

Fiscal Service Policy 801-3, Reasonable Accommodation Program

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Executive Summary

This chapter provides policy and procedures for the Bureau of the Fiscal Service (Fiscal Service) Reasonable Accommodation program for individuals with disabilities.

Purpose

This chapter revises the policy and procedures for submitting and processing requests for reasonable accommodations and, where appropriate, for providing voluntary job modifications to employees and applicants with disabilities.

Scope

The policy and procedures contained herein apply to all Fiscal Service employees and applicants for employment.

Cancellation

- Financial Management Service Manual of Administration Chapter 203, Disability Employment Program, dated February 2004.
- Public Debt Issuance 71-03, Revision 1, Procedures to Facilitate the Provision of Reasonable Accommodation, dated February 26, 2007.
- Fiscal Service Policy 205-3, Reasonable Accommodation Program, dated July 2015.

Definitions

A. Computer/Electronic Accommodations Program (CAP): Established by the Department of Defense (DoD) in 1990, CAP is a federal program that provides assistive technology and reasonable accommodations. CAP also conducts needs assessments for all federal employees. A needs assessment helps identify potential solutions that will aid requesters in accomplishing essential job tasks. The CAP specialist looks at the requirements of the position, the limitations the individual is experiencing, and recommends tools that can help the individual accomplish the tasks with the given limitations.

B. Department: Department of the Treasury, including its subordinate bureaus and offices.

- C. Direct Threat: A significant risk (high probability) of substantial harm to the health or safety of the employee or to others that cannot be eliminated or reduced by a reasonable accommodation. The Designated Management Official and Reasonable Accommodation Specialist must engage in an individualized assessment that is based on medical documentation and the best available object evidence. Thus, this decision cannot be based on assumptions, unwarranted fears, generalizations, stereotypes, or myths about a particular disability.
- D. Designated Management Official (DMO): The DMO is the person who has authority to act on the request for accommodations, in consultation with the Disability Employment Program Manager/Reasonable Accommodation Specialist, including deciding whether Fiscal Service will provide the accommodation requested or any effective alternative accommodations. The DMO who makes the decision concerning a request for reasonable accommodation shall also be referred to as the "decision-maker." Generally, the DMO will be the employee's first or second line supervisor, although Fiscal Service may designate another official to serve as DMO as appropriate. For applicants, the DMO is usually the Human Resources Director or their designee.
- E. Disability: For the purposes of providing a reasonable accommodation, "disability" is defined as a physical or mental impairment that substantially limits one or more of the major life activities or a record (or past history) of such an impairment or being regarded as having a disability. Note: The inability to work for a particular supervisor is not generally considered a disability.
- F. Disability Employment Program Manager (DEPM): The individual responsible for overseeing the Fiscal Service Disability Employment Program, including the Reasonable Accommodation Program. This individual may also act as a Reasonable Accommodation Specialist to process Reasonable Accommodation requests.
- G. Dispute Resolution Process: Any voluntary mechanism through which an individual can request reconsideration of denial of a reasonable accommodation, regardless of whether the person has started the Equal Employment Opportunity (EEO) complaint process.
- H. Effective Accommodation: Accommodations must be effective in meeting the needs of the requester by addressing the barrier created by the functional limitations. The accommodation provided does not need to be the one requested. However, any alternative accommodation provided by Fiscal Service must be effective in meeting the needs of the employee making the request.

For example, an effective accommodation for a deaf individual who does not use sign language could be real-time captioning that accurately records what is said. An ineffective accommodation would be captioning that was garbled or having a co-worker share meeting notes at the end of a meeting. If a deaf employee who relies on sign language requests an interpreter, providing an employee who knows some signs, or asking the employee to read lips is not effective.

When there are two or more accommodations that would be equally effective, the DMO may choose the one that is easier or less expensive to provide. If more than one accommodation is effective, the preference of the employee should be given consideration. However, the DMO has the ultimate discretion to choose between effective accommodations.

- I. Equal Employment Opportunity and Diversity (EEO) Office: The office responsible for administering the Reasonable Accommodation Program.
- J. EEO Officer: The Equal Employment Opportunity and Diversity Director for Fiscal Service.
- K. Essential Function: Those job duties that are so fundamental to the position the individual holds or desires that they 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; or the function is specialized and the individual is hired based on their ability to perform it. If a function is listed in the position description as an essential function but is not performed by the requester or takes only a few hours per week, it is not usually considered "essential" for purposes of accommodation. The following factors are considered in determining whether a job function is essential:
 - a. Whether the reason the position exists is to perform that function;
 - b. The number of other employees available to perform the function or among whom the performance of the function can be distributed;
 - c. The degree of expertise or skill required to perform the function;
 - d. Written job descriptions prepared before advertising or interviewing applicants for the job;
 - e. The amount of time actually spent on the job performing the function;
 - f. The consequences of not requiring the incumbent to perform the function;
 - g. The terms of any collective bargaining agreement;
 - h. The work experience of past incumbents in the job; and/or
 - i. The current work experience of incumbents in similar jobs.
- L. Extenuating Circumstances: Factors beyond Fiscal Service's control which make it impossible for a reasonable accommodation to be provided within the time frames are considered to be extenuating circumstances. Examples of extenuating circumstances include, but are not limited to, delays encountered when ordering equipment that must be backordered, the vendor normally used has gone out of business, or there are unexpected delays by the vendor or CAP. Therefore, the office/facility is encouraged to use charge cards when possible to avoid contracts, ratification, etc. Review of medical documentation, the absence of the DMO or the Reasonable Accommodation Specialist, and other situations within Fiscal Service's control are not considered to be extenuating circumstances and should not delay the processing of a request.
- M. Genetic Information: As defined by the Genetic Information Nondiscrimination Act (GINA) of 2008, genetic information includes any information concerning the manifestation of a disease/disorder in family members ("family medical history"), information about an individual's or family member's genetic tests, the fact that an individual or an individual's

