is the deciding official for an applicant, any appeals to the decisions made would be referred to the Director of the OER.
7. Employees or applicants for employment will be notified of a denial of a request for reasonable accommodation within (30) business days, during which time an effective interim accommodation will be identified and implemented.

3.6 Extenuating Circumstances

- A. Extenuating circumstances covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. It is important to note that FEMA may not delay processing or providing an accommodation because a particular staff member is unavailable. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. The time frame for processing a request for Reasonable Accommodation will be extended on a case-by-case basis when extenuating circumstances are present. The second level supervisor may grant extensions for an employee. The DPM is the approving official for an applicant.
- B. It is FEMA's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. FEMA staff is expected to act as quickly as possible in processing and providing accommodations. The following are examples of extenuating circumstances:
 1. There is an outstanding initial or follow-up request for medical information, or the medical information is being evaluated.
 2. The purchase of equipment may take longer than 15 business days because of requirements under the Federal Acquisition Regulation and the processing of requests through the DOD CAP program. Requests for

computer and electronic equipment through the DOD CAP program are likely to take an additional 15-20 days.

3. There are logistical delays such as the equipment is back-ordered, the vendor typically used by FEMA for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
 4. The employee or applicant with a disability needs to use the equipment on a trial basis to ensure its effectiveness prior to the Agency's purchase of the equipment.
 5. New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.
- C. Where extenuating circumstances are present, the deciding official must notify the individual of the reason for the delay, and the approximate date on which a decision, or provision of the Reasonable Accommodation, is expected. Any further developments or changes should also be communicated promptly to the individual.
1. If there is a delay in providing an accommodation that has been approved, the deciding official must investigate whether temporary measures can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation on an interim basis. In addition, the deciding official may provide measures that are not Reasonable Accommodations within the meaning of the law (e.g., temporary removal of an essential function) if: (1) they do not interfere with the operations of the Agency; and (2) the employee is clearly informed that they are being provided only on a temporary, interim basis.
 2. If a delay is attributed to the need to obtain or evaluate medical documentation and FEMA has not yet determined that the individual is entitled to an accommodation, FEMA may provide accommodation on a temporary basis. In this case, the deciding official will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the request.
 3. FEMA deciding officials who approve temporary measures are responsible for assuring that they do not take the place of the appropriate permanent accommodation and that all necessary steps are being taken to secure a permanent accommodation.

CHAPTER 4: REASONABLE ACCOMMODATION DECISIONS

4.1 Granting A Request

- A. As soon as the deciding official determines that a Reasonable Accommodation will be provided, the decision should be immediately communicated to the individual through FEMA Form 256-0-1 Management Response to Request for Reasonable Accommodation section (Appendix A).
- B. If the accommodation cannot be provided immediately, the DPM must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing.

4.2 Alternate Accommodations

Where the deciding official is unable to authorize a specific requested accommodation, and the DPM identified an alternative accommodation not previously discussed, the response on Page 2 of FEMA Form 256-0-1, Management Response to Request for Reasonable Accommodation, must identify the reasons that the deciding official and the DPM believe that the chosen accommodation will be effective, meaning that it will enable the employee to perform the essential functions of his or her job. The Agency will make every effort to identify an alternate accommodation to support the applicant or employee. In those instances where an alternative accommodation is not identified the deciding official must consult with the OCC/PLB to ensure all alternative accommodations are identified and considered.

4.3 Denial of A Request

- A. Prior to denying a request for reasonable accommodation, the deciding official and the DPM must consult with the Director OER. The deciding official and the DPM must articulate what portion(s) of the accommodation have been determined to create an undue hardship upon the Agency and further articulate what alternate accommodations have been identified and considered but deemed inappropriate.
- B. When denying an accommodation, the deciding official must fill out the Management Response to Request for Reasonable Accommodation section of the FEMA Form 256-0-1 (Appendix A). Prior to rendering a final decision on denial of an accommodation, a legal review will be done by the OCC/PLB. Upon concurrence, a copy of the decision must be provided to the individual requesting the accommodation. The denial must clearly state the specific reasons for the denial.

1. The reason the requested accommodation would result in undue hardship to the Agency. Before reaching this determination, the deciding official must have explored whether other effective alternative accommodations exist which would not impose undue hardship and therefore can be provided. A determination of undue hardship means that FEMA finds that a specific accommodation would result in significant difficulty or expense to DHS as a whole, or would fundamentally alter the nature of FEMA's operations.
2. Medical documentation is inadequate to establish that the individual has a disability and/or needs a Reasonable Accommodation.
3. The requested accommodation would require the removal of an essential job function.
4. The requested accommodation would require the lowering of a performance or production standard. (The deciding official must understand that temporary adjustments, including lowering performance or production standards, are allowed during the normal course of business, if circumstances warrant it. For instance, if an employee is seriously ill for a short period of time, a supervisor may temporarily lower a performance or production standard to accommodate the employee, but not permanently.)

The written notice of denial informs the individual that he/she has the right to file an Equal Employment Opportunity (EEO) complaint, and may have the right to pursue Merit Systems Protection Board (MSPB) and union grievance procedures. The notice also explains FEMA's procedures for informal dispute resolution.

