United States
Environmental Protection
Agency

The U.S. Environmental Protection Agency's National Reasonable Accommodations Procedures (NRAP)

for

American Federation of Government Employees

(AFGE Bargaining Unit Employees and Applicants with Disabilities)

AFGE
PROUD TO MAKE AMERICA WORK
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES · AFL-CIO

November 3, 2003

Revised January, 2009

REVISED NEGOTIATED AGREEMENT

BETWEEN

THE U.S. ENVIRONMENTAL PROTECTION AGENCY
AND

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES COUNCIL 238
ON WRITTEN PROCEDURES FOR PROVIDING REASONABLE
ACCOMMODATIONS
(EPA'S AFGE NATIONAL REASONABLE ACCOMMODATION PROCEEDURES)
TO COMPORT WITH P.L. 110-325, THE ADA AMENDMENTS ACT OF 2008.
THE EFFECTIVE DATE OF THIS AGREEMENT BETWEEN
THE U.S. EPA AND AFGE COUNCIL, 238 IS
JANUARY 30, 2009

FOR THE AGENCY:

U.S. Environmental Protection Agency
Office of the Administrator
Office of Civil Rights

Feb. 18, 2009
Date

FOR THE UNION:

Carol J. Kilbride
American Federation of
Government Employees
Council 238

Feb. 18, 2009
Date

Reasonable Accommodation Negotiation Teams

For Management	For the Union
Tonya Hamlett **Chief Negotiator** U.S. Environmental Protection Agency Office of Human Resources and Organizational Services (OHROS) Labor and Employee Relations Staff	**Mavis Sanders** **Chief Negotiator,** **EPA's AFGE National Reasonable Accommodation Representative** American Federation of Government Employees (AFGE), Council 238
Lakeisha Grant Attorney/Advisor Labor and Employee Relations Staff	Carolyn Lowe AFGE NRAP Team Member
Susan M. Morris Assistant Director, HQ Office of Civil Rights	Julie Sidlo AFGE NRAP Team Member
Keith Bailey National Disabilities Program Manager HQ Office of Civil Rights	Jeffrey Bratko AFGE NRAP Team Member
	Conrad Franz AFGE NRAP Team Member

MEMORANDUM OF UNDERSTANDING

1. The Parties to this agreement are the U.S. Environmental Protection Agency (the Agency) and the American Federation of Government Employees Council (AFGE) 238 (the Union), hereafter referred to collectively as the Parties. It applies only to AFGE bargaining unit employees.

2. This Memorandum of Understanding (MOU) and the AFGE National Reasonable Accommodation Procedures (NRAP) were established to a) create national reasonable accommodation procedures that clearly outline the rights and responsibilities of AFGE employees and Decision-Makers to reduce controversy, time and money spent by the Agency on the issue of providing reasonable accommodations; b) decrease the number of complaints and grievances filed, which will greatly benefit the Agency and the Union; c) navigate a more positive direction of Labor-Management relations, and facilitate an improved working relationship between the Agency and the Union; and d) use the successes resulting from these negotiations and the AFGE National Reasonable Accommodation Procedures (NRAP) as a model to set a more cooperative tone for future negotiations on other employee issues.

3. The Parties acknowledge that the NRAP represents a major change in the way in which the Agency currently operates regarding providing reasonable accommodations to its AFGE employees and that comprehensive training to all supervisors, managers and AFGE bargaining unit employees is paramount in order to change the Agency-wide paradigm and behaviors surrounding the issues of reasonable accommodation.

4. Recognizing this is a change in the Agency, we agree that the Agency's National Reasonable Accommodation Coordinator (NRAC) will consult with AFGE Council 238's National Reasonable Accommodation Representative, before the training is administered to the AFGE workforce, in order to receive input on the development of a training course and accompanying materials that will be beneficial to the Agency and the AFGE workforce on these negotiated procedures.

5. Further, the two (2) negotiation teams will brief the incoming Agency Administrator, the Director of the Office of Civil Rights, the AA for the Office of Administration and Resources Management, the Director of the Office of Human Resources and Organizational Services, and the President of AFGE Council 238 within sixty (60) calendar days of the date this MOU is signed by the Parties.

6. In addition, the Agency's NRAC will consult with AFGE Council 238's National Reasonable Accommodation Representative in order to receive input on the development of a comprehensive intranet web page (before it is completed and posted for viewing), where the procedures will be posted and various training and operating materials will be made available to the general workforce.

7. The Parties acknowledge there are a number of issues affecting disabled employees which could not be addressed in the NRAP; however, by way of this MOU, the Parties will form a cooperative alliance in order to have ongoing meaningful discussions to focus the Parties' attention to formally and/or informally resolve outstanding Agency issues pertaining to disabled employees. EPA will work with AFGE Council 238's National Reasonable Accommodation Representative on outstanding Agency issues to ensure that employees have necessary accommodations, including but not limited to:

    a. providing fundamental building accessibility for disabled employees;
    b. providing accessible handicap parking; and
    c. improving exit strategies and procedures for people with disabilities for local (Headquarters, Regions, Laboratories and geographical locations) occupant emergency plans

8. The Agency will provide one hundred (100) bound hard copies of the AFGE NRAP to the Union for distribution to their Locals and Officers and provide bound hard copies in EPA libraries, Civil Rights or EEO offices, and Human Resource Offices.

9. A mass mailer will be generated by the Director of OCR, and distributed to all Agency employees notifying them that the negotiated agreement on NRAP for AFGE employees has been reached and will be effective for all AFGE bargaining unit employees as of the date of this MOU. This mass mailer will be distributed no later than December 12, 2003, and include a PDF-formatted copy of the NRAP as an attachment or link to an EPA Intranet page, information on the pending training to be administered to all supervisors, managers and AFGE bargaining unit employees, which will be administered within six (6) months of the NRAP's implementation, and indicate that the negotiated AFGE NRAP supersedes all other national, regional, laboratory or geographical location RA policies, orders or procedures for AFGE bargaining unit employees.

10. This agreement is effective as of the date signed, which also denotes the date of implementation. This agreement and the procedures contained herein may not be modified or renegotiated without the mutual consent of both parties, unless mandated by law or regulation. Otherwise, this agreement and the procedures contained herein supersede all previously agreed upon or negotiated agreements pertaining to AFGE bargaining unit employees concerning reasonable accommodations issued by EPA Headquarters, Regions, Laboratories and geographical locations.

11. AFGE employees who have previously been granted reasonable accommodations will continue to receive them and will not be asked for additional information in support of existing accommodations, provided the need for accommodation still exists as per the employee.

FOR THE AGENCY:

Tonya Hamlett
Chief Negotiator
U.S. Environmental Protection Agency
Office of Human Resources
and Organizational Services

11/24/03
Dated

FOR THE UNION:

Mavis Sanders
Chief Negotiator
American Federation of Government
of Government Employees Council 238

11/24/2003
Dated

TABLE OF CONTENTS

INTRODUCTION

I.	Key Terms	8
II.	Requesting Reasonable Accommodation	10
III.	Processing Requests for Reasonable Accommodation	11
IV.	Medical Information	17
V.	Delays in Providing Approved Accommodations	19
VI.	Cases of Denial	20
VII.	Informal Dispute Resolution	21
VIII.	Confidentiality Requirements	21
IX.	Recordkeeping	22
X.	Filing Formal Complaints	22
XI.	Training	24
XII.	Resources	24

APPENDICES

Appendix A - Applicant Confirmation of Request for RA Form	29
Appendix B - Employee Confirmation of Request for RA Form	30
Appendix C - Checklist for Medical Information as Documentation from a Health Care Professional	31
Appendix D - RA Information Reporting Form	32
Appendix E - Limited Medical Privacy Release Form	33
Appendix F - Final RA Decision Form	34

NEGOTIATED AGREEMENT

BETWEEN

THE U.S. ENVIRONMENTAL PROTECTION AGENCY

AND

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES COUNCIL 238 ON WRITTEN PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATIONS AS PROVIDED IN EPA ORDER 3110.21

INTRODUCTION

Through this negotiated agreement, the Environmental Protection Agency (EPA) and EPA's American Federation of Government Employees (AFGE) of Council 238, or the Parties, have negotiated these ***National Reasonable Accommodation Procedures*** (*NRAP*) for the Agency's AFGE Bargaining Unit Employees and Applicants with Disabilities in support of the Parties' commitment to recruit, hire, retain and advance employees with disabilities as an important human resource that increases the quality and productivity of EPA's workforce. The NRAP will ensure the Agency will process requests for reasonable accommodations in a uniformed, consistent manner Agency-wide, and that Agency officials act expeditiously in a prompt, fair and efficient manner when providing reasonable accommodations.