family member sought or received genetic services, or genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

- N. Individual with a Disability: For the purpose of providing a reasonable accommodation, an "individual with a disability" is a person who has a physical or mental impairment that substantially limits one or more of that person's major life activities, has a record of such an impairment or is regarded as having such an impairment. This shall be viewed in the broad sense and not analyzed extensively. The Americans with Disabilities Act Amendments Act (ADAAA) reduced the emphasis on whether an individual has a disability, specifying that the determination should not demand extensive analysis. For example, a person who has asthma can have trouble breathing, and is covered under the Rehabilitation Act as an individual with a disability. The individual, with reasonable accommodation when requested, can perform the essential functions of the position without being a direct threat to the health or safety of the individual or others. As to duration of the disability or functional limitation, if a disability has effects that are not both transitory and minor, it is covered by applicable law. (Note: A healthy pregnancy is not considered a disability and is not eligible for accommodation under the Rehabilitation Act, but if there are complications, such as gestational diabetes, that would be covered.)
- N. Interactive Process: The process by which the individual requesting an accommodation, the DMO, and the Reasonable Accommodation Specialist discuss the request for accommodation, determine which accommodations will be provided, and to examine potential alternative accommodations as necessary.
- O. Interim Accommodation: A temporary accommodation that is approved for a specific period of time in order to:
- a. Determine the effectiveness of an accommodation;
 - b. Accommodate a requester while awaiting the submission of medical documentation that supports the need for a reasonable accommodation;
 - c. Accommodate a requester during the time it takes to purchase equipment or arrange for a necessary service;
 - d. Provide a temporary solution until the long-term solution is identified or becomes available;
 - e. Accommodate a requester under unique circumstances, but to grant this accommodation long-term would eventually pose an undue hardship. For example, a requester with a high risk condition with an essential function that requires them to work onsite, could be temporarily granted a telework schedule due to Covid, but once it is safe to return to the office, that accommodation is no longer reasonable to allow; and
 - f. Accommodate a requester with a temporary or short term need for an accommodation.
- P. Major Life Activities: Basic activities that the average person in the general population can perform with little or no difficulty, for example, caring for oneself, performing manual tasks, walking, seeing, standing, hearing, speaking, breathing, reading, eating, sleeping,

communicating, bending, lifting, concentrating, learning, working, and the operation of major bodily functions.

- Q. Mitigating Measures: Medications and assistive devices that an individual uses to eliminate or reduce the effects of functional impairment caused by a disability. The only mitigating measures that may be considered in determining disability are ordinary eyeglasses or contacts intended to fully correct the vision of an employee or applicant for employment. Other mitigating measures may not be considered in the determination of an individual's disability status. For example, if an individual has a prosthetic leg, the person is still considered to have a disability covered by the Rehabilitation Act. In addition, non-ameliorative effects of mitigating measures, such as a reaction to medication, can be considered when determining disability status.

- R. Qualified Individual with a Disability: An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or seeks, and who, with or without reasonable accommodation, can perform the essential functions of such position, and absent any mitigating measures as defined above.. Requiring the ability to perform "essential" functions assures that an individual will not be considered unqualified simply because of inability to perform marginal or incidental job functions.

- S. Reasonable Accommodation: An adjustment, alteration or modification that enables an otherwise qualified person with a substantially limiting impairment or a record of such an impairment to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodation:
 - a. Accommodations that are required to ensure equal opportunity in the application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
 - b. Accommodations that enable employees with disabilities to perform the essential functions of the position held or desired (such as providing sign language interpreters); and
 - c. Accommodations that enable employees with disabilities to enjoy equal benefits and privileges of employment as enjoyed by employees without disabilities (such as removing physical barriers in an organization's cafeteria).