4.4 Dispute Resolution

- A. An employee or applicant who has requested Reasonable Accommodation may request prompt reconsideration of a denial of Reasonable Accommodation.
 1. If an employee is denied his/her request for Reasonable Accommodation, he/she may appeal directly to his/her second level supervisor. The employee may present additional information in support of his/her request. The second level supervisor will respond to this request within ten (10) business days of receipt of the request.
 2. If an applicant is denied his/her request for Reasonable Accommodation, he/she may appeal directly to the Director, OER. The applicant may present additional information in support of his/her request. The Director will respond to this request within ten (10) business days of receipt of the request.
 3. In an effort to resolve disputes, employees or applicants can request to participate in the OER Alternative Dispute Resolution process.

- B. The pursuit of any of the informal dispute resolution procedures identified above does not affect the time limits for initiating statutory and collective bargaining claims. An individual's participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under EEO, MSPB, or union grievance procedures.

CHAPTER 5: CLAIMS

5.1 Statutory and Collective Bargaining Claims

- A. An individual who chooses to pursue statutory or collective bargaining remedies for denial of Reasonable Accommodation must:
 - 1. For a complaint to the EEOC pursuant to 29 C.F.R. Part 1614, contact an EEO Counselor in the OER within 45 days from the date of the denial of reasonable accommodation; or
 - 2. For collective bargaining claim, if applicable, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement or
 - 3. For an appeal to the Merit Systems Protection Board, initiate the appeal within 30 days of an appealable adverse action as defined in 5 C.F.R. § 1201.3

- B. If a member of the OER has had any involvement in the processing of the request for Reasonable Accommodation, that staff member shall remove his/herself from any involvement in the processing of an EEO counseling contact or EEO complaint in connection with the request and notify their supervisor.

CHAPTER 6: CONFIDENTIALITY

6.1 Confidentiality Requirements

- A. All requests for Reasonable Accommodation must be kept confidential in files separate from the individual's personnel file. Any information obtained regarding the medical condition or history of an applicant or employee must be collected and maintained on separate forms and kept in separate, confidential files. Any FEMA employee who obtains or receives such information is strictly bound by these confidentiality requirements.

- B. The DPM is the primary point of contact for receipt of confidential medical information and if others, e.g., deciding officials receive that information during the course of the process, they will forward to the DPM for proper storage. The DPM will maintain custody of all records obtained or created during the processing of a request for Reasonable Accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act, the requirements of 29 C.F.R. Part 1611, and this Manual.

- C. This information may be disclosed only as follows:
 - 1. Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the accommodation(s), but medical information should only be disclosed if strictly necessary to make an informed decision regarding a Reasonable Accommodation;
 - 2. First aid and safety personnel, when appropriate, should the employee require emergency treatment or for purpose of an evacuation from facilities;
 - 3. Government officials may be given information necessary to investigate the Agency's compliance with the Rehabilitation Act; and,
 - 4. The information may, in certain circumstances, be disclosed to workers' compensation offices or insurance carriers.

- D. Whenever medical information is disclosed, the recipient of the information must be informed of the confidentiality requirements.

CHAPTER 7: ASSISTANCE INFORMATION

7.1 Tracking and Reporting

- A. FEMA is required to identify and report the following information regarding requests for reasonable accommodation annually:
1. The number and types of Reasonable Accommodations that have been requested for each job (occupational series, grade level), by agency component;
 2. Whether those requests have been granted or denied;
 3. How many of those requests relate to the benefits or privileges of employment;
 4. The reasons for denial of requests for Reasonable Accommodation;
 5. The amount of time taken to process each request for Reasonable Accommodation; and,
 6. The sources of technical assistance that have been consulted in trying to identify possible Reasonable Accommodations. The DPM will retain, for at least three (3) years, information or any cumulative records used to track FEMA's performance with regard to Reasonable Accommodation.
- B. In accordance with the information tracking requirements, the deciding official must complete the attached FEMA Form 256-0-2, Reasonable Accommodation Information Reporting Form, and submit it to the DPM within ten (10) business days of the decision. The deciding official should attach copies of all information, including medical information he/she received as part of processing the request.
- C. The DPM will maintain records related to an employee's request for accommodation for the duration of the employee's tenure.

7.2 Inquiries

Any person wanting further information concerning these procedures may contact the DPM in the OER.

7.3 Distribution

These procedures will be distributed to all employees upon issuance. They also will be posted on FEMA's intranet and internet sites. Copies also will be available in the OER and OCCHCO.

7.4 Resource Assistance

Listed below are resources to assist in providing Reasonable Accommodations:

- A. **Office of Equal Rights, FEMA**
202-646-3535 (Voice); 202-646-2745 (TTY)
https://portalapps.fema.net/apps/employee_tools/rat/Pages/default.aspx
- B. **Computer/Electronic Accommodations Program (CAP)**
(703) 681-8813 (Voice); (703) 681-3978 (TTY)
www.cap.mil
- C. **U.S. Equal Employment Opportunity Commission**
1-800-669-4000 (Voice); 1-800-669-6820 (TTY)
<http://www.eeoc.gov>
- D. **Job Accommodation Network (JAN)**
(800) 526-7234 (Voice); (877) 781-9403 (TTY)
<http://askjan.org/>
- E. **ADA Disability and Business Technical Assistance Centers (DBTACs)**
1-800-949-4232 (Voice/TTY)
<http://www.adata.org/>
- F. **United States Access Board**
(202) 272-0080 (Voice); (202) 272-0082 (TTY)
<http://www.access-board.gov/>