

REASONABLE ACCOMMODATION PROGRAM

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 implements Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000), by establishing requirements for processing requests for reasonable accommodations and, where appropriate, for providing voluntary job modifications to employees and applicants with disabilities.

Scope

The policies and procedures contained herein apply to all Fiscal Service employees and applicants for employment. These policies and procedures supplement the Equal Employment Opportunity Commission (EEOC) Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (October 17, 2002), and EEOC Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation. Both documents are available on EEOC's internet site at www.eeoc.gov.

All references to "disability" in the procedures refer only to those impairments that meet the Rehabilitation Act definition of "disability" as amended by the ADA Amendments Act of 2008 (ADAAA). The expanded definition of "disability" is to be interpreted broadly and does not require an extensive analysis.

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.

References

- A. The Rehabilitation Act of 1973 (29 U.S.C. § 701), as amended, requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause undue hardship to the agency.
- B. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000), requires Federal agencies to establish effective written procedures for processing requests for reasonable accommodation.
- C. 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), explains E.O.13164 in detail.
- D. Equal Employment Opportunity Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the American's with Disabilities Act (October 17, 2002), clarifies the rights and responsibilities of employers and individuals with disabilities regarding reasonable accommodation and undue hardship.

- E. Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110-325, effective 2009. The ADAAA extends coverage under the Act to a broader range of individuals. The EEOC issued its final regulations on the ADAAA on March 25, 2011.
- F. 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. Completing written documentation requesting reasonable accommodation using Request for Reasonable Accommodation (See Appendix A).
 - b. Cooperating with receiving officials, deciding officials, the EEO Manager, and Disability Employment Program Manager (DEPM), 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 employee/applicant to complete the Request for Reasonable Accommodation (See Appendix A), once the employee notifies the receiving official either orally or in writing of the employee/applicant's need, and to submit the form directly to the DEPM.
 - b. To notify the DEPM when an employee/applicant orally expresses a need for accommodation.
 - c. To forward to the DEPM any written request for Reasonable Accommodation completed by the employee/applicant.
3. The Equal Employment Opportunity and Diversity Manager (EEO Manager) is responsible for:
 - a. Issuing procedures for Fiscal Service to process requests for reasonable accommodation, consistent with governing laws, regulations, executive orders, EEOC directives, and Department policy.
4. The Disability Program Manager is responsible for
 - a. Advising supervisors, managers, human resources officials, and requesters about their obligations with respect to the provision of reasonable accommodation.
 - b. Ensuring the confidentiality of medical information, including information about functional limitations and reasonable accommodation needs, obtained in connection with requests for reasonable accommodation.
 - c. Developing systems to track and report on the provision of reasonable accommodation.
 - d. Assisting receiving officials, deciding officials, and requesters throughout the reasonable accommodation process.
 - e. Designating who the deciding official will be 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.
 - g. Evaluating medical information to determine whether the requester is an individual with a disability, in consultation with the Chief Counsel's Office as needed.
 - h. Accepting reasonable accommodation requests from requesters.
 - i. Determining who the deciding official will be, for requests submitted by job applicants.
 - j. Assisting the deciding official in engaging in the interactive process with requesters in order to determine what the requester needs to fulfill the job responsibilities.
 - k. Accepting reasonable accommodation decisions that deciding officials make, and implementing the decision when required.

- I. Recording the documentation of disability requesters and advising new management for the requester regarding reasonable accommodations of their employees.
5. Deciding Officials 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 DEPM.
 - b. Deciding whether the requester is a qualified individual with a disability, in consultation with the DEPM.
 - c. Deciding whether Fiscal Service will provide any accommodation to the requester after consultation with the DEPM.
 - d. Deciding, based on the recommendations of the DEPM, which type of accommodation Fiscal Service will provide.
 - e. Consulting with the DEPM before issuing written decisions concerning reasonable accommodation requests.
 - f. Implementing the reasonable accommodation.

Definitions

- A. Deciding Official - An individual who has authority to determine whether an accommodation will be provided in conjunction with the DEPM.
- B. Department - Department of the Treasury, including its subordinate bureaus and offices.
- C. 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.
- D. Disability Employment Program Manager (DEPM) - The individual responsible for overseeing the Fiscal Service Disability Employment Program, including the Reasonable Accommodation Program.
- E. 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 EEO complaint process.
- F. Equal Employment Opportunity and Diversity Branch (EEODB) - The office responsible for administering the Reasonable Accommodation Program.
- G. EEO Officer – The Equal Employment Opportunity and Diversity Branch Manager for the Fiscal Service.
- H. Essential Function - Those job duties that are so fundamental to the position 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; or the function is specialized and the individual is hired based on his/her 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.
- I. Extenuating Circumstances - Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation (e.g. identified software is not compatible with existing equipment).
- J. 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.

K. Individual with a Disability - For the purpose of providing a reasonable accommodation, an "individual with a disability" is defined as a person who has a physical or mental impairment that substantially limits one or more of that person's major life activities or who has a record of such an impairment.

L. Interactive Process - The process by which the individual requesting an accommodation and the deciding official discuss the request for accommodation, determine whether an accommodation will be provided, and examine potential alternative accommodations.

M. Major Life Activities - Basic activities that the average person in the general population can perform with little or no difficulty, i.e., 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.

N. 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.

O. Reasonable Accommodation - An adjustment or alteration 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:

- 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);
- accommodations that enable employees with disabilities to perform the essential functions of the position held or desired (such as providing sign language interpreters); and
- 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).

P. 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, he/she will be reassigned to the job and will not have to compete.

Q. Receiving Officials - Fiscal Service personnel designated to officially receive a request for reasonable accommodation from an employee or applicant (or an individual acting on his/her behalf), determine who will handle the request (the Deciding Official), and monitor the request until it is closed. Typically the DEPM or a member of the EEO staff serves as the Receiving Official.

R. 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. See Appendix A.

S. Requester – An employee, applicant for employment, or an individual acting on his/her behalf, who requests reasonable accommodation.

T. 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.

U. Voluntary Modification - An adjustment or alteration granted outside of the reasonable accommodation process without requiring the individual to establish that he/she has 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 ADA or the Rehabilitation Act as amended by the ADAAA.

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 accommodation 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. 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 DEPM, 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, 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, standing alone 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:

- a. An applicant requests the vacancy announcement in large print.
- b. An employee asks for four brief breaks a day to test his/her blood sugar levels.
- c. An employee requests a footrest to elevate his/her legs to decrease swelling in his/her 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. (A sample request form is provided in Appendix A.) 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 he/she has not previously disclosed the existence of a disability. Each request requires a response, but does not necessarily mean that the employer is required to provide an accommodation.
2. The individual's request must be considered when an employee makes a request to (a) his/her immediate supervisor; (b) a supervisor or manager in his/her immediate chain of command; (c) the EEO Office, or (d) the DEPM. 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. 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, so it is imperative that the request be forwarded to the DEPM within 2 business days.
3. A family member, friend, health professional, 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 he/she in fact wants 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

1. As noted in A 1, requests may be written or oral. While a written request is preferable, it is not required. To ensure accurate records, the Receiving Official (DEPM) 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. The DEPM must fill out the form if the requestor does not.
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). The written confirmation is required only for the first request, although appropriate notice may be required each time a recurring accommodation is needed.

C. The Interactive Process

1. Communication is a priority throughout the entire process. Fiscal Service officials involved in the provision of reasonable accommodations should take a proactive approach in searching

out and considering possible accommodations, including consulting appropriate resources for assistance. The employee or applicant requesting the accommodation should also participate, to the extent possible, in helping to identify an effective accommodation. Personnel involved in the interactive process should record their activities. Resources which are available to help both the deciding official and the individual requesting the accommodation are listed in Appendix C.

2. On-going communication is particularly important where the specific limitation, problem, or barrier is unclear, an effective accommodation is not obvious, or there are different possible reasonable accommodations. In cases where the disability, the need for accommodations, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the Deciding Official and Requester should talk to each other to make sure that there is a full exchange of relevant information. No reasonable accommodation involving performance of the job will be provided without first informing an employee's supervisor or, as appropriate, director or assistant commissioner.

D. Determining Who Will Handle the Request

1. Receiving Official. The EEO Officer has designated the DEPM to receive the request, determine who will be responsible for handling the request (the Deciding Official), forward the request to the Deciding Official, and monitor the request through closure. Management officials who receive requests from their employees should forward the request and any accompanying documentation to the DEPM.
2. Deciding Officials. Deciding Officials engage in the interactive process, identify possible accommodations, and determine whether an accommodation will be provided. The Deciding Official 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 Deciding Official could be as follows:
 - a. The DEPM if the accommodation is requested from an applicant; (The DEPM will be available, throughout the process, to provide assistance to employees, human resources officials, and deciding officials for reasonable accommodations.)
 - b. The DEPM 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 his/her 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. Back-Up. To ensure procedures are in place to provide back-up coverage to continue receiving, processing, and providing reasonable accommodations when the DEPM is unavailable, other identified EEO personnel will serve as the Receiving Official. Likewise, if the original Deciding Official is unavailable, the next higher-level supervisor will act as the Deciding Official. The time frames discussed in sections 204-09 – 204-10, will not be suspended or extended because of the unavailability of the DEPM (Receiving Official) or Deciding Official.
4. The EEO Office shall be available to obtain necessary medical documentation and provide any other assistance required to make an accommodation decision. The EEO Office may share the employee's functional limitations(s) with the Deciding Official in order for the Deciding Official to determine the nature and extent of the limitations, as well as potential accommodation for those limitations.

E. 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 reasonable accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only effective accommodation would cause undue hardship. Fiscal Service is not obligated to create a position for the purpose of reassignment. **Note: The inability to work for a particular supervisor is not a disability.**
2. If Fiscal Service determines that an employee cannot perform the essential function(s) of his or her 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. A minimum of **30 business days** before expanding the search to other bureaus is required. See E.4., of this process.
3. Since it may take a minimum of 30 business days to determine whether an appropriate vacant position exists, the 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 his 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 his/her resume and identify what grade(s) and 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 E 5, 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 (see sample provided in Appendix D):
 - 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 he/she may be qualified.

6. Fiscal Service's Human Capital Officer, EEO Officer, 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 his/her 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.

F. Requests for Medical Information

1. In some cases, the disability and need for accommodation will be obvious or otherwise already known to the DEPM or the Deciding Official. In these cases, further medical information will not be sought. If a requestor's disability and/or need for accommodation are not obvious or already known, Fiscal Service (specifically the DEPM) is entitled to ask for and receive medical information showing that the requestor has a covered disability that requires accommodation. It is the responsibility of the requestor to provide appropriate medical information requested by the DEPM where the disability and/or need for reasonable accommodation is not obvious or otherwise already known.

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>

2. The EEO Officer or DEPM will determine whether medical documentation is necessary. If it is not necessary, the request for accommodation will be returned promptly to the Deciding Official to complete the processing.
3. If medical documentation is necessary, the DEPM will request the information to substantiate that the individual has a disability and needs the reasonable accommodation requested. The request for medical information will follow the requirements set forth in EEOC's *enforcement guidance, "Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act,"* available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>.
4. The DEPM or his/her designee 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 (See Appendix E). 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.

5. Once the medical documentation is received, the DEPM will evaluate the documentation in consultation with the EEO Officer, a physician chosen by Fiscal Service, and/or any other official designated by Fiscal Service, if necessary. If the information provided by the health professional or the information volunteered by the individual requesting the accommodation is insufficient to enable the DEPM to determine whether an accommodation is appropriate, the DEPM may ask for additional information. The DEPM 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.
6. 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.
7. Alternatively, the individual requesting the accommodation may agree to sign a limited release, giving the DEPM or EEO Officer permission to submit specific questions to the individual's health care professional or contact the individual's doctor.
8. In some cases, the individual requesting the accommodation may supply medical information directly to the Deciding Official without being asked. In these cases, the Deciding Official will adhere to the confidentiality and disclosure requirements of this process, and forward documents in a sealed envelope to the Fiscal Service EEO Officer or any office designated to receive medical information.
9. **If the individual requesting reasonable accommodation does not provide appropriate documentation or does not cooperate in the efforts to obtain such documentation, Fiscal Service may deny the request.**

G. 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) Deciding Officials, EEO Office employees supervisors and managers who need to know, may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), 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.

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

Granting Reasonable Accommodation and time frames for processing requests

1. Granting a Reasonable Accommodation Request. Once the Deciding Official decides to provide a reasonable accommodation, he or she will immediately communicate the decision to the individual. If the accommodation involves equipment, the recipient will complete the Receipt of Equipment (appendix F). If the accommodation cannot be provided immediately, the Deciding Official must inform the individual of the projected time frame for providing the accommodation.

A Deciding Official or supervisor may take temporary or permanent measures, such as providing assistive technology or altering the physical layout of an office, to facilitate the work of an employee. Taking such measures does not, standing alone, mean that Fiscal Service has determined that the individual is a qualified individual with a disability or that any reasonable accommodation is needed.

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. 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, the request shall be processed and the accommodation, if granted, provided as soon as possible but not more than **20 business days** from the date the request was initially made.

- (a) Examples of accommodations that can easily be provided within the 20-day time frame include:

- (i) An employee with HIV infection must take medication on a strict schedule. The medication causes extreme nausea about one hour after ingestion, and he/she requests two 20 minute breaks a day when the nausea occurs.
- (ii) An employee who takes anti-depressants that make it hard for him/her to get up in time to get to the office at 9:00 a.m., requests he/she be allowed to start work at 10:00 a.m. and still put in an 8-hour day.
- (iii) A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks the agenda be distributed ahead of time because the disability makes reading difficult and he/she needs more time to prepare.

- (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 DEPM will request documentation as soon as possible after his/her 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. Fiscal Service recognizes the need for documentation may not become apparent until after the interactive process has begun.

- (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 Fiscal Service 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 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 back-ordered; 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 Deciding Official 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.
- (3) If there is a delay in providing an accommodation that has been approved, the Deciding Official must decide whether temporary measures can be taken to assist the employee. This could include providing an alternative accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the Deciding Official 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 a temporary basis.

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 accommodation on a temporary basis. In such a 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 accommodation request.
- (5) Fiscal Service Deciding Officials 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 Deciding Official denies a request for reasonable accommodation, he/she must issue a written decision to the individual who requested the accommodation, with a copy to the DEPM. 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 Deciding Official must have explored whether other 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 he/she has the right to file an EEO complaint and may have rights to pursue Merit Systems Protection Board (MSPB) and/or union grievance procedures.
- C. While a qualified individual with a disability is typically entitled to reasonable accommodation, absent undue hardship, he or she is not entitled to the accommodation of his or her choice. The Deciding Official has the ultimate discretion to choose between effective accommodations. Where the Deciding Official offers an accommodation other than the one requested, but the employee or applicant rejects the alternative accommodation, the Deciding Official will record a summary of the offer and the individual's rejection of the offer. The Deciding Official will provide a copy of the summary to the employee and the DEPM and continue the interactive process. If the interactive process fails to result in an accommodation, the Deciding Official will draft a decision letter, as discussed in A. above. The decision letter should note that the Deciding Official previously offered an alternative accommodation, which the individual rejected.

Dispute Resolution

- A. If an individual wishes reconsideration, he/she should first ask the Deciding Official 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 his/her request. The Deciding Official 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 Deciding Official does not reverse the decision, the individual may appeal the decision within ten business days of receiving the Deciding Official'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 to the individual within ten business days.

- C. Pursuing dispute resolution procedures, including seeking reconsideration from the Deciding Official 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 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 EEO Officer 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.