

Reasonable Accommodations for Individuals with Disabilities

POLICY

The Farm Credit Administration's (FCA or Agency) policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973 and its amendments. Under the law, federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. FCA is committed to providing reasonable accommodation to its employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity at FCA. FCA will provide reasonable accommodation:

- When an applicant with a disability needs an accommodation to be considered for a job;
- When an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the job; and
- When an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

FCA will process requests for reasonable accommodation and, where appropriate, provide reasonable accommodation in a prompt, fair and efficient manner.

REFERENCES

- Rehabilitation Act of 1973, as amended (29 U.S.C. § 791, et seq.)
- Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act
- Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, July 26, 2000
- Equal Employment Opportunity Commission Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, No. 915.002, October 20, 2000
- Equal Employment Opportunity Commission Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, March 1, 1999
- EEOC Practical Advice for Drafting and Implementing Reasonable Accommodation Procedures Under Executive Order 13164, July 2005
- 12 U.S.C. § 2243 (§ 5.9 of the Farm Credit Act of 1971, as amended)

APPLICABILITY

This policy applies to all FCA employees and applicants for FCA employment.

DELEGATED AUTHORITY

The Chief of Staff (COS), a Senior Agency Official as defined in FCA Board Policy Statement No. 64, is authorized to approve implementing procedures and controls.

REPORTING REQUIRED

The Disability Program Manager will prepare an annual report for the Chief Executive Officer. The report will contain the following information:

- The number and types of reasonable accommodations that have been requested in the application process and whether those requests have been granted or denied.
- The jobs (occupational series, grade level, and organization location) for which reasonable accommodation has been requested.
- The types of reasonable accommodation that have been requested for each of those jobs.
- The number and types of reasonable accommodations for each job that have been approved, and the number and type that have been denied.
- The number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied.
- The reasons for denial of requests for reasonable accommodation.
- The time taken to process each request for reasonable accommodation.
- The sources of technical assistance consulted in trying to identify possible reasonable accommodations.

In addition, the report will provide a qualitative assessment of FCA's reasonable accommodation program, including any recommendations for improvement of FCA's reasonable accommodation policies and procedures.

APPROVED

Signed

Nancy C. Pellett
Chairman and Chief Executive Officer

Date

7-13-2007

1. Definitions

- a) **Reasonable Accommodation:** Any change in the work environment or in the way things are customarily done to enable a qualified individual with a disability to enjoy equal employment opportunities. There are three categories of reasonable accommodations:
- Modifications or adjustments to a job 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);
 - Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and
 - Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in an office cafeteria).
- b) **Qualified Individual with a Disability:** An individual with a disability is qualified if: (1) he or she satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) he or she can perform the essential functions of the position, with or without reasonable accommodation.
- c) **Essential Functions:** Those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his or 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.
- d) **Undue Hardship:** If a specific reasonable accommodation causes *significant difficulty or expense* for FCA, then the Agency does not have to provide that particular accommodation. 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.

1. Responsibilities of FCA Employees and Applicants for FCA Employment Seeking Reasonable Accommodation

a) FCA Employees Seeking Reasonable Accommodation

FCA employees seeking reasonable accommodation may seek advice from the Disability Program Manager (DPM) or Chief Human Capital Officer (CHCO) about the process of requesting reasonable accommodation, if desired.

Employees seeking reasonable accommodation must:

- Submit requests for reasonable accommodation to any of the following persons:
- Any manager or supervisor in their chain of supervision, up to their Office Director. (Employees who are Office Directors or who do not have Office Directors may submit requests to the Chief of Staff.)
- The Disability Program Manager.
- The Equal Employment Opportunity Director and Equal Employment Opportunity Coordinator, and any successor positions (this does not include Equal Employment Opportunity Counselors).
- Cooperate fully in the Interactive Process in accordance with these Implementing Procedures.

b) Applicants for FCA Employment Seeking Reasonable Accommodation

Applicants for FCA employment seeking reasonable accommodation may seek advice from the CHCO about the process of requesting reasonable accommodation, if desired.