Examples of reasonable accommodations include, but are not limited to, the following:

- a. Making facilities readily accessible to, and usable by, individuals with disabilities;
 - b. Restructuring of marginal job functions;
 - c. Allowing a modified work schedule, telework on a regular or intermittent basis, and/or alternate work locations;
 - d. Obtaining or modifying equipment or devices;
 - e. Appropriately adjusting or modifying examinations and training materials to make them accessible (but retaining the substance);
 - f. Providing readers, interpreters, and other auxiliary aids and assistive technologies;
- and

- g. Non-competitive reassignment to another position for which the individual is qualified, as a last resort accommodation.
- T. Reasonable Accommodation Specialist (RAS): This is an EEO Specialist or the DEPM who is trained specifically to process reasonable accommodation requests for Fiscal Service.
- U. Reassignment: Reasonable accommodation of last resort that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to funded vacant positions for employees who are qualified to fill the vacant position. If the employee is qualified for the position, they will be reassigned to the job and will not have to compete.
- V. Receiving Official: Fiscal Service personnel designated to officially receive a request for reasonable accommodation from an employee or applicant (or an individual acting on their behalf), determine who will handle the request (the DMO), and monitor the request until it is closed. Typically, the DEPM or RAS serves as the Receiving Official, however it may be a management official in the employee's chain of command
- W. Record of Impairment: A history of or having been classified (or misclassified) as having a mental or physical impairment that substantially limits one or more major life activities.
- X. Request for Reasonable Accommodation: A statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. A reasonable accommodation request may be submitted orally or in writing, by the employee or applicant or by someone acting on behalf of the employee or applicant. If the request is made orally, the Receiving Official may ask the Requester to submit a written request; however, Fiscal Service considers the date of the oral request to be the date that begins the interactive process. Note: employees need not use the words "reasonable accommodation" to make a request.
- Y. Requester: An employee, applicant for employment, or an individual acting on their behalf, who requests reasonable accommodation.
- Z. Undue Hardship: An action requiring significant difficulty or expense when considered in light of factors such as the agency's size, financial resources, and the nature and structure of the position. 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 needed and the impact of the reasonable accommodation on the operations of the agency.
- AA. Voluntary Modification: An adjustment or alteration granted outside of the reasonable accommodation process without requiring the individual to establish that they have a disability. Such a modification is particularly appropriate where the modification is easy and inexpensive, i.e., a request for an ergonomic computer mouse or a screen glare protector. Provisions of a voluntary modification does not mean that the Fiscal Service considers the individual to be an individual with a disability as defined herein or regarded as such.

NOTE: Nothing in this policy prohibits providing accommodations beyond those required by the Americans Disability Act or the Rehabilitation Act as amended by the ADAAA.

References

- The Rehabilitation Act of 1973 (29 U.S.C. § 701), as amended.
- Executive Order 13164, (July 26, 2000).
- Equal Employment Opportunity Commission (EEOC) Policy Guidance on Executive Order 13164, Establishing Procedures to facilitate the Provision of Reasonable Accommodations, No. 915-003 (October 20, 2000). .
- Equal Employment Opportunity Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the American's with Disabilities Act (October 17, 2002).).
- EEOC Final Rule: Affirmative Action for Individuals with Disabilities in Federal Employment.
- Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110-325, effective 2009.
- 29 C.F.R. § 1614.203(d)(3).

This chapter supplements policies and requirements contained in the references cited above; it is not self-contained and must be read in conjunction with the cited references and any applicable collective bargaining agreements.

Responsibilities

1. Requesters are responsible for:
 - a. Informing their supervisor (or any official in their chain of command) or an RAS of their need for an accommodation. They can also submit a request by completing and submitting [FS Form 5760, Request for Reasonable Accommodation](#) to the Reasonable Accommodation mailbox at RA@fiscal.treasury.gov.
 - b. Cooperating with receiving officials, the Equal Employment Opportunity and Diversity (EEOD) Director, the DEPM, the RAS, and the DMO, if applicable, during this process.
 - c. Obtaining and submitting additional requested medical documentation as quickly as possible.
2. The Receiving Official is responsible for:
 - a. Advising the requester to complete [FS Form 5760 Request for Reasonable Accommodation](#), once the requester notifies the receiving official either orally or in writing of their need, and to submit the form directly to the RAS.
 - b. Notifying the DEPM when an employee/applicant orally expresses a need for accommodation.

- c. Forwarding to the DEPM any written request for reasonable accommodation completed by the requester directly to the reasonable accommodation mailbox (RA@fiscal.treasury.gov).
3. The EEOD Director is responsible for:
 - a. Issuing procedures for Fiscal Service to process requests for RA, consistent with governing laws, regulations, executive orders, EEOC directives, and Department policy.
 - b. Issuing Fiscal Service policies related to reasonable accommodations.
4. The DEPM and RASs are responsible for:
 - a. Advising supervisors, managers, human resources officials, and requesters about their rights and obligations with respect to the provision of reasonable accommodation.
 - b. Ensuring the confidentiality of medical information, including specific diagnosis. While the RASs and/or DEPM may share information regarding functional limitations and accommodation needs obtained in connection with requests for reasonable accommodation with the appropriate DMO, this documentation should remain confidential at all times.
 - c. Utilizing systems to track and report on the provision of reasonable accommodation.
 - d. Assisting receiving officials, DMOs, and requesters throughout the reasonable accommodation process.
 - e. Determining the DMO for requests of non-ergonomic accommodations submitted by Fiscal Service employees after consulting with the employee's manager.
 - f. Determining the accommodations to be provided for voluntary modifications and ergonomic accommodation requests, or designating a DMO for such decisions as appropriate.
 - g. Evaluating medical information to determine whether the requester is an individual with a disability, consulting with the Office of Chief Counsel as necessary.
 - h. Accepting reasonable accommodation requests from requesters and documenting those requests.
 - i. Determining the appropriate DMO for reasonable accommodation requests submitted by job applicants.
 - j. Assisting the DMO in engaging in the interactive process with requesters in order to determine an effective accommodation.
 - k. Documenting reasonable accommodation decisions that DMOs make and assisting in implementation of the decision when required.
 - l. Documenting and keeping a record of accommodations provided and notifying new management officials of any reasonable accommodations currently in place for their employees.
5. DMOs are responsible for, with respect to employees or non-Fiscal Service applicants (if designated by the DEPM):
 - a. Engaging in the interactive process with the requester and the RAS.

- b. Consulting with the RAS regarding the request. and information acquired during the interactive process with the requester and RAS regarding the accommodation regarding the s(or any alternative accommodations)
- c. Consulting with the RAS before issuing written decisions concerning reasonable accommodation requests.
- d. Implementing the reasonable accommodation (or any alternative accommodations).

Policy

Fiscal Service is committed to providing reasonable accommodation to employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity (EEO). Fiscal Service shall provide reasonable accommodations for the known physical or mental limitations of otherwise qualified employees and applicants with disabilities, unless a particular accommodation would impose an undue hardship on the operation of its programs or to do so would cause a direct threat to health and safety. Note that whether cost is an undue hardship is determined by the Department's budget, not that of Fiscal Service. Fiscal Service values its employees and applicants for employment and continues to strive to be an employer of choice. To ensure Fiscal Service maintains an effective and efficient workforce, we will provide voluntary modifications, outside of the reasonable accommodation process, when the modification is easy and inexpensive.

Voluntary Modification

Upon request for an accommodation, the RAS, or any designated official with responsibility for identifying possible accommodations, may choose to grant a voluntary modification outside of the reasonable accommodation process. When applicable, and when the requested accommodation is easy and/or inexpensive, this option allows designated officials to grant a modification without first establishing that the individual has a disability. As Treasury strives to be an employer of choice, Fiscal Service encourages the use of voluntary modifications, when feasible, in order to allow applicants and employees to apply for a job, perform job duties, or enjoy the benefits and privileges of employment.

Typically, a voluntary modification will not require extensive supporting medical documentation. However, if medical documentation is necessary for a voluntary modification, the documentation requirement must be minimal and straightforward in nature. If the medical information provided necessitates interpretation, a medical opinion and/or a medical release ([FS Form 5769, Authorization for Limited Release of Medical Information](#)), the request shall be considered and processed as a request for a reasonable accommodation.

NOTE: If a modification is not granted or if it is not quick and easy with or without minimal medical documentation, the request must be treated as a reasonable accommodation request.

Making a voluntary modification does not mean, and may not be used to imply, that Fiscal Service has determined that the individual is an individual with a disability or that an accommodation is needed.

Examples of voluntary modifications that can easily be provided outside of the reasonable accommodation process include (but are not limited to):

- a. An applicant requests the vacancy announcement in large print.
- b. An employee asks for four brief breaks a day to test their blood sugar levels.
- c. An employee requests a footrest to elevate their legs to decrease swelling in their legs and feet.

Requesting a Reasonable Accommodation

A. The Request

1. The reasonable accommodation process begins as soon as the request for accommodation is made either orally or in writing by an applicant, employee, or an applicant or employee's representative. The request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation at any time, even if they have not previously disclosed the existence of a disability.
2. The individual must make a request to: (a) to their immediate supervisor; (b) a supervisor or manager in their immediate chain of command; (c) the EEO Office; or (d) the Reasonable Accommodation Staff (RA@fiscal.treasury.gov). As the reasonable accommodation process begins as soon as the oral or written request for accommodation is made to any manager in an employee's chain of command, it is imperative that the request be forwarded to the Reasonable Accommodation Staff at RA@fiscal.treasury.gov within 2 business days to avoid any potential delay.
3. When an applicant makes a request, it will be considered if made to any agency employee with whom the applicant has contact in connection with the application process or any other individual designated by Fiscal Service. That agency employee must forward this request to the RA Staff immediately to ensure the applicant is able to fully participate in the application or hiring process.
4. A family member, friend, healthcare professional, agent acting on behalf of the employee or prospective employee or other representative may request a reasonable accommodation on behalf of an employee or applicant with a disability. The request should be made to one of the persons listed in A.2., above. Whenever possible, the individual with a disability should be contacted by the Receiving Official, to confirm that they in fact want a reasonable accommodation. The individual with a disability may decline to make a request or refuse to accept an accommodation.

B. Written Requests for Record Keeping Purposes

As noted in A.1., requests may be written or oral. While a written request from an employee is preferable, it is not required.

1. To ensure accurate records, the RAS should confirm in writing the receipt of a request for reasonable accommodation, documenting when the request was received and the nature of the accommodation requested by completing [FS Form 5762, Acknowledgment of Receipt of Request](#). This will be sent to the requester, copying the DMO. This acknowledgment is required even if the employee did not document the request in an email or via [FS Form 5760](#). If the request is received by a manager or supervisor, they will forward the written request to the RA Staff within 2 business days.
2. A written confirmation request form is not required when an individual needs a reasonable accommodation on a recurring basis (e.g., the assistance of sign language interpreters or readers on an intermittent basis does not require a new request each time the service is needed). The written confirmation is required only for the first request. To ensure availability of the services required, the requester should notify the appropriate contact in advance.

C. Requests for Medical Information

1. Once a request is received, the RAS will determine whether medical documentation is necessary. Where the disability and/or need for reasonable accommodation is not visible, obvious, or otherwise already known, the RAS may ask the requester to provide appropriate medical information, using [FS Form 5761, Medical Inquiry Form for Reasonable Accommodation Requests](#). Once the RAS determines medical documentation is necessary, it is the responsibility of the requester to provide any medical documentation. While the use of the [FS Form 5761 Medical Inquiry Form for Reasonable Accommodation Requests](#) is not required, it is preferred to ensure medical documentation is sufficient. The request for medical information will follow the requirements set forth in EEOC's "*Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA*" available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>.
2. In some cases, the disability and need for accommodation will be visible, obvious or otherwise already known to the RAS or the DMO. In these cases, further medical information may not be necessary depending on the request. If a requester's disability and/or need for accommodation are not visible, obvious, or already known, the RAS is entitled to ask for and receive medical information showing that the requester has a covered disability that requires accommodation, as well as the limitations of function requiring accommodation.

PLEASE NOTE: Any request for medical information must comply with the Genetic Information Nondiscrimination Act (GINA) of 2008.

<http://www.eeoc.gov/laws/types/genetic.cfm>

The RAS will determine whether medical documentation is necessary. If the RAS determines that medical documentation is not necessary because the disability is visible, obvious, or otherwise already known, the RAS will engage in the interactive process if necessary.

3. The RAS will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor using [FS Form 5761, Medical Inquiry Form for Reasonable Accommodation Requests](#). In order to obtain the most helpful information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.
4. Once the medical documentation is received, the RAS will evaluate documentation in consultation with the DEPM. If necessary, the RAS or DEPM may consult with a physician chosen by Fiscal Service, and/or any other official designated by Fiscal Service. If the information provided by the health professional or the information volunteered by the individual requesting the accommodation is insufficient to determine whether the requester has a qualifying disability or is insufficient to enable the RAS to determine the appropriateness of a specific accommodation, the RAS may ask for additional information. The RAS will explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and the reason the information is necessary for a determination of the reasonable accommodation request. The individual will then ask the health care or other appropriate professional to provide the missing information.
5. Fiscal Service officials generally should not contact a health care professional directly. Any contact with a health care professional will be discussed in advance with Fiscal Service legal counsel and authorized by the EEO Officer as appropriate. Alternatively, the individual requesting the accommodation may agree to sign a limited release, using [FS Form 5769, Authorization for Limited Release of Medical Information](#) giving the DEPM or RAS permission to submit specific questions to the individual's health care professional or contact the individual's doctor.
6. In some cases, the individual requesting the accommodation may supply medical information directly to the DMO without being asked. In these cases, the DMO will adhere to the confidentiality and disclosure requirements of this process, and forward documents in a sealed envelope to the DEPM or any official designated to receive medical information.
7. **If the individual requesting reasonable accommodation does not provide appropriate documentation or does not cooperate in the efforts to obtain such documentation after 3 attempts (each with a 30-day waiting period) to obtain it, the RAS may administratively close the request using [FS Form 5764, Administrative Closure of Accommodation Request](#). The RAS will document each attempt to obtain the missing information.**

D. The Interactive Process

1. Communication is a priority throughout the entire process. The RAS involved in the provision of reasonable accommodations should take a proactive approach in searching out and presenting possible accommodations to the DMO, including consulting

appropriate resources for assistance. The DMO and the employee or applicant requesting the accommodation should also participate, to the extent possible, in helping to identify any effective accommodations. Personnel involved in the interactive process should record their activities, including dates interactive process meetings were held, and what alternatives accommodations, if any, were considered.

E. On-going communication is particularly important where the specific limitation, problem, or barrier is unclear, if an effective accommodation is not obvious, or if there are possible alternative accommodations. It is important that the DMO and requester talk to each other to make sure that there is a full exchange of relevant information.

F. Determining Who Will Handle the Request

1. The EEOD Director has designated the DEPM and RAS to receive the request. The DEPM will assign the request to an RAS for processing. The RAS will determine who will be responsible for approving the request (the DMO), forward the request to the DMO, arrange for an interactive process meeting between all parties, and monitor the request through its closure.
2. The DMO engages in the interactive process, helps identifies possible accommodations, and determines whether the requested accommodation or an alternative accommodation will be provided. The DMO may be different depending on whether the request is initiated by an employee or an applicant or depending on the type of accommodation being requested. For example, the DMO could be as follows:
 - a. The RAS if the accommodation is requested from an applicant; (The RAS will be available, throughout the process, to aid employees, human resources officials, and DMOs for reasonable accommodations.)
 - b. The RAS if the accommodation requested is for adaptive equipment, assistive technology, ergonomic assistance, a reader or sign language interpreter, removal of an architectural barrier, accessible parking, or materials in alternative formats;
 - c. An Assistant Commissioner or their designee where the accommodation requested involves personnel actions, or telework; or
 - d. The requesting employee's supervisor or manager with the authority to approve an accommodation that involves personnel actions, alternate work schedules, extended breaks, or restructuring non-essential functions and reassignment.
3. To ensure procedures are in place to provide back-up coverage to continue receiving, processing, and providing reasonable accommodations when the RAS is unavailable, another identified RAS will serve as the Receiving Official. Likewise, if the original DMO is unavailable, the designated alternate will act as the DMO. The time frames discussed in the section entitled Granting Reasonable Accommodation and time frames for processing requests will not be suspended or extended because of the unavailability of the RAS or DMO.
4. The RAS shall be available to obtain necessary medical documentation and provide any other assistance required to make an accommodation decision. The RAS may share the

employee's functional limitations(s) with the DMO in order for the DMO to determine the nature and extent of the limitations, as well as potential accommodations, including those recommended by the medical professional, for those limitations.

G. Reassignment as an Accommodation

1. Reassignment is an accommodation of last resort. Reassignment will only be considered if a determination is made that no other effective reasonable accommodations are available to enable the individual to perform the essential functions of their current job, or if the only effective accommodation would cause undue hardship. Fiscal Service is not required to create a position for the purpose of reassignment.
2. If the DMO determines that an employee cannot perform the essential function(s) of their position with or without a reasonable accommodation, the Human Capital Officer or designee must review vacancies for which the employee is qualified, to determine if there is another position at the same or lower grade, with essential functions that the employee can perform. The RAS will send [FS Form 5767, Employee Limitations on Reassignment](#), to the requester seeking what options they will consider and include this information to the Human Resource Specialist conducting the search. A minimum of **30 business days** before expanding the search to other bureaus is required.
3. Since it may take a minimum of 30 business days to determine whether an appropriate vacant position exists, Fiscal Service and the employee should discuss the employee's options during that period, i.e., use of accrued leave, use of unpaid leave, administrative leave (with Director or above approval and appropriate concurrence) or a temporary assignment to a light duty position.
4. In considering whether there are positions available for reassignment, Fiscal Service shall identify:
 - a. all funded vacant positions within Fiscal Service for which the employee may be qualified, with or without reasonable accommodation; and
 - b. all funded positions which the Human Capital Officer or their designee has reason to believe will become vacant over the next **30 business days**, and for which the employee may be qualified.

Fiscal Service may ask the employee to update their resume and identify what grade(s) and geographic locations the employee will accept. Fiscal Service will first focus on positions which are equivalent to the employee's current job in terms of grade, pay and other relevant factors. If there is no vacant equivalent position, Fiscal Service should complete the next step of this process. If Fiscal Service identifies a vacant position available at a lower grade level, the Human Capital Officer must keep that position vacant until the Department's Disability Program Manager conducts a search in other Treasury bureaus for positions at the employee's current grade level.

Fiscal Service is not required to consider positions at a higher grade or positions with known promotional potential greater than the employee's current position. The employee is entitled to apply for such a position under any competitive process.

5. As required by law, a search must be conducted Treasury-wide; however, before sending a request to the Department's Disability Program Manager for assistance in a Treasury-wide search, Fiscal Service's Human Capital Officer must certify in writing:
 - that a search for all funded vacant positions for which the employee is qualified, with or without a reasonable accommodation, was conducted for a period of 30 business days;
 - that no equivalent position or a position at a lower grade was identified; and
 - that there are no equivalent positions that the Human Capital Division has reason to believe will become vacant over the next 30 days for which the employee may be qualified.

In addition, Fiscal Service will submit the employee's updated resume to the Department's Disability Program Manager, who will coordinate a search for a position for an additional **30 business days**. If there is no vacant equivalent position and Fiscal Service is not holding a position at a lower grade level, the Department will consider vacant lower graded positions for which the individual is qualified. If Fiscal Service is holding a position at a lower grade level, the Department will search only for positions at a higher grade level not to exceed the employee's current grade level (i.e., if the employee is a GS-12 and Fiscal Service is holding a GS-7 position, the Department will only search for positions at the GS-8 through GS-12 level).

NOTE: Fiscal Service will request the employee provide an updated resume to assist in conducting a Treasury-wide search. Failure to provide an updated resume could result in Fiscal Service's inability to identify positions for which they may be qualified.

6. Fiscal Service's Human Capital Officer, EEO Director, and the Treasury's Disability Program Manager will maintain a record of the search conducted.
7. 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, Fiscal Service is not required to pay for the employee's relocation costs.
8. Once a reassignment offer has been made, the employee has up to **14 business days** to accept or decline the offer. **If the employee declines an offer of reassignment (an accommodation of last resort), or if no positions for which the employee is qualified are available, the employee may be removed from service for medical inability to perform the essential functions of their job.**
9. If no vacant positions for which the employee is qualified are available, Fiscal Service has **30 business days** from the date of the Department's notification to issue the employee a final decision letter explaining why reassignment as a reasonable accommodation could not be provided.

H. Confidentiality and Disclosure

1. All medical information, including information about functional limitations and reasonable accommodation needs, obtained in connection with a request for reasonable accommodation must be kept confidential. The information shall be kept in files separate from the individual's personnel file. In addition, employees who obtain or receive such

information are strictly bound by these confidentiality requirements. The information may be disclosed only to the following individuals:

- a) DMOs, EEOD employees, supervisors and managers who need to know, may be told about a requester's functional limitations, necessary restrictions on the work or duties of the requester, and about the necessary accommodation(s), but medical information should only be disclosed if absolutely necessary;
- b) First aid and safety personnel, when appropriate, *if* the disability might require emergency treatment or special arrangements in emergency situations such as building evacuations;
- c) Government officials when the information is necessary to investigate Departmental or Fiscal Service compliance with the Rehabilitation Act;
- d) In certain circumstances, to workers' compensation offices or insurance carriers;
- e) Treasury and Fiscal Service legal counsel in connection with providing legal advice to agency officials; and
- f) As required by other relevant law, regulation or under the Department of Treasury's System of Records Notice .016 (Reasonable Accommodation Records).

Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that apply.

I. Granting Reasonable Accommodation and time frames for processing requests

1. Granting a Reasonable Accommodation Request. Once the DMO decides upon an effective accommodation, they will immediately communicate the decision to the requester using [FS Form 5765, Accommodation Request Determination](#). If the accommodation involves equipment, the requester will comply with all policies and procedures regarding Fiscal Service FS equipment. Note: Equipment provided as a reasonable accommodation remains equipment of Fiscal Service. If the accommodation cannot be provided immediately, the DMO must inform the individual of the projected time frame for providing the accommodation. Note: When equipment is not readily available and needs to be ordered through CAP or other vendors, Fiscal Service does not have control over the length of time it might take for equipment to arrive. If necessary, interim accommodations may be considered while waiting for the equipment.

2. Time Frames for Processing Request. The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting documentation. **If the request does not require that supporting medical information be obtained**, the request shall be granted or denied as soon as possible, typically within **20 business days** from the date the DMO receives the request. Since the DMO may need the full 20 days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because a receiving official or DMO delayed processing the request is not an extenuating circumstance.

At a minimum, however, requests shall be processed as follows:

a. Requests Not Involving Extenuating Circumstances

- (1) If the request does not require obtaining supporting medical information, or if we already have the employee's medical on-hand from a previous request, the request shall be processed and a decision to approve, deny or provide an interim on the requested accommodation should be provided as soon as possible typically not more than **20 business days** from the date the request was initially made.
- (2) If the request requires obtaining supporting medical information to determine whether the requesting individual has a disability and/or to identify the functional limitations, the following will apply:
 - (a) The RAS will request documentation as soon as possible after their receipt of the request for accommodation, but before the expiration of the 20-day period. Thereafter, the 20-day period timeframe is frozen until sufficient medical documentation is received.
- (3) Expedited Processing. In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the **20 business days** discussed above. Examples include:
 - (a) An applicant applying for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation to ensure an applicant with a disability has an equal opportunity to apply for a job. When necessary the RAS will move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation.
 - (b) An employee attending a meeting scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in 5 days.

b. Requests Involving Extenuating Circumstances

- (1) When extenuating circumstances are present, the time for processing a request for reasonable accommodation and/or providing the accommodation will be extended as deemed necessary. However, such extensions should be rare. All officials are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:
 - (a) The purchase of equipment may take longer than **20 business days** because of requirements under the Federal Acquisition Regulations.
 - (b) Equipment is backordered; the vendor typically used by Fiscal Service 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.
 - (c) The employee with a disability needs to try working with equipment on a trial basis to ensure it is effective before Fiscal Service buys the equipment.

- (d) New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.
- (2) Where extenuating circumstances are present, the DMO must notify the individual, in writing, 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. Note: In the instances in which equipment must be ordered, Fiscal Service can still complete processing the request for the accommodation and notify the employee of what accommodation will be provided, via [FS Form 5765, Accommodation Request Determination](#).
- (3) If there is a delay in providing an accommodation that has been approved, the DMO must decide whether temporary measures can be taken to assist the employee. This could include providing an alternative accommodation on an interim basis or providing a less effective form of accommodation. In addition, the DMO may authorize measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if:
- (a) They do not unreasonably interfere with the operations of Fiscal Service; and
 - (b) The employee is clearly informed that the relief/alternative is being provided only on as an interim accommodation.
- For example, there may be a delay in receiving adaptive equipment for an employee with a vision impairment. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.
- (4) If a delay is attributable to the need to obtain or evaluate medical documentation and Fiscal Service has not yet determined the individual is entitled to an accommodation, Fiscal Service may also provide an interim (temporary) accommodation on a temporary basis. In such a case, the DMO will notify the individual **in writing** that the accommodation is being provided on a temporary basis pending a decision on the accommodation request using [FS Form 5763, Approval of Interim Accommodation](#).
- (5) Fiscal Service DMOs are responsible for ensuring temporary measures do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

Denying a Reasonable Accommodation Request

When a DMO denies a request for reasonable accommodation, they must issue a written decision to the employee or applicant who requested the accommodation, with a copy to the RAS within 20 business days of receiving the request. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial.

- A. The written decision must include specific reasons for the denial of a reasonable accommodation. Explanation(s) may include the following:
1. The employee or applicant does not meet the definition of an individual with a disability, as defined in §501 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), as amended by the Americans with Disability Act Amendments Act (ADAAA) or the medical documentation is inadequate to establish the individual has a disability and/or needs a reasonable accommodation.
 2. Providing an accommodation would result in undue hardship. Before reaching this determination, the DMO must have explored whether alternative effective accommodations exist which would *not* impose undue hardship and therefore could be provided.

A determination of undue hardship means Fiscal Service finds that a specific accommodation would result in significant difficulty or expense or would fundamentally alter the nature of the agency's operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, Fiscal Service will follow the standards outlined in the regulations and in the *EEOC Enforcement Guidance on Reasonable Accommodation and EEOC Undue Hardship Under the Americans with Disabilities Act*.
 3. Providing an accommodation would require the removal of an essential function.
 4. Providing an accommodation would require the lowering of a performance or production standard.
- B. The written decision denying an accommodation must also inform the individual that they have the right to file an EEO complaint and may have rights to pursue Merit Systems Protection Board (MSPB) and/or negotiated grievance procedures.
- C. While a qualified individual with a disability is typically entitled to reasonable accommodation, absent undue hardship, they are not entitled to the accommodation of their choice. The DMO has the ultimate discretion to choose between effective accommodations. Where the DMO offers an accommodation other than the one requested, but the employee or applicant rejects the alternative accommodation, the DMO will record a summary of the offer and the individual's rejection of the offer. The DMO will provide a copy of the summary to the employee and the RAS and continue the interactive process. If the interactive process fails to result in an accommodation, the DMO will draft a decision letter, as discussed in A. above. The decision letter should note that the DMO previously offered an alternative accommodation, which the individual rejected.

Dispute Resolution

- A. If an individual disagrees with an alternative accommodation provided, or the denial of a specific accommodation and wishes reconsideration of the request, they should first ask the DMO to reconsider the decision within ten business days of receiving the written denial to provide reasonable accommodations. The individual may present additional information in support of their request. The DMO will respond in writing to the request for reconsideration within five business days. Any request for reconsideration received after ten business days of the denial will be treated as a new request for a reasonable accommodation.
- B. If the DMO does not reverse the decision, the individual may appeal the decision within ten business days of receiving the DMO's denial of the request for reconsideration. The appeal shall be decided by the Assistant Commissioner Management/CFO. A response to the appeal will be issued in writing to the individual within ten business days.
- C. Pursuing dispute resolution procedures, including seeking reconsideration from the DMO and filing an appeal, does not suspend the time limits for initiating claims under any collective bargaining agreement or the EEO Complaint process.

Information Tracking and Evaluation

- A. The EEO Officer will annually evaluate Fiscal Service's reasonable accommodation program. An effective reasonable accommodation program is part of a model EEO program and results must be included in the Management Directive (MD)-715 report. The executive summary of the MD-715 report should include a discussion of the following:
 - 1. Accessibility of the reasonable accommodation policy to employees and applicants with or without a disability, e.g., posted on the Internet, Intranet, disseminated in employee handbooks, or available in alternative formats, such as Braille;
 - 2. The number of reasonable accommodation requests approved; of that, the number approved within the timeframes set out in Fiscal Service procedures; and
 - 3. The number of reasonable accommodation requests denied.
- B. The EEOD Director shall maintain tracking information on reasonable accommodation requests for a period of not less than three years.
- C. The EEOC has the right to review all relevant records, including records of individual employees requesting reasonable accommodation, in order to evaluate the efficacy of the Fiscal Service's reasonable accommodation procedures.

Relation of procedures to statutory and collective bargaining claims

- A. Executive Order 13164 does not create, modify or limit the rights of applicants or employees under the Rehabilitation Act or any other law. The policy and requirements described in these procedures are in addition to statutory and collective bargaining protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. The requirements governing statutory and collective bargaining claims, including time frames for filing such claims, remain unchanged.
- B. An individual who chooses to pursue other available remedies must comply with the following:
1. EEO Complaint. Contact an EEO counselor within **45 days** from the date of receipt of the Deciding Official's written notice of denial;
 2. Collective Bargaining Claim. File a grievance in accordance with the provisions of the controlling Collective Bargaining Agreement; or
 3. MSPB Appeal. Initiate an appeal within **30 days** of an appealable adverse action as defined in 5 C.F.R. § 1201.3.

Approval:

X

Gary K. Cyrus, Director
Equal Employment Opportunity and Diversity

Attachment A

1. [FS Form 5760, Request for Reasonable Accommodation](#)
2. [FS Form 5761, Medical Inquiry Form for Reasonable Accommodation Requests](#)
3. [FS Form 5762, Acknowledgment of Receipt of Request](#)
4. [FS Form 5763, Approval of Interim Accommodation](#)
5. [FS Form 5764, Administrative Closure of Accommodation Request](#)
6. [FS Form 5765, Accommodation Request Determination](#)
7. [FS Form 5766, Denial of Accommodation Request](#)
8. [FS Form 5767, Employee Limitations on Reassignment](#)
9. [FS Form 5768, Offer of Reassignment](#)
10. [FS Form 5769, Authorization for Limited Release of Medical Information](#)