Section 501 of the Rehabilitation Act of 1973, and the Equal Employment Opportunity Commission's (EEOC's) regulations that implement Section 501, require Federal agencies to provide reasonable accommodation to qualified employees or applicants for employment with disabilities, unless to do so would cause an undue hardship. 29 U.S.C. § 791; 29 C.F.R. § 1614.203. Section 501 incorporates the standards of Title I of the Americans with Disabilities Act (ADA), 29 U.S.C. § 791(g). Accordingly, EEOC's Rehabilitation Act regulations cross-reference ADA implementing regulations. 29 C.F.R. § 203(b); 29 C.F.R Part 1630. Revisions to the November, 2003 negotiated agreement are required to comport with Public Law 110-325, the ADA Amendments Act of 2008.

EPA will ensure that sufficient resources are available to implement EPA Order 3110.21, the Agency's Reasonable Accommodation policy and these procedures effectively and efficiently. These procedures will be distributed to all current AFGE employees and to new employees (in positions covered by AFGE) during orientation. The procedures and appendices will be electronically available on EPA's Intranet ("EPA @ Work") and Internet sites and included in the EPA employee handbook. Bound hard copies will also be available in EPA libraries, Civil Rights or EEO offices, and Human Resource Offices. These procedures will be provided in alternative formats when requested from the Reasonable Accommodation Coordinator (RAC) or by any EPA applicant or employee. Any employee or person requesting further information concerning these procedures may contact their Local RAC (LORAC), union representative or the National RAC (NRAC) in the Office of Civil Rights.

These procedures supersede all previous EPA procedures pertaining to AFGE bargaining unit employees concerning reasonable accommodation issued by Headquarters, Regions, Laboratories and geographical locations. Additionally, these procedures may apply to requests made without final decisions prior to this document's signing, and to requests made after this document has been signed and implemented by the Parties. Employees who have previously been granted workplace reasonable accommodations will continue to receive them and will not be asked for additional information in support of existing accommodations, provided the need for RA still exists per the employee.

I. KEY TERMS

Reasonable Accommodation (RA): A workplace RA is any change in the work environment or in the way things are customarily done that enables *a **qualified individual with a disability*** to successfully perform the ***essential functions*** of his or her job *and* to enjoy equal benefits, privileges and employment opportunities. Accommodations include, but are not limited to, making existing facilities accessible; job restructuring; modified workplace policies; part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, EPA documents, or policies; providing qualified readers or interpreters; leave; and reassignment to a vacant position, and the application process.

Individual with a Disability: A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities of such individual*;* a record of such an impairment; or being regarded as having such an impairment.

Functional Limitation: Any limitations imposed on an individual as a result of their disabling physical or mental medical condition/s that creates a workplace barrier. Such barriers include, but are not limited to, performing job tasks; accessing benefits or privileges of employment; or, accessing the application process.

Qualified Individual with a Disability: An employee or applicant with a disability is ***qualified*** if (1) s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position the individual holds or desires; (2) s/he can perform the *essential functions* of the position, with or without a reasonable accommodation; and 3) meets the definition of qualified disability as outlined in the Rehabilitation Act of 1973.

Essential Functions: Identified job duties that are so fundamental to the position that the job cannot be accomplished 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. An essential function does not include the marginal functions (e.g., other duties as assigned) of the position.

Major Life Activities: Includes, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Employee: An individual is considered an employee when they are employed by EPA and a member of an AFGE bargaining unit.

Applicant: An applicant is an individual who is applying for a position at EPA, and whose position is covered by an AFGE bargaining unit.

Supervisor: The term "supervisor," when used in this document, means an employee's immediate supervisor, or another supervisor in his/her immediate supervisory chain.

Decision-Maker (D-M): The identified Agency official who determines whether to approve or deny an employee's RA request, or in the case of an applicant, the Human Resources official processing the request for reasonable accommodation.

National Reasonable Accommodation Coordinator (NRAC): The NRAC is the subject matter expert for Agency employees and D-Ms to use in requesting and providing reasonable accommodation. The NRAC directs the Agency-wide reasonable accommodations program and monitors and consults with the LORACs on a regular basis. The NRAC is a resource for the Agency on the RA process, is responsible for ensuring consistent application of the National RA policy throughout the Agency, and prepares appropriate Agency reports to include Regions, Laboratories and geographical locations, as necessary.

The NRAC coordinates the collection and evaluation of medical records and/or evaluations of employees by an appropriate health care professional; maintains medical records and files on all requests; logs and monitors all RA requests to ensure timely resolution; facilitates the processing of requests with D-Ms and employees; coordinates the provision of RA for applicants; provides guidance and advice to D-Ms on appropriate RAs; determines, when necessary, if an individual has a qualified disability; ensures the interactive process has been engaged with the employee prior to requesting medical information; provides supplier information and technical resources for the procurement of equipment for RA; reviews all RA requests involving essential functions; facilitates the reassignment process by providing the employee and D-M with weekly updates on vacant funded positions for accommodations involving reassignment, for up to 60 business days; and provides training to management and employees on the procedures for requesting and providing RA.

Local Reasonable Accommodation Coordinators (LORAC): The LORAC is a subject matter expert located in the Regions, Laboratories or geographical locations for employees

and D-Ms seeking assistance. The LORAC must possess the appropriate knowledge, skills and abilities to perform the responsibilities of the position. The LORAC functions as a resource for the reasonable accommodation process and ensures that Regions, Laboratories or geographical locations are processing RA requests consistent with Agency policies and procedures. All recordkeeping is the responsibility of the NRAC, and thus, all documentation, including the appendices, should be forwarded to the NRAC for maintenance and not kept by the LORAC. All LORACs will be required to successfully complete Agency-sponsored Reasonable Accommodation Certification Training, as administered by the NRAC.

RAC: Can refer to either the LORAC; the NRAC or both.

Undue Hardship: A determination of undue hardship is made on a case-by-case basis and occurs when EPA finds that a specific accommodation would result in *significant* difficulty or expense (the financial resources of EPA as a whole), or would fundamentally alter the nature or operation of EPA.

II. REQUESTING REASONABLE ACCOMMODATION

An **applicant** for employment may request an RA, either orally or in writing, from any EPA employee authorized to interact with the applicant in the application process, the NRAC or the LORAC.

An **employee,** or an individual acting on behalf of the employee, may request an RA either orally or in writing, from his/her supervisor, another supervisor in his/her immediate chain of command, or the RAC. When an RA request is made by a third parry on behalf of an individual, the Agency official processing the request should confirm the individual's authority to represent the employee with a disability.

An RA request is a statement that an employee needs an adjustment or change in the work environment and/or in the ways things are customarily done, or that an applicant needs a change in the application process for a reason related to a condition or limitation of a qualified disability. The process begins as soon as any request for a workplace RA is made by an individual and ends when either a final decision to deny the request is rendered or the accommodation has been approved.

To request an accommodation, an employee may use "plain English" and does not need to mention the ADA nor use the phrases "reasonable accommodation," "disability" or "Rehabilitation Act." In many cases, employees ask for workplace RAs using Language from EPA' Flexiplace, Voluntary Leave Bank or other Family Friendly programs. Although specific NRAP language is not used, some of these requests may be bona-fide requests for reasonable accommodation and must be clarified by the D-M whether it is, in fact, an RA request or not. The D-M must use the interactive process to review relevant portions of the NRAP with the employee to get employee input on whether the request is for a RA or another Agency program. If after discussion there is some doubt about the request it is advised the D-M and employee consult with the

LORAC or NRAC immediately for assistance in making this determination, and document the determination and discussions using either a Confirmation of Request for RA or a Final RA Decision form.

An applicant or employee with a disability may request an RA whenever s/he believes accommodation is warranted. Such a request does not require that the applicant or employee have previously disclosed the existence of a disability. The RAC is available to provide D-Ms and employees with further information or assistance in connection with requesting or processing an RA request.

III. PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

For information on a wide range of accommodations for various types of disabilities, supervisors and employees can refer to the Job Accommodation Network (JAN). JAN is a free service funded by the U.S. Department of Labor's Office of Disability Employment Policy. JAN is the most comprehensive resource for job accommodations available. JAN consultants provide information on RA ideas for workers with a wide range of disabilities, including model interactive processes, and telephone consultations, for the provision of RA. Additionally, in order to effectuate this policy, EPA has partnered with the Computer/Electronic Accommodations Program (CAP), sponsored by the Department of Defense. CAP provides assistive technology, devices and support services to EPA free of charge (including Regions, Laboratories and geographical locations) for use by EPA employees with disabilities, such as visual, hearing, dexterity, and cognitive thinking.

A. How to Process Requests

For an RA request made by an **applicant,** the person receiving the request should quickly accommodate the applicant if s/he can do so, complete the "Applicant Confirmation of Request for RA" form (Appendix A) and forward it to the NRAC. If necessary, the LORAC or NRAC may be contacted to assist in processing the request and coordinating the provision of the accommodation. All EPA vacancy notices *must* prominently note that the applicant can directly contact the RAC to request an RA. The RAC will assist the staffing specialist or applicant, if needed, in locating resources and making a determination regarding the appropriate accommodation.

For an RA request made by an **employee,** the person receiving the request must identify the Agency D-M, complete the "Employee Confirmation of Request for RA" form (Appendix B), and forward a copy of it to the RAC, the identified D-M, and the employee within five (5) business days of the original RA request.

The **decision-maker** is responsible for making all final determinations regarding the employee's request for RA. The D-M must make a determination to approve or deny a request within fifteen (15) business days of the original request. In cases where the RA request falls into the category of no-cost or low-cost accommodations, a determination should be made as quickly as possible, and in less than the full fifteen (15) days when possible. An approved RA determination made by a designated Agency D-M will be permanent and remain in effect even if the employee changes program offices, AAShips and/or supervisors or managers, or undergoes

any organizational changes, i.e., a reorganization and/or any other Agency factors made or caused by EPA, provided the need for the RA still exists, as per the employee, and it does not create an undue hardship for the Agency.

Once a decision is made to approve an RA request, the D-M must complete the attached "RA Information Reporting" form (Appendix D) and forward a copy to the NRAC, and the employee or applicant. Upon approval of an RA request, the Agency will provide the requested accommodation or an effective interim or temporary accommodation within ten (10) business days of the approval.

B. Interactive Process

The applicant/employee, Agency D-M, and/or the RAC (if requested) should be involved in the interactive process and actively participate in identifying effective accommodations that meet the need(s) of the individual. Ongoing, extensive communication between the D-M and/or the RAC and the applicant or employee is especially important in cases where there are unusual or special limitations, challenges, needs or unanticipated obstacles encountered during the RA process. The D-M must document efforts made and resources used during this interactive process to ensure that all options regarding the RA request have been explored. The interactive process may also be used to identify situations when the employee's performance is clearly negatively impacted by the lack of an RA (See Section V., Delays in Providing Reasonable Accommodation). There may be situations where the employee and/or D-M are uncomfortable with discussing sensitive issues related to the RA request. In these instances, the RAC may engage the employee in the interactive process in lieu of the D-M.

A D-M may use the interactive process to evaluate and approve requests without extensive medical documentation. However, the interactive process must be used in situations where the D-M knows the employee has a disability, but needs more information regarding the need for the requested accommodation. It should also be used when the D-M has additional questions on how the RA request addresses the stated limitation. The interactive process should be used and documented before any medical information is requested by the D-M or RAC. Resources that should be used include the JAN or CAP which can be used to help identify possible accommodations (see contact information in Section XII., Resources). JAN includes a model interactive process for the provision of M.

The D-M, or Agency official(s) who receives information in connection with an RA request, may only share information regarding functional limitations related to a request with other Agency official(s) when these officials need to know the particular information in order to make a decision or provision for a workplace RA request. Confidential medical information must never be shared in connection with an RA request. Agency officials must note on all Agency reporting forms which Agency officials and medical consultants were contacted regarding a specific RA request.

C. Time Frames for Decision-Makers

The time frames associated with processing RA requests are listed below. ***Unless otherwise noted the total time for requesting, confirming, making determinations, funding and providing the requested accommodation must occur within 25 business days of the initial request unless there are extenuating circumstances warranting extensions of time frames.***

Initial Request	May be made by an employee, an applicant for employment or an individual acting on behalf of the employee or applicant, either orally or in writing.
Within 5 business days of initial request	EPA official works interactively with the employee to complete the "Employee Confirmation of Request for RA" form (Appendix B), and forwards a copy to the LORAC, who forwards it to the NRAC, and the employee.
Within 10 business days , of initial request	D-M requests medical information, if necessary, in writing from the Employee.
Within 15 business days of initial request or within 5 business days after receipt of requested medical information	Agency D-M makes a determination to approve or deny the request. If the RA request is approved, the D-M completes an "RA Information Reporting" form (Appendix D). If the request is denied, the D-M completes a "Final RA Decision" form (Appendix F). In each case a copy of the completed form is forwarded to the NRAC and the employee. If the supervisor is not the D-M, s/he should be notified of the determination to approve or deny a requested RA, and provided appropriate information regarding the employee's RA in terms of the employee's functional limitations, but not any other specific information regarding the nature of the employee's disability.
Within 10 business days of approval	Management funds the RA request or grants/implements the accommodation. If the funded item has not arrived or cannot be provided within the ten (10) business days, management will provide effective interim/temporary accommodations expeditiously until the RA is implemented, and will provide the employee with a status update every ten (10) days.

D. Categories of Reasonable Accommodation

RA requests should be identified by using the following seven categories, as indicated on the "Employee Confirmation of Request for RA" form (Appendix B). Some requests will fall under more than one category and all categories that apply to a request should be identified on the confirmation form. These descriptions are not all inclusive, but provide D-Ms with the types of accommodations that are typically requested by employees. For RA requests made by individuals applying for Agency vacancies, the RA must be provided in an expedited manner in order to enable the individual to apply for the position, e.g., prior to the closing date of the specific vacancy for which the individual is applying, or prior to the interview, whichever is appropriate.

1. **No Cost/Low Cost.** The Job Accommodation Network (JAN) at the Department of Labor has determined that 83% of reasonable accommodations cost less than $1,000 dollars. Therefore, the majority of RA requests would be considered no-cost/low-cost and fall into this category. The following are examples of workplace RAs that may be requested by employees and would be considered a no-cost or low-cost accommodation.

Types of No Cost/Low Cost Accommodations

Alternate Work Locations	Allowing employees to work from home, telecommuting centers or alternate EPA work locations
Modified Work Schedules	Changing arrival and departure times; providing periodic breaks and allowing employees to convert to part-time work schedules
Leave	Allowing employees to use accrued paid leave and unpaid leave
Job Restructuring	Reallocating or redistributing marginal job functions that an employee is unable to perform because of a functional limitation; altering when, how and/or under what circumstances marginal and essential functions are performed
Modified Workplace Policies, Practices or Procedures	Deviating from normal workplace policies when necessitated by an individual's disability-related limitation(s)
Equipment and Software	Examples may include, but are not limited to, modifying computer desktop settings, providing motorized mobility scooters, or elevated work surfaces, etc.

Although *fifteen (15) business days* from the date of the request is the designated time frame for D-Ms, accommodations in this category should be provided immediately since there are little or no monetary resources required. However, should there be a delay in providing even no cost/low cost accommodations, the D-M will provide the employee with a status update each week, and work interactively with the employee to identify and implement an effective interim/temporary RA until the approved accommodation is provided.

2. **Repeat or Recurring.** Requests that are anticipated to be needed on a recurring basis, need only be approved once, and indicated on the "Employee Confirmation of Request for RA" form (Appendix B). This form need only be filled out once and forwarded to the LORAC or NRAC and employee for the original request. Examples of recurring RA requests may include, but are not limited to the following: sign language interpreters, local transportation to Agency-sponsored meetings or use of alternative/accessible work locations. Although fifteen (15) business days from the date of the request is the designated time frame for all D-Ms, accommodation in this category should be provided immediately as it is a recurring request; however, proper notice (typically at least five (5) business days for interpreter services) should be provided to the Agency to ensure arrangements can be made for the requested accommodation.

3. Essentia1 Job Functions. For a request made by an employee that involves an essential job function, the D-M receiving the request should ensure that the portion of the "Employee Confirmation of Request for RA" form (Appendix B) addressing essential functions of the position is completed in full, and the information is forwarded to the NRAC and the employee. ***To ensure consistency throughout the Agency, D-Ms and LORACs must consult the NRAC prior to making a decision on a request regarding essential job function accommodations issues.***

Sometimes, the ability to perform the essential functions of a position is based on the equipment needs of the employee. The D-M and/or RAC may also use the services of the JAN or CAP to identify an effective RA. If products or services provided by CAP are needed, the D-M must notify the LORAC or NRAC, who will then coordinate the CAP accommodation process. If, after consulting with JAN, another RA is found to be equally as effective as the original accommodation requested, the D-M should, along with the employee, choose an appropriate accommodation.

4. Reassignment. As a last resort, reassignment of an employee will be considered if no other effective accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only other RA would cause undue hardship to the Agency, unless both the D-M and the employee have identified that reassignment is preferable to remaining in the current position with some form of RA, then the employer may reassign the employee:

The NRAC will be responsible for working with the employee, the D-M and other Agency officials, including Program Management Officials, Human Resource Officers, OHROS, OGC or ORC, Agency Administration, EPA's RA Clearinghouse, as necessary, to: (1) identify all funded vacant positions within the Agency for which the employee may be qualified, with or without reasonable accommodation; (2) identify all funded positions which the Agency has reason to believe will become vacant over the next 60 business days and for which the employee is qualified, with or without a reasonable accommodation; and (3) determine whether there are limits on the search the employee would like the Agency to conduct.

First, the Agency will identify positions which are equivalent to the employee's current job in terms of pay, status, and relevant factors. When there is no vacant funded equivalent position, the Agency will consider vacant lower level positions for which the individual is qualified. A qualified employee will be reassigned to the vacant funded position and will not have to compete for it, as long as no union seniority rights are violated. The NRAC must provide the employee and D-M with weekly updates, which include a list and location of the vacant positions identified, for up to 60 business days, on the status of the search for appropriate vacancies.

Reassignment to a vacant position outside the employee's commuting area may be available on a case-by-case basis, if the employee is willing to relocate and the reassignment will not result in undue hardship to the Agency. As with other reassignments not required by management, the Agency will not pay for the employee's relocation costs.

5. Enjoyment of Equal Benefits and/or Privileges of Employment - The benefits and privileges of employment include, but are not limited to employer-sponsored: 1) training; 2) services (e.g., employee counseling and assistance programs (ECAPs), credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation); 3) social functions (e.g., parties to celebrate retirements and birthdays, and company outings) and 4) travel. Requests should be processed expeditiously in order to allow employees with disabilities to participate in these activities along with other EPA employees: Notices of upcoming meetings, awards ceremonies, training, etc., should include notification of an employee's right to request RAs that would enable them to fully participate in Agency activities.

6. Facility Access/Issues - This category covers all facility access issues, including, but not limited to, building modifications, removal of architectural and other physical barriers, and reconfiguring work spaces.

(a) Applicants for Employment. In cases where the request is submitted by an applicant, the Agency official receiving the request should immediately notify the NRAC or LORAC to coordinate providing the requested accommodation or an effective alternative prior to the closing date of the associated vacancy announcement or interview, whichever is appropriate.

(b) Employees. For requests submitted by employees, the Agency official receiving the request should immediately notify the NRAC or LORAC and the appropriate Agency Facilities official(s) of the request. The RAC or D-M should provide appropriate information to the facilities official regarding the employee's RA request in terms of the employee's functional limitations and not discuss any other specific information regarding the nature of the employee's disability. The RAC, in consultation with the appropriate facilities official, will identify the Agency D-M who will evaluate the issue and make an initial determination. As with other RA requests, the decision to approve or disapprove the request must be made within fifteen (15) business days from the date of the request, although it may take additional time to implement the request.

(c) Funding. The timing for resolution of requests involving facility access or building modifications can be difficult to determine because of funding and intraagency coordination issues. If an approved/funded RA cannot be implemented within ten (10) business days of the approval decision, D-Ms and the RAC must work interactively with the employee to determine a temporary effective accommodation that can be put in place as an interim measure. The RAC must update the D-M and the employee making the request on a weekly basis until the accommodation has been implemented.

7. Higher Cost - Higher-cost accommodations typically represent less than 3% of RAs. Therefore, when a higher-cost request is approved, the D-M must contact the NRAC to facilitate Agency coordination of funding. Funding for higher-cost accommodations is the responsibility of the Chief of Staff, Deputy Chief of Staff, Associate Administrators, Assistant Administrators, Inspector General, General Counsel, Chief Financial Officer, and Regional Administrators, who are responsible for providing immediate funding for these kinds of requests.

EPA will fund the request or grant/implement the RA within ten (10) business days of approving. If the funded item cannot be provided within the ten (10) business days, the D-M will work interactively with the employee to identify and provide an effective interim/temporary accommodation until the approved RA is provided. The D-M will also update the employee of the status on a weekly basis until the approved RA is in place. The higher-cost category does not include building modifications, building access issues or other facilities-related RAs.

IV. MEDICAL INFORMATION

A. Requests for Medical Information

When an RA request is made, EPA is entitled to know that an applicant or employee has a covered disability that requires reasonable accommodation. Medical information as documentation is not always needed in order to approve an RA request. There are several ways EPA may seek medical information in order to process an employee's request for a workplace RA. The D-M and/or the NRAC, may ask the employee for medical information, via the interactive process, regarding the employee's need for accommodation. If a D-M believes that medical information as documentation will be required in order to process a request, s/he must immediately contact the NRAC for a full discussion of the procedures, time frames and requirements for processing RA requests. The RAC will ensure the interactive process has been engaged with the requesting employee. When D-Ms use the interactive process, s/he *must* document any RA options that are discussed with or offered to the requesting employee.

Once the NRAC or D-M has obtained the requested medical information and/or a final determination has been made to approve a requested accommodation, EPA may not ask for additional medical information in support of the approved request. Additional medical information may not be requested unless there is a new RA request made by the employee, which can be considered, as explained below, a case where medical information is necessary.

B. Cases Where Medical Information is Necessary

In cases *where the disability and the need for the requested accommodation are known or obvious* to the D-M, no medical information as documentation from a health care professional may be requested and the RA request should be processed and approved using the established time frames.

In cases *where the disability is known or obvious, but the employee's limitation(s) and/or the need for and type of accommodation may not be known or obvious,* the D-M and employee must begin the interactive process to determine what accommodations may meet the needs of that employee and *if* there is a need to request medical information to substantiate a decision to approve the requested DM.

If neither the disability, limitation nor need for the requested accommodation is obvious or known, the D-M may request medical information as documentation *or* use the interactive process to determine the employee's RA needs.