Applicants seeking reasonable accommodation must:

- Submit requests for reasonable accommodation to any FCA employee with whom they have contact during the applicant process.
- Cooperate fully in the Interactive Process in accordance with these Implementing Procedures.

3. Responsibilities of FCA Employees in Processing Requests for Reasonable Accommodation

a) Chief of Staff

The Chief of Staff (COS) will be the second level of reconsideration for denials of requests for reasonable accommodation made by Office Directors. In addition, the COS will be the second level of reconsideration for denials of requests for reasonable accommodation made by the Deputy General Counsel (or any successor manager or supervisor position in the Office of General Counsel). The COS will be the decision-maker on requests for reasonable accommodation made by any FCA employee who reports directly to him or her or to FCA's Chairman and Chief Executive Officer.

b) Chairman and Chief Executive Officer

FCA's Chairman and Chief Executive Officer will be the second level of reconsideration for denials of requests for reasonable accommodation made by the COS.

c) General Counsel

The General Counsel must concur with all denials of requests for reasonable accommodation based on undue hardship. (If the General Counsel is the decision-

maker in such a denial or is the employee seeking the accommodation, the Chief Human Capital Officer must concur with the denial.)

d) Chief Human Capital Officer (CHCO)

The Chief Human Capital Officer (CHCO) must:

- Advise every decision-maker on every request for reasonable accommodation that he or she must decide, before the decision-maker begins processing the request.
- Upon an employee's or applicant's request, provide guidance about the process for requesting reasonable accommodation.
- Upon request of a decision-maker or other employee involved in the reasonable accommodation process, provide guidance on responding to requests for reasonable accommodation.
- Concur with all denials of requests for reasonable accommodation based on undue hardship where the General Counsel is the decision-maker or is the employee seeking the accommodation.

e) Office Directors

Office Directors will:

- Receive and process requests for reasonable accommodation from employees in their offices in accordance with these Implementing Procedures.
- To eliminate unnecessary levels of review, delegate authority for making decisions on requests for reasonable accommodation from employees in their offices, and from applicants for jobs in their offices, to first-line supervisors or other supervisors or managers in the chain of supervision wherever possible.
- Where they have not delegated this authority, serve as decision-makers on requests for reasonable accommodation from employees in their offices and from applicants for jobs in their offices.
- Consult with the CHCO when they receive a request for reasonable accommodation for which they are the decision-maker before they begin processing the request.
- Consult as necessary with the Disability Program Manager and the CHCO in responding to requests for reasonable accommodation.
- Obtain concurrence from the General Counsel before they make "undue hardship" determinations.
- Provide second level of reconsideration for denials of requests for reasonable accommodation made by delegates (except that the COS will provide the second level of reconsideration for denials of requests for reasonable accommodation made by the Deputy General Counsel or any successor manager or supervisor position in the Office of General Counsel).

- Within 10 business days of making a decision on a reasonable accommodation request, provide all records obtained or created during the processing of the request, including medical information received, to the Office of Management Services.

f) Managers and Supervisors

Managers and supervisors will:

- Receive and process requests for reasonable accommodation from employees in their chain of supervision in accordance with these Implementing Procedures.
- Where authority has been delegated to them, serve as decision-makers on requests for reasonable accommodation from employees in their chain of supervision and from applicants for jobs in their chain of supervision.
- Consult with the CHCO when they receive a request for reasonable accommodation for which they are the decision-maker before they begin processing the request.
- Consult as necessary with the Disability Program Manager and the CHCO in responding to requests for reasonable accommodation.
- Obtain concurrence from the General Counsel before they make "undue hardship" determinations.
- Within 10 business days of making a decision on a reasonable accommodation request, provide all records obtained or created during the processing of the request, including medical information received, to the Office of Management Services.

g) Equal Employment Opportunity Director, Equal Employment Opportunity Coordinator, and Successor Positions (does not include Equal Employment Opportunity Counselors)