1. **Sufficient Medical Information.** If the D-M believes that medical information is needed, (s)he may request specific medical information as documentation, in writing, to be obtained from an appropriate health care professional (i.e., a physician, social worker, or rehabilitation counselor). Medical information is considered sufficient by EPA if it substantiates that the applicant or employee has a qualifying disability, what the functional limitation is, and/or why an RA is needed. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, equipment or appliances, low vision devices (devices that magnify, enhance, or otherwise augment a visual image), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies, assistive technology, reasonable accommodations or auxiliary aides or services, or learned behavioral or adaptive neurological modifications. **However,** the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses (lenses that are intended to fully correct visual acuity or eliminate refractive error) **shall** be considered in determining whether an impairment substantially limits a major life activity." ***The requesting employee should provide a copy of the "Checklist for Medical Information as Documentation from a Health Care Professional" (Appendix C) and EPA's written request for medical information to their physician in an effort to obtain all of the necessary medical information to document the need for a workplace RA.***

2. **Delays in Processing Requests While Waiting for Medical Information.** There may be situations where a delay in *processing* an RA request may occur while the employee, RAC and/or the D-M are obtaining supporting medical information for a requested accommodation. For example, an employee may have difficulty scheduling an appointment with his/her health care professional, a delay in getting a written response, or must work through internal health care protocols to readily obtain the requested information. In these situations where there is a need for medical information, and the employee indicates there is a delay in obtaining the requested information, the D-M *may* provide a temporary/interim RA to assist the employee even if it is less effective than the accommodation requested. A D-M could consider, for example, a temporary job restructuring or the use of equipment that may permit the employee to perform some of the functions of his/her job.

3. **Official Access to Employee's Medical Information.** There may be cases where the applicant or employee is uncomfortable with the D-M or supervisor having access to the employee's medical information. In this case the applicant or employee may ask that the NRAC be the only EPA official to have access to any medical information that has been provided to the Agency (See employee's signature block on Appendix B, Employee Confirmation of Request for RA form). ***The NRAC will then be responsible for transmitting only pertinent information regarding functional limitations to the D-M if the information is needed to make a decision regarding the accommodation request. Alternatively the NRAC may advise the D-M without disclosing any medical information.*** If the applicant or employee does not provide the requested medical information as documentation, the request for RA may be denied (see Section VI., Cases of Denial).

C. **Cases Where Limited Medical Privacy Release Forms Are Necessary**

There may be cases where the medical information submitted by the employee's health care professional is too technical for the D-M and/or NRAC to understand, or where the information does not sufficiently explain the employee's functional limitation(s) or the need for the requested accommodation. In these cases the D-M and/or NRAC may request (in writing) that the employee sign a *"Limited Medical Privacy Release "form (Appendix E).* The request for a limited medical release must detail the specific medical information that is lacking or unclear in the original documentation and what information is needed in order to process the requested accommodation.

An employee who signs *a Limited Medical Release Form* authorizes the NRAC or Agency physician to contact the applicant's or employee's health care professional in an effort to obtain only the specific medical information previously requested by the Agency. With a signed release form, the NRAC or Agency physician may then either talk directly with or re-send the list of specific medical questions directly to the employee's health care professional. Any medical information obtained by the NRAC or Agency physicians must be treated confidentially and not discussed with any other Agency official. If the applicant or employee has indicated that s/he is uncomfortable with a supervisor or D-M having access to his/her medical information, s/he may request that all medical information remain confidentially with the NRAC and that only information regarding functional limitations and/or accommodation recommendations be shared with the D-M.

If, after a reasonable period of time, generally 60 calendar days, the Agency has not received the specific information requested, the D-M or the NRAC may offer the applicant or employee the option of being examined by a physician or other health care professional chosen and paid for by EPA. Failure by the applicant or employee to provide the requested medical information within a reasonable time, generally 60 calendar days, or to cooperate with EPA's efforts to obtain such documentation may result in a denial of a workplace RA.

V. **DELAYS IN PROVIDING APPROVED ACCOMMODATIONS**

EPA recognizes that there may be a number of *limited situations* where there is cause for a delay in meeting the Agency established time frames for providing workplace RAs. When these circumstances are present, the time frame for providing RAs may be extended as reasonably necessary and an effective temporary accommodation *will be immediately approved and provided* to the employee until the approved RA has been provided. Temporary accommodations shall remain in place until the approved RA has been provided, with a status update from the RAC or D-M every ten (10) business days to the employee.

These *limited* situations include extenuating circumstances and mitigating delays that are unavoidable and should be reflected by the NRAC in all monthly aggregate reports to AFGE. These delays are a result of unavoidable factors encountered by EPA that may include vendors that are unable to provide ordered goods or services in a timely manner, facility access issues or other unanticipated circumstances.

When there is a delay in providing an approved workplace RA, the LORAC and/or NRAC must notify the requesting applicant or employee of the reason for the delay and the approximate date that the Agency will be able to provide the approved RA. The D-M and/or RAC must also use the interactive process to identify an effective interim accommodation that will be provided on a temporary basis until the original approved RA has been implemented. Temporary accommodations may include job restructuring, the use of less effective adaptive equipment, arranging for outside contractors to serve as readers or interpreters or the temporary removal of an essential function. These temporary measures may not be as effective as the approved RA, but will allow the employee to perform as much of the job as possible until the approved RA can be provided.

The lack of RA may have a significant impact on the ability of the requesting employee to perform certain job functions. If the D-M, in consultation with the employee, determines that the lack of an RA could be negatively affecting performance, then any performance actions being considered or in process, should be stayed until the employee is provided the RA and has an adequate amount of time, generally *45 calendar days* with the approved RA to improve performance, before the performance-based action can be initiated. If a final RA decision is made to deny the requested workplace RA and a request for reconsideration has been denied then the process to take a performance-based action may be resumed.

VI. CASES OF DENIAL

EPA is committed to and has a statutory obligation to providing RAs, whenever possible. However, in addition to any case that would cause the Agency undue hardship, EPA may deny a requested accommodation if the D-M determines that the RA would not be effective and that no other accommodation is available to address the limitations of the requesting employee. ***Before reaching a determination to deny an accommodation request; the D-M and LORAC or NRAC must explore whether any other effective accommodations are available that could be provided to the employee and indicate all alternate RAs that were identified and presented to the employee on the "Final RA Decision" form (Appendix F).***

Employees *must* provide sufficient medical information, if requested, that substantiates the applicant or employee has a qualifying disability, what the functional limitation is, and/or why a RA is needed. If the applicant or employee does not provide medical information sufficient to support the need for an RA, the D-M or the NRAC will provide, in writing, the specific medical information as documentation needed to complete the processing of the request.

If the employee and/or the health care professional are unable to supply the additional information requested, EPA may deny the request or choose to do one or more of the following:

- Respecify to the employee, the medical information needed to complete the processing of the request;
- Request that the employee sign a limited medical privacy release form enabling the NRAC, D-M or an Agency physician to contact the employee's health care professional directly to obtain the specific medical information previously requested;

- Ask the employee to submit to an independent medical evaluation to obtain the previously requested medical information (2nd opinion exam) by an Agency physician, at EPA's expense; or
- Make a determination to approve the requested accommodation based on the existing medical information.

If the D-M denies the RA request, s/he must complete the attached "Final RA Decision" form (Appendix F) and include a detailed explanation of the reason(s) for the denial. The D-M must also inform the individual denied the accommodation that s/he has the right to choose one of the following processes: informal dispute resolution, file an Equal Employment Opportunity (EEO) complaint, a union grievance under AFGE's Master Collective Bargaining Agreement, and/or may have rights to pursue an appeal with the Merit System Protection Board (MSPB) by following the applicable regulations or guidelines of the complaint method chosen. A signed copy of Appendix F must be provided to the NRAC and the employee or applicant.

VII. INFORMAL DISPUTE RESOLUTION

Applicant or AFGE employees may request prompt reconsideration of a denial decision for reasonable accommodation. If an individual wishes reconsideration, s/he should first ask the D-M to reconsider their decision. The D-M will respond in writing to the request for reconsideration within *five (5) business days.* If the D-M does not reverse the decision, the individual may then ask the senior management official within the immediate supervisory chain of command (Assistant Administrator, Deputy Regional Administrator or Laboratory Director) for a reconsideration. The senior management official will respond in writing to-this request within *(5) five business days,* by issuing a Final RA Decision. If the senior management official does not reverse the decision, the individual may then exercise his/her rights as outlined in Section X., Filing Formal Complaints. An employee's right to initiate statutory or collective bargaining claims does not begin until either a D-M denies the request for an employee who does not ask for reconsideration, or a Final RA Decision has been issued denying the request as a result of the reconsideration process.

VIII. CONFIDENTIALITY REQUIREMENTS

The NRAC is responsible for maintaining any and all medical information obtained by EPA in connection with RA requests. Under the Rehabilitation Act, medical information obtained in connection with the RA process must be kept confidential. This information must be handled in compliance with the Privacy Act of 1974 (5 U.S.C. § 552a) and the requirements of 40 C.F.R. Part 16 (EPA regulations implementing the Privacy Act), and all other applicable laws, regulations and guidelines.

This means that all medical information, including information about functional limitations and RA needs that the Agency receives in connection with an RA request must be transferred by the D -M in sealed confidential envelopes, maintained by the NRAC in a file separate from the applicant's or employee's official personnel file, and kept in locked cabinets or rooms. Due to unsecured facsimile machines, medical information should never be faxed.

Employees located in Regions, Laboratories and geographical locations may send medical information to the NRAC via EPA "pouch mail." Access to such records is strictly limited to Agency officials, contracted physicians, employees and union representatives with a bona-fide need for the records, (as outlined in the NRAP) as verified by the NRAC. Any individual who possesses medical information will be held to these standards of confidentiality.

The NRAC will coordinate any Agency response to a request for disclosure of such information and inform the recipients of the information about the confidentiality requirements that attach to it. In addition, the Equal Employment Opportunity Commission (EEOC) has the right to review such records upon its request, in order to evaluate the Agency's Reasonable Accommodation procedures.

IX. RECORDKEEPING

The NRAC must monitor all records for compliance and maintenance in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and the requirements of 40 C.F.R.Part 16 (EPA regulations implementing the Privacy Act), 29 C.F.R. Part 1614, and all other applicable laws, regulations and guidelines, especially those pertaining to confidentiality. The NRAC will also be responsible for maintaining appropriate tracking and record-keeping in accordance with EEOC regulations. If the supervisor is not the D-M, s/he should be provided appropriate information regarding the employee's RA in terms of the employee's functional limitations, but not any other specific information regarding the nature of the employee's disability, and notified of the determination to approve or deny an RA request.

EPA will notify AFGE of the appointment of the NRAC and LORACs, when the incumbent is appointed or when the incumbents in any of those positions changes and will provide an Agency-wide monthly aggregate report to AFGE on Agency RA requests, sorted by category, status (approved, denied, pending, delayed), and HQ, Region or geographical location.

X. FILING FORMAL COMPLAINTS

The NRAP procedures outlined in this document provide internal operational procedures for AFGE bargaining unit employees, and are not meant to be a substitute for statutory, administrative and collective bargaining protections for persons with disabilities and any associated remedies that may be provided in cases of denial of requests for reasonable accommodation. Please note that individuals have the right to file an EEO complaint with the Agency, an appeal with the MSPB, or an employee negotiated grievance under AFGE's Master Collective Bargaining Agreement, Article 45 - Grievance Procedure, regarding any individual claim of discrimination based on a disability or a denial of an RA request. An employee or applicant cannot file more than one formal complaint on the *same claim* of discrimination or denial of an accommodation, as listed below:

A. ***For an EEO complaint,*** initiate pre-complaint counseling within *45 calendar days* from the date of receipt of the written Final RA Decision. To initiate counseling, Headquarters applicants and employees should contact the Office of Civil Rights (OCR); Regional applicants and employees should contact their Regional EEO Officer; and Laboratory applicants and employees should contact their Area Director of Civil Rights. EEOC's regulations require

agencies to establish or make available an Alternative Dispute Resolution (ADR) program. 29 C.F.R § 1614.102(b)(2).

Applicants and employees are advised there may be locally negotiated ADR agreements, which must be followed. The ADR program covers both pre-complaints and formal complaints within the EEOC process. At the time the aggrieved person chooses to file a pre-complaint, s/he will be advised by an Agency-designated counselor of his or her rights and responsibilities, which includes electing the applicable local or Agency ADR process. 29 C.F.R § 1614.105(b). The counselor must also advise the aggrieved person that if the dispute is resolved during the ADR process, the terms of the agreement must be in writing and signed by both the aggrieved person and the Agency. If the claim, in whole or in part, is unresolved during ADR, the employee will be referred back to the counseling process. The counselor will then issue the aggrieved a Notice of Right to File (NRF) and the aggrieved may file a complaint of discrimination within fifteen *(15) calendar days* of receipt of the NRF.

In order to avoid any real or perceived conflicts of interests, any employee of [EPA's] OCR has had any involvement in the decision-making process of a request for accommodation, that staff member must recuse him/herself from any involvement in the EEO complaint process regarding a denial of that particular request.

B. ***For an appeal to the Merit Systems Protection Board (MSPB),*** file within 30 *calendar days* of an "appealable" adverse action as defined in 5 C.F.R. § 1201.3. If for any reason MSPB does not take jurisdiction, the claim will be remanded to the Agency for processing as either an EEO complaint or a negotiated grievance procedure.

C. ***For a negotiated grievance*** (AFGE bargaining unit employees only), file a written grievance within *30 calendar days* from the date of receipt of the written "Final RA Decision" form (See Appendix F). At the time the aggrieved person chooses to file a grievance, s/he is required to be advised by a union representative of his or her rights and responsibilities, which includes electing the Agency's ADR process. The union representative must also advise the aggrieved person that if the dispute is resolved during the ADR process, the terms of the agreement must be in writing and signed by both the aggrieved person and the Agency.

NOTE: Requirements governing the initiation of statutory, administrative and collective bargaining claims, including time frames for filing such claims, remain unchanged by the procedures included in this document.

XI. TRAINING

In order to implement these procedures and facilitate Agency compliance with Executive Order 13164 and the Rehabilitation Act of 1973, EPA will develop an NRAP training course for all supervisors, managers and AFGE bargaining unit employees. The training course will be developed, within three (3) months of the implementation of the NRAP, in consultation with AFGE Council 238's Reasonable Accommodation Representative, before it is administered to the AFGE workforce. The training will be administered to the AFGE workforce within six (6) months of the implementation of these procedures.

Copies of the NRAP and materials for the training program will be made available via the Intranet ("EPA @ Work") before the training program begins as reference materials for employees and management. In addition, NRAP training will be administered by EPA on a recurring basis (at least annually) to newly appointed and established supervisors and managers of AFGE employees.

The NRAC will be responsible for the development of the course, as well as for providing the appropriate resource materials and manuals electronically (via the Intranet on "EPA @ Work') to assist supervisors and managers of AFGE employees in their responsibilities of administering these procedures at EPA.

XII. RESOURCES

A. Job Accommodation Network (JAN)
1-800-232-9675 (Voice/TT)
http://janweb.icdi.wwu.edu/

A service of the former President's Committee on Employment of People with Disabilities, now the U.S. Department of Labor's Office of Disability Employment Policy. The Job Accommodation Network (JAN) is a free consulting service that provides information about job accommodations and the Americans with Disabilities Act (ADA). JAN can provide information, free-of-charge, on a wide range of reasonable accommodations options for many different types of disabilities, even on a telephone basis.

B. Computer/Electronic Accommodations Program (CAP)
(703) 681-3976 (Voice/TT)
www.tricare.osd.mil/cap

CAP pays for a wide variety of assistive technology, devices and services for people with disabilities. Frequently requested accommodation solutions include:

Blind/Low Vision	Magnification systems, speech and Braille output systems, scanner/reader systems, Braille embossers, and Braille notetakers.
Deaf/Hard of Hearing	Teletypewriters (TTYs), PC- TTY modems, telephone amplifiers, assistive listening systems, and visual signaling devices.
Dexterity Disabilities	Alternative keyboards, word prediction software, speech recognition systems, pointing devices, hands-free computer interface systems and keyguards.
Cognitrve/LearningDisabilities	Talking dictionaries and scanner/reader systems.
Communication Disabilities	Electronic communication aids and speech output systems to augment communication.

The CAP Technology Evaluation Center (CAPTEC) is a facility dedicated to the evaluation and demonstration of assistive technology. It was established to assist supervisors and employees in choosing appropriate assistive technology to create work environments that are accessible to persons with disabilities. CAPTEC consists of computer workstations configured with a wide variety of assistive technology. People in the process of evaluating assistive equipment who have questions about compatibility or functionality, or who need to compare several solutions, may visit CAPTEC to test and evaluate equipment. Further, the CAP Staff conducts needs assessments to identify the best equipment to meet individual requirements. CAPTEC is located at the Pentagon, Room 2A259, 703-693-5160 (V) or 703-693-6189 (TTY).

C. U.S. Environmental Protection Agency
Assistive Technology Center
1201 Constitution Avenue, NW
Federal Triangle Complex
EPA East, Room B132C
Washington, DC 20004
202-564-1461 (Voice) 202-564-1198 (TTY)

The Assistive Technology Center (ACT):

- Has workstations equipped with hardware and software to accommodate the deaf and hard of hearing and people with mobility, speech and visual disabilities;
- Works with employees, managers, IT professionals, and other experts to find acceptable solutions for users with unique desktop accessibility requirements;
- Provides a place where system managers may test Agency applications, present live assistive technology demonstrations, acquire 508 legislation educations, and test their websites for accessibility; and
- Assists with facilitating the production of EPA publications into alternative formats such as Braille, Large Print, audio, and ASCII diskette.

To learn more, contact Elaine Davis, Agency Technical Representative for Assistive Technology at 202-566-1573 or visit their website at http://intranet.epa.gov/accessibility and click on "Assistive Technology."

D. U.S. Equal Employment Opportunity Commission
1-800-669-3362 (Voice)1-800-800-3302 (TT)

The EEOC's Publication Center has many free documents on the Title I employment provisions of the Rehabilitation Act's "sister statute," the Americans with Disabilities Act (ADA), including both the statute, 42 U.S.C. §12101 et seq. (1994), and the regulations, 29 C.F.R. §1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. 1630.2(o), (p), 1630.9 (1997), and (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities

Act III, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including Federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations.

The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents:

- Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995);
- Enforcement Guidance: Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996);
- Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76.(1997);
- Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1996); and
- Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000).

Finally, the EEOC has a poster that employers and labor unions may use to fulfill the ADA's posting requirement.

All of the above-listed documents, with the exception of the ADA Technical Assistance Manual and Resource Directory and the poster, are also available through the Internet at http://www.eeoc.gov.

E. ADA Disability and Business Technical Assistance Centers (DBTACs) 1-800-949-4232 (Voice/TT)

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

F. Registry of Interpreters for the Deaf (301) 605-0050 (Voice/TT)

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

G. RESNA Technical Assistance Project
(703) 524-6686 (Voice) (703) 524-6639 (TT)
http:// www.resna.org/

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

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

APPENDICES

APPENDIX A

APPLICANT CONFIRMATION of REQUEST for RA

(To be completed by the LORAC, Decision-Maker or HR Staffing Specialist and forwarded to the NRAC)

Today's Date	**Date of Request**
Vacancy Announcement No.	**Closing Date of Announcement**
Applicant's Name	**Applicant's Telephone No.**
Accommodation Requested: *(Be as specific as possible, e.g., adaptive equipment, reader, sign language interpreter, etc.)*	
Date Accommodation Provided:	
Reason for Request:	
Applicant Date ☐ *I do not want my medical information to be disclosed to any EPA official other than the identified decision-maker and NRAC*	Agency Official Receiving Request Date
NOTE → Return Form to LORAC	

EMPLOYEE CONFIRMATION OF REQUEST for RA

(To be completed by the LORAC or Decision-Maker and forwarded to the NRAC)

1. Date of submission to RAC and/or Decision-Maker:	2. Date of Initial Employee Request:
3. Agency Official Accepting Request:	
4. Applicant or Employee Making Request:	
5. Employee's Location (AAShip/Program Office/ Division/Branch):	
6. Employee's Supervisor:	
7. Designated Agency Decision-Maker:	
8. LORAC (if applicable):	

9. Type of Accommodation Requested: *(check all that apply)*

☐ No Cost/Low Cost	☐ Repeat/Recurring	☐ Facility Access
☐ Higher-Cost	☐ Essential Job Function(s) *(if checked, complete #12)*	☐ Accessing a Benefit or Privilege of Employment
☐ Reassignment		

10. Specific Accommodation Requested by Employee:

11. Functional Limitations) Requiring an Accommodation:

12. List essential job functions: *(Consult with the employee's supervisor to identify the essential job functions.)*

Employee or Applicant Date	Agency Official Receiving Request Date
☐ *I do not want my medical information to be disclosed to any EPA official other than the identified D-M and NRAC* ☐ *I do not want my medical information to be disclosed to my supervisor or supervisory chain.* **NOTE → Return Form to NRAC**	

Checklist for Medical Information as Documentation from a Health Care Professional

This checklist should be used by employees to assist health care professionals in providing sufficient medical information in support of an employee's request for a reasonable accommodation (RA). Additionally, the Agency's written request for medical information should also be provided to the health care professional by the employee in an effort to obtain all of the necessary medical information to process the employee's request. The health care professional must respond to the following questions and/or those contained in the Agency's written request for medical information as documentation:

✓ (1) **Does the employee have a qualifying disability?**

(A description of the nature, severity, and duration of the employee's impairment);

✓ (2) **What are the functional limitations associated with the employee's disability?**

(The activity or activities that the impairment limits and the extent to which the impairment limits the employee's ability to perform an activity); and

✓ (3) **Why is the requested reasonable accommodation needed?**

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

RA INFORMATION REPORTING
(To be completed by the Decision-Maker and forwarded directly to the NRAC)

1. ***Today's Date:***	2. ***Date of Initial Employee Request:***

3. ***Applicant or Employee making Request:***
Telephone Number.

4. ***Current or desired position of individual requesting the accommodation:***
(Including occupational series, grade level, and office)

5. ***Designated Agency Decision Maker:***
Telephone Number:

6. ***LORAC (If applicable):***
Telephone Number:

7. ***Employee's Supervisor***
Telephone Number:

8. ***Specific Accommodation Requested by Employee:***

D-M Decision on RA Request: ☐ Approved Date _____ ☐ Denied Date _____

9. ***Accommodation provided by EPA:***

10. ***If NRAP time frames were not met, give reason(s) and list interim and/or temporary accommodation(s) offered to the employee.***
Did employee accept interim or temporary accommodation? ☐ Yes ☐ No

11. ***Was a written request for medical information documentation given to the employee?***
☐ Yes ☐ No (If yes, attach a copy of the written request.)

12. ***Was the interactive Process used prior to requesting medical information as documentation?***
☐ Yes ☐ No (If yes, attach documentation of the discussions and accommodations explored)

13. ***Was a Limited Medical Privacy Release form requested from the employee?***
☐ Yes ☐ No (If yes, attach written request for medical release information.)
List any Agency officials and/or health care professionals contacted or provided medical information regarding this request:

Name _____
Address _____
Telephone/Fax Number _____
Date Contacted _____

14. ***What sources of technical assistance were consulted while processing this request?***
(e.g., CAP, JAN, or other resource organization):

NOTE → Attach copies of all documents obtained/developed in processing this request

Signature of NRAC	Name/Title of EPA Decision-Maker
	Signature of Decision-Maker
	Date Form Completed
	NRAC OFFICE USE only **Log No.**

LIMITED MEDICAL PRIVACY RELEASE FORM
(FOR AFGE EMPLOYEES)

I, _____, hereby authorize the U.S. Environmental
(Name of Employee)
Protection Agency's *National Reasonable Accommodations Coordinator (NRAC)* to contact my health care professional to obtain medical information as documentation for the stated functional limitation(s) of:

_____

I agree that EPA will attempt to obtain only the following medical information (as indicated):

- ☐ confirmation that my medical condition is a qualifying disability;
- ☐ the functional limitation(s) associated with the stated disability;
- ☐ why the requested reasonable accommodation is needed; or
- ☐ clarification of medical information previously submitted to EPA.

EPA will only request the medical information that is directly related to the above stated functional limitation(s) and necessary to process an employee's request for reasonable accommodation. The confidential information obtained will *only* be reviewed by EPA's NRAC and/or an Agency-contracted physician, who is qualified to interpret the medical information

EPA's Contact Information **William R. Haig, National Reasonable Accommodation Coordinator (NRAC)**		
U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, (1201A) Washington, DC 20460	Telephone Fax TTY	(202) 564-7959 (202) 501-1836 (202) 501-1822
Employee's Health Care Professional Contact Information		
Health Care Professional's Name:		
Address:	Telephone/Fax	
FOR AGENCY USE ONLY: Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This information must be handled in compliance with the Privacy Act of 1974 (5 U.S.C. § 552a), the requirements of 40 C.F.R. Part 16 (EPA regulations implementing the Privacy Act), C.F.R. Part 1614, and all other applicable laws, regulations or guidelines.		

_____ _____
Employee Signature Date

NOTE → RETURN FORM TO NRAC

2-sided form

FINAL RA DECISION

(To be completed by the Decision Maker and forwarded to NRAC)

1. **Today's Date:**	2. **Date of Initial Employee Request:**

3. **Applicant or Employee making Request:**

4. **Accommodation Requested by Employee:**

5. **Designated Agency Decision-Maker**
Telephone Number:

6. **LORAC** (if applicable):
Telephone Number:

7. **Employee's Supervisor:**
Telephone Number:

8. **Agency officials and medical consultants contacted regarding this request**
Name _____ Telephone Number: _____
Name _____ Telephone Number: _____
Name _____ Telephone Number: _____

9. **Initial Decision:** ☐ Approved ☐ Denied ☐ Reconsideration Requested
Provide Detailed Explanation of Decision

BY: **Date:**

10. **Final RA Decision** ☐ Approved ☐ Denied
Provide Detailed Explanation of Decision

BY: **Date:**

11. **Interim and/or temporary accommodation(s) offered to the employee.**
(Explain why alternate or temporary accommodation was effective.)

Did employee accept interim or temporary accommodation? ☐ Yes ☐ No

12. Was the employee/applicant notified of their right to choose one of the following processes (Informal Dispute Resolution, EEO Complaint, MSPB Appeal or Negotiated Grievance under AFGE's Master Collective Bargaining Agreement) in response to this denial decision (as detailed in Section VII. And X. in the NRAP and on the reverse of this form)? ☐ Yes ☐ No

Employee or Applicant Date	Name Title of EPA Decision-Maker
Signature of NRAC Date	Signature of Decision Maker
Return to NRAC	**Date Reasonable Accommodation Denied**

INFORMAL DISPUTE RESOLUTION

Applicants or AFGE employees may request prompt reconsideration of a denial decision for reasonable accommodation. If an individual wishes reconsideration, s/he should first ask the Decision-Maker (D-M) to reconsider the decision. The D-M will respond in writing to the request for reconsideration within *five (5) business days*. If the D-M does not reverse the decision, the individual may then ask the senior management official within the immediate supervisory chain of command (Assistant Administrator, Deputy Regional Administrator or Laboratory Director) for reconsideration. The senior management official will respond in writing to this request within *five (5) business days,* by issuing a Final Reasonable Accommodation Decision. If the senior management official does not reverse the decision, the individual may then exercise his/her rights as outlined in Section X., Filing Formal Complaints. An employee's right to initiate statutory or collective bargaining claims does not begin until either a D-M denies the request and the employee does not request reconsideration, or a Final RA Decision has been issued denying the request as a result of the reconsideration process.

FILING FORMAL COMPLAINTS

The NRAP procedures outlined in this document provide internal operational procedures for AFGE bargaining unit employee, and are not meant to be a substitute for statutory, administrative and collective bargaining protections for persons with disabilities and any associated remedies that may be provided in cases of denial of requests for reasonable accommodation. Please note that individuals have the right to file an EEO complaint with the Agency, an appeal with the MSPB, or an employee negotiated grievance under AFGE's Master Collective Bargaining Agreement, Article 45-Grievance Procedure, regarding any individual claim of discrimination based on a disability *or* a denial of a reasonable accommodation request. An employee or applicant cannot file more than one formal complaint on the *same claim* of discrimination or denial of an accommodation, as listed below:

A. ***For an EEO Complaint,*** initiate pre-complaint counseling within 45 calendar days from the date of receipt of the written Final RA Decision. To initiate counseling, Headquarters and employees should contact the Office of Civil Rights (OCR); Regional applicants and employees should contact their Regional EEO Officer; and Laboratory applicants and employees should contact their Area Director of Civil Rights. EEOC's regulations require agencies to establish or make available an Alternative Dispute Resolution (ADR) program. 29 C.F.R § 1614.102(b)(2).

Applicants and employees are advised there may be locally negotiated agreement on ADR, which must be followed. The ADR program covers both pre-complaints and formal complaints within the EEOC process. At the time the aggrieved person chooses to file a pre-complaint, s/he will be advised by an Agency-designated counselor of his or her rights and responsibilities, which includes electing the Agency's ADR process. 29 (CFR § 1614.105(b). The counselor must also advise the aggrieved person that if the dispute is resolved during the ADR process, the terms of the agreement must be in writing and signed by both the aggrieved person and the Agency. If the claim, in whole or in part, is unresolved during ADR, the employee will be referred back to the counseling, process. The counselor will then issue the aggrieved a Notice of Right to File (NFR) and the aggrieved may file a complaint of discrimination within fifteen *(15) calendar days* of receipt of the NRF.

In order to avoid any real or perceived conflicts of interests, any employee of [EPA's] OCR has had any involvement in the decision-making process of a request for accommodation, that staff member must recuse him/herself from any involvement in the EEO complaint process regarding a denial of that particular request.

B. ***For an appeal to the Merit System Protection Board (MSPB)*** file within *30 calendar day* of an "appealable" adverse action as defined in 5 C.F.R. § 1201.3. If for any reason MSPB does not take jurisdiction, the claim will be remanded to the Agency for processing as either an EEO complaint or a negotiated grievance procedure.

C. ***For a negotiated grievance*** (AFGE bargaining unit employees only), file a written grievance within 30 calendar days from the date of receipt of the written "Final RA Decision" form (See Appendix F). At the time the aggrieved person chooses to file a grievance, s/he is required to be advised by a union representative of his or her rights and responsibilities, which includes electing the Agency's ADR process. The union representative must also advise the aggrieved person that if the dispute is resolved during the ADR process, the terms of the agreement must be in writing and signed by both the aggrieved person and the Agency.

NOTE: Requirements governing the initiation of statutory, administrative and collective bargaining claims, including time frames for filing such claims, remain unchanged by the procedures included in this document.

NEGOTIATED AGREEMENT

BETWEEN

THE U.S. ENVIRONMENTAL PROTECTION AGENCY

AND

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES COUNCIL 238 ON WRITTEN PROCEDURES FOR PROVIDING REASONABLE ACCOMODATIONS AS PROVIDED IN EPA ORDER 3110.21

(EPA'S AFGE NATIONAL REASONABLE ACCOMMODATION PROCEDURES)

THE EFFECTIVE DATE OF THIS AGREEMENT BETWEEN THE U.S. EPA AND AFGE COUNCIL, 238 IS November 24, 2003.

FOR THE AGENCY:

Tonya Hamlett
Chief Negotiator
U.S. Environmental Protection Agency
Office of Human Resources
and Organizational Services

11/24/03
Dated

FOR THE UNION:

Mavis Sanders
Chief Negotiator
American Federation of Government
Government Employees Council 238

11/24/2003
Dated