The Equal Employment Opportunity (EEO) Director, Equal Employment Coordinator, and persons in successor positions will:

- Receive and forward requests for reasonable accommodation from employees in accordance with these Implementing Procedures.
- Develop and recommend procedures and controls necessary to implement this policy after consultation with the COS and Office Directors.
- Provide reasonable accommodation training to all new employees within one year of their hiring, to all new managers and supervisors within one year of their becoming managers and supervisors, and to all employees at least every five years.
- Ensure that the Agency considers a supervisor's or manager's adherence to this policy through annual performance evaluations.
- Arrange for mediation, if appropriate, as a means to resolve a dispute over a reasonable accommodation request.

The EEO Director generally will not have substantive involvement in individual requests for reasonable accommodation.

h) Disability Program Manager (DPM)

The DPM will:

- Receive and forward requests for reasonable accommodation from employees in accordance with these Implementing Procedures.
- Upon an employee's request, provide guidance about the process for requesting reasonable accommodation.
- Upon request of a decision-maker or other employee involved in the reasonable accommodation process, provide guidance on responding to requests for reasonable accommodation.
- Prepare an annual report on the number and types of reasonable accommodation requests as well as an assessment of the program.

i) Office of Management Services

The Office of Management Services (OMS) will:

- Train Human Resources Specialists and other Agency staff involved in the application process to recognize requests for reasonable accommodation and to handle such requests in accordance with these Implementing Procedures.
- Maintain records on all reasonable accommodation requests in secure, locked files separate from employees' personnel files.
- Provide information as requested by the DPM to enable the DPM to prepare the annual reports required by this policy.

j) FCA Employees Who Receive Requests for Reasonable Accommodation from Applicants for FCA Employment

FCA employees who receive requests for reasonable accommodation from applicants for FCA employment will:

- Receive and process the requests in accordance with these Implementing Procedures.

4. Requests for Reasonable Accommodation

A request for reasonable accommodation is 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 request for reasonable accommodation begins the reasonable accommodation process.

A 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 whenever he or she chooses, even if the existence of a disability has not been previously disclosed. The request may be made orally or in writing.

- An employee may submit a request for reasonable accommodation to his or her first-line supervisor; another supervisor or manager in his or her immediate chain of supervision; his or her Office Director; the EEO Director/ Coordinator; or the DPM.
- An applicant may request a reasonable accommodation orally or in writing from any FCA employee with whom the applicant has contact in connection with the application process.
- A family member, health professional, or other representative may request an accommodation on behalf of an FCA employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request. Where possible, FCA will confirm with the employee or applicant that he or she in fact consents to the request for reasonable accommodation.

Where a hearing-impaired employee is known to need a sign language interpreter, the Agency must provide the interpreter for crucial events such as training, safety talks, discussions on work procedures, policies or assignments, and disciplinary actions, whether or not the employee asks. If such an event must occur in a time frame that does not permit the Agency to obtain an interpreter, the Agency must document both the need for the timing of the event and the attempts it has made to obtain an interpreter on a "Denial of Reasonable Accommodation Request" ([FCA Form # 503](#)). In addition, the Agency must ensure and document on the denial form that the hearing-impaired employee receives the information presented at the event in a thorough, appropriate, and timely fashion.

FCA employees seeking reasonable accommodation may seek advice from the DPM or CHCO about the process of requesting reasonable accommodation, if desired. Applicants for FCA employment seeking reasonable accommodation may seek advice from the CHCO about the process of requesting reasonable accommodation.

5. Written Requests for Record Keeping Purposes

To enable FCA to keep accurate records about requests for accommodation, employees seeking a reasonable accommodation must follow up an oral request. They can do this either by submitting a completed "Confirmation of Request For Reasonable Accommodation" ([FCA Form # 502](#)) or by confirming their request in writing (including by e-mail) to OMS. The form is also available on FCA's web site, under the Careers at FCA section. In addition, upon request of an applicant, the appropriate Office Director (or delegated manager or supervisor), or other FCA employees with whom the applicant has contact in connection with the application process, must give him or her the "Confirmation of Request For Reasonable Accommodation" form to fill out. If an individual with a disability requires assistance with the requirement to submit the form, the appropriate Office Director (or

delegated employee) or, for an applicant, other FCA employees with whom the applicant has contact in connection with the application process, will provide that assistance. This form should be submitted to OMS.

This written request is solely for FCA's recordkeeping purposes. FCA will begin the reasonable accommodation process when it receives an oral request.

If an employee requires reasonable accommodation on a repeated basis (for example, the assistance of sign language interpreters), that employee needs to submit the written request for recordkeeping purposes only the first time the accommodation is needed.

6. Determining the Official to Decide Upon the Request

The FCA employee who is responsible for deciding whether to grant a request for reasonable accommodation is the "decision-maker." For accommodation requests from employees, the decision-makers will be Office Directors (to eliminate unnecessary levels of review, Office Directors are encouraged to delegate this authority to first-line supervisors or other managers or supervisors in the chain of supervision wherever possible). For reasonable accommodation requests from applicants, the decision-maker will be the Office Director (or delegated manager or supervisor in the chain of supervision) of the office where the applicant is seeking employment. Decision-makers must designate acting decision-makers when they are not available to assure the required time frames are met.

7. What to Do After a Request is Received

Any FCA employee receiving a request for accommodation (if he or she is not the decision-maker) should forward the request to the immediate supervisor of the employee, or prospective immediate supervisor of the applicant, who will then forward the request to the Office Director or delegated manager or supervisor as appropriate. The request should be forwarded to the appropriate person as soon as possible but not more than five (5) business days from the date the request is received. All FCA employees authorized to receive requests for reasonable accommodation should ensure the time requirement is met when they are unavailable by designating a person to receive and refer such requests from applicants and employees to the appropriate decision maker.

8. Confidentiality of Medical Information

The Rehabilitation Act requires that all "medical information," whether obtained through the reasonable accommodation process or otherwise, must be kept confidential. Medical information includes the fact that someone requests or is receiving an accommodation or has a disability, as well as any information concerning an individual's medical condition or history, regardless of whether the information was provided voluntarily or in response to a disability-related question.

Accordingly, every FCA employee who is involved in any capacity in processing a request for reasonable accommodation must maintain confidentiality regarding the request and may share information connected with such a request only as follows:

- 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).
- First aid and safety personnel may be told *if* the disability might require emergency treatment.
- Government officials (for example, from the Equal Employment Opportunity Commission) may be given information necessary to investigate the Agency's compliance with the Rehabilitation Act.
- The DPM may be provided information to prepare the annual reports required by this policy.

Following are examples that further illustrate how the confidentiality rules apply:

- An individual requests assistive technology for his computer as a reasonable accommodation. The Agency's technology expert is consulted regarding the appropriate computer equipment. Although the expert may need to know the requester's functional limitations to determine technical needs, he or she likely does not need to know the requester's underlying medical condition unless he or she is also the decision maker on whether the request will be granted.
- An individual requests and receives a special lumbar-support chair as a reasonable accommodation. The other employees in the office ask their supervisor why their coworker is receiving "special treatment." The supervisor would violate the Rehabilitation Act if he or she revealed that the coworker received the chair as a reasonable accommodation. There is no exception to the Rehabilitation Act's requirement of confidentiality that allows disclosure of medical information in this circumstance. (One permissible way the supervisor could respond to co-worker questions of this sort is to emphasize that it is FCA's policy to assist any employee who encounters difficulties in the workplace and to point out that many of the workplace issues confronted by employees are personal, and that, in these circumstances, it is FCA's policy to respect employee privacy).

Notwithstanding the confidentiality requirement, the employee or applicant may voluntarily choose to disclose otherwise-confidential information. Moreover, any FCA employee may disclose information as directed by the employee or applicant seeking the reasonable accommodation when the employee or applicant provides a written, signed request expressly directing the FCA employee or the Agency to disclose such information.

FCA must ensure that all records it maintains on reasonable accommodation requests are kept in secure, locked files separate from employees' personnel files.

9. The Interactive Process

Once the decision-maker receives a request, before he or she begins to process it, he or she should immediately consult with the CHCO about it. After this consultation, the decision-maker should begin the interactive process with the requester to determine what, if any, accommodation should be provided. In the interactive process, the individual requesting the accommodation and the FCA decision-maker must talk to each other about the request, the process for determining whether an accommodation will be provided, and any potential accommodation. Both the CHCO and the DPM are available to provide guidance to decision-makers and other employees involved in the reasonable accommodation process.

Communication is a priority throughout the process. The FCA decision-maker has the principal responsibility for identifying possible accommodations. He or she will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation. Appendix A identifies resources available to help both the decision-maker and the individual requesting the accommodation to identify possible accommodations. Of particular note is the Computer/Electronic Accommodations Program (CAP). CAP provides assistive technology, devices, and services free of charge to Federal agencies, such as FCA, that have a partnership agreement with CAP, to enable the agencies to provide reasonable accommodation to employees with disabilities. The DPM and the CHCO may be able to suggest other appropriate resources.

To begin the interactive process:

a) The FCA decision-maker will:

1. Provide an explanation to the applicant or employee that he or she will be making the decision on the request; and
2. Describe what will happen in the processing of the request. This initial discussion should happen as soon as possible.

b) Ongoing communication is particularly important where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different possible reasonable accommodations. In those cases where the disability, the need for accommodation, and the type of accommodation to be provided are clear, extensive discussion may not be necessary. Even so, the decision-maker and the requesting individual should talk to each other to make sure there is a full exchange of relevant information.

- c) There are specific considerations in the interactive process when responding to a request for reassignment.
1. Reassignment is a form of reasonable accommodation 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 vacant positions and for employees who are qualified for the new position. If the employee is qualified for the position, he or she will be reassigned to the job and will not have to compete for it.
 2. Reassignment will only be considered if no accommodations are available to enable the employee to perform his or her current job, or if the only effective accommodation would cause undue hardship.
 3. In considering where there are positions available for reassignment, the decision-maker will work with both the Director, OMS and the individual requesting the accommodation to identify:
 - all vacant positions within the Agency for which the employee may be qualified, with or without reasonable accommodation; and
 - all positions which the OMS has reason to believe will become vacant over the next 60 business days and for which the employee may be qualified.

The Agency will first focus on positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, FCA will consider vacant lower level positions for which the individual is qualified.

4. Reassignment may be made to a vacant position outside of the employee's commuting area if the employee is willing to relocate. As with other transfers not required by management, FCA will normally not pay for the employee's relocation costs.

10. Does the Individual Requesting the Accommodation Have a Disability?

Before FCA grants a request for reasonable accommodation, the Agency is entitled to know that an employee or applicant has a disability that requires a reasonable accommodation. In some cases, the disability and need for accommodation will be obvious. In other cases, the employee or applicant will have previously provided sufficient evidence of disability and the need for accommodation to FCA. In these cases, FCA will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not obvious or otherwise already known and the individual is requesting accommodation, FCA

may require the individual to provide reasonable documentation about the disability and his or her functional limitations.

- a) If a decision-maker believes that medical information is necessary in order to evaluate a request for reasonable accommodation, he or she will request medical documentation from the employee or applicant. He or she should attempt to be as comprehensive as possible with the request to minimize the need for subsequent requests. However, this does not preclude subsequent requests, if they become necessary.
- b) If a determination is made to seek medical information, the decision-maker will request sufficient information from the employee or applicant to substantiate that the individual has a disability as defined under the Rehabilitation Act and needs the reasonable accommodation requested, but will not ask for unrelated documentation. FCA may consult with a medical consultant to determine the appropriate information to request.

Alternatively, the decision-maker and the individual requesting the accommodation may agree that the individual will sign a limited release, allowing FCA or its medical consultant to contact the individual's health care provider either directly or by submitting a list of specific questions.

- c) The decision-maker will provide to the employee, applicant, or health care provider a written request for additional medical information, if necessary, and provide information pertaining to the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.
- d) Once the decision-maker receives the medical information from the employee, applicant, or health care provider, the decision-maker will evaluate it and, if necessary, consult with the Agency's medical consultant.
- e) If the information initially provided is not sufficient to enable FCA to determine whether an accommodation is appropriate, the decision-maker may ask for further information. If this is necessary:
 - 1. The decision-maker will explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request.
 - 2. The individual may ask his or her health care practitioner to provide the missing information directly to the decision-maker.
 - 3. Alternatively, the decision-maker and the individual requesting the accommodation may agree that the individual will sign a limited release, allowing FCA or its medical

consultant to contact the individual's health care provider either directly or by submitting a list of specific questions.

4. If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the decision-maker may request that a health care practitioner chosen by FCA examine the individual at FCA's expense.

The failure to provide appropriate documentation or to cooperate in FCA's efforts to obtain such documentation will result in a denial of the reasonable accommodation.

11. Instances Where Individual Requesting Accommodation Has Not Established Existence of Disability

In certain instances, FCA may choose to provide a workplace consideration or alteration for employee comfort or productivity, even if an accommodation is not legally required because the individual requesting the accommodation has not established the existence of a disability. In these instances, the Agency's decision to provide the consideration or alteration is not based on the requirements of the Rehabilitation Act. These instances will typically involve considerations or alterations that can be readily and inexpensively provided without a determination that the individual has a disability.

12. Time Frames for Processing Requests and Providing Reasonable Accommodations

FCA will process requests for reasonable accommodation and provide accommodations, where they are appropriate, in as short a time frame as reasonably possible. FCA recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

- a) **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 below. This includes where a reasonable accommodation is needed:

1. ***To enable an applicant to apply for a job.*** Depending on the timetable for receiving applications, conducting interviews, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the decision-maker needs to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation.

2. *To enable an employee to attend 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.

If the meeting must occur in a time frame that does not permit the Agency to obtain an interpreter, the Agency must document both the need for the timing of the meeting and the attempts it has made to obtain an interpreter on a "Denial of Reasonable Accommodation Request" form ([FCA Form # 503](#)). In addition, the Agency must ensure and document on the denial form that the hearing-impaired employee is able to participate in the meeting in an appropriate manner.

If necessary, the decision-maker will consult with the Agency's medical consultant in making the decision, but only if the consultation does not unduly delay the expedited processing.

- b) **Decision within 20 Business Days.** If a request for an accommodation does not require medical documentation from the employee or applicant and there are no extenuating circumstances, the decision-maker will process the accommodation request and provide a decision within 20 business days from the date he or she receives the request, or sooner if possible. Since decision-makers may need the full 20 days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because a decision-maker delayed processing the request is not an extenuating circumstance.

An example of an accommodation which can be easily provided within this 20-day time frame includes an employee with diabetes who sits in an open area and requests breaks during the day to test her blood sugar levels so that she may do these tests in private.

If necessary, the decision-maker will consult with the Agency's medical consultant in making the decision, but only if the consultation does not delay the decision beyond 20 business days.

- c) **Time Stops for Medical Documentation.** The 20-day decision period is suspended when the decision-maker believes that it is necessary to obtain medical information from the employee or applicant to determine whether the requesting individual has a disability and/or to identify the functional limitations. In this situation, the decision-maker will request the medical information from the employee or applicant as soon as possible after his or her receipt of the request for accommodation, but before the expiration of the 20-day period. The need for documentation may not become apparent until after the interactive process has begun.
- d) **Time Starts Upon Receipt of Medical Documentation.** Upon receipt of acceptable medical documentation, the decision-maker will make the decision within the remaining

number of business days from the date the time was frozen due to the request for medical documentation, absent any extenuating circumstances as described below. If necessary, the decision-maker will consult with the Agency's medical consultant in making the decision, but only if this consultation does not delay the decision beyond the required decision date, unless there are extenuating circumstances as described below.

e) **Extenuating Circumstances.** These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is FCA's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All FCA staff are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:

1. There is an outstanding initial or follow-up request for medical information, or the medical consultant is evaluating medical information which has been provided.
2. The purchase of equipment may take longer than 20 business days because of regulatory or other requirements.
3. Equipment must be backordered, the vendor typically used by FCA for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
4. The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before FCA buys it.

An extenuating circumstance covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, FCA may not delay processing or providing an accommodation because a particular staff member is unavailable.

Where extenuating circumstances are present, the decision-maker must notify the individual of the reason for the delay and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly to the individual.

f) **When Accommodations are Delayed.** If there is a delay in providing an approved accommodation, the decision-maker must investigate whether temporary measures can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation.

For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for a temporary reader. 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.

In addition, if a delay is attributable to the need to obtain or evaluate medical documentation and FCA has not yet determined that the individual is entitled to an accommodation, FCA may provide an accommodation on a temporary basis. In such a case, the decision-maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request. Because FCA has not yet determined that the individual is entitled to an accommodation, the accommodation is not legally required. The Agency's decision to grant the request on a temporary basis is not based on the requirements of the Rehabilitation Act.

FCA decision-makers who approve such temporary measures are responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

- g) Granting a Reasonable Accommodation Request.** As soon as the decision-maker determines that a reasonable accommodation will be provided, this decision should be immediately communicated to the individual. If the accommodation cannot be provided immediately, the decision-maker must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing. The decision-maker must ensure that the granted accommodation is actually provided within the applicable time-frame.
- h) Denial of Reasonable Accommodation Request.** As soon as the decision-maker determines that a request for reasonable accommodation will be denied, he or she must fill out a "Denial of Reasonable Accommodation Request" form ([FCA Form # 503](#)) and give it to the individual who requested the accommodation. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial.

Where the decision-maker has denied a specific requested accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons the decision-maker believes that the chosen accommodation will be effective. Reasons for the denial of a request for reasonable accommodation may include the following (keeping in mind that the actual notice to the individual must include specific reasons for the denial, for example, why the accommodation would not be effective, or why it would result in undue hardship):

1. The requested accommodation would not be effective.

2. Providing the requested accommodation would result in undue hardship. Before reaching this determination, the decision-maker must have explored whether other effective accommodations exist which would not impose undue hardship and therefore can be provided. Before making an "undue hardship" determination, the decision-maker should consult with the DPM. If the decision-maker is not the CHCO, the CHCO must concur in the determination. If the decision-maker is the CHCO, the Chief of Staff must concur in the determination. A determination of undue hardship means that FCA finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of Agency's operations.
3. Medical documentation is inadequate to establish that the individual has a disability or needs a reasonable accommodation to be considered for a job; to perform the essential functions of the job; or to enjoy equal benefits and privileges of employment.
4. The requested accommodation would require the removal of an essential function.
5. The requested accommodation would require the lowering of an essential performance or production standard.

In addition, the written notice of denial explains FCA's procedures available for informal dispute resolution. The notice also informs the individual that he or she has the right to file an EEO complaint or may have rights to pursue an Merit Systems Protection Board (MSPB) appeal.

- i) **Informal Dispute Resolution.** FCA has a two step informal dispute resolution process for reconsideration of denials of requests for reasonable accommodation.

If an individual wishes reconsideration, he or she should first ask the decision-maker to reconsider the decision. The individual may present additional information in support of his or her request. The decision-maker will respond to the request for reconsideration within 20 business days. The decision-maker should consult with the DPM and the CHCO as appropriate.

If the decision is sustained on initial reconsideration and the decision-maker is not an Office Director, the individual may seek a second level of reconsideration from the appropriate Office Director. The individual may present additional information in support of his or her request. The Office Director will respond to the request for reconsideration within 20 business days. The Office Director should consult with the DPM and the CHCO as appropriate.

If the decision is sustained on initial reconsideration and the decision-maker is an Office Director or the Deputy General Counsel (or any successor manager or supervisor position in the Office of General Counsel), the individual may seek a second level of reconsideration from the COS. The individual may present additional information in support of his or her request. The COS will respond to the request for reconsideration within 20 business days. The COS should consult with the DPM and the CHCO as appropriate.

If the decision is sustained on initial reconsideration and the decision-maker is the COS, the individual may seek a second level of reconsideration from FCA's Chairman and Chief Executive Officer. The individual may present additional information in support of his or her request. The Chairman and CEO will respond to the request for reconsideration within 20 business days. The Chairman and CEO should consult with the DPM and the CHCO as appropriate.

An individual's participation in the informal dispute resolution process does not satisfy the requirements for bringing a claim under EEO or MSPB procedures. See Section 11 below.

13. Information Maintenance, Tracking, and Reporting.

The decision-maker will complete the "Reasonable Accommodation Information Reporting Form" ([FCA Form # 504](#)) and provide it to the OMS within 10 business days of the decision. All records obtained or created during the processing of the request, including medical information received, should be included.

The OMS will maintain these records for the longer of the employee's tenure with FCA or 5 years.

The DPM will prepare an annual report for the Chief Executive Officer. The report will contain the following information:

- a) The number of reasonable accommodations, by type, that have been requested in the application process and whether those requests have been granted or denied;
- b) The jobs (occupational series, grade level, and organization location) for which reasonable accommodations have been requested;
- c) The types of reasonable accommodations that have been requested for each of those jobs;
- d) The number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;

APPENDIX A

Selected Reasonable Accommodation Resources

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 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. These documents are available through the Internet at <http://www.eeoc.gov>.

Computer/Electronic Accommodations Program (CAP)

<http://www.tricare.osd.mil/cap>

The Computer/Electronic Accommodations Program (CAP) provides assistive technology, devices, and services free of charge to Federal agencies, such as FCA, that have a partnership agreement with CAP, to enable the agencies to provide reasonable accommodation to employees with disabilities. *CAP's mission is to ensure that people with disabilities have equal access to the information environment and opportunities throughout the Federal government.* Form 479 (add link) should be completed to request assistive technology and services.

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TT)

<http://janweb.icdi.wvu.edu/>.

A service of the U.S. Department of Labor's Office of Disability Employment Policy. JAN can provide information, free-of-charge, about many types of reasonable accommodations.

ADA Disability and Business Technical Assistance Centers (DBTACs)

1-800-949-4232 (Voice/TT)

<http://www.adata.org/>

The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the Americans with Disabilities Act (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.

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

<http://www.rid.org/>

The Registry of Interpreters for the Deaf, Inc., (RID) is a national membership organization of professionals who provide sign language interpreting/transliterating services for Deaf and Hard of Hearing persons. RID advocates for the increased quality, qualifications, and quantity of

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

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, and

Equipment exchange and recycling programs.

CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION

1.

Applicant's or Employee's Name

Applicant's or Employee's Telephone Number

Today's Date _____

Employee's Office _____

Date of Request _____

2. **ACCOMMODATION REQUESTED.** *(Be as specific as possible, for example, adaptive equipment, reader, or schedule modification.)*

3. **REASON FOR REQUEST.** *(If accommodation is time sensitive, please explain.)*

Please Return Form to the Office of Management Services

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DENIAL OF REASONABLE ACCOMMODATION REQUEST

1. **Name of Individual requesting reasonable accommodation:**

2. **Type(s) of reasonable accommodation requested:**

3. **Were FCA's Disability Program Manager or other FCA resources consulted prior to denying the request?**

4. **Request for reasonable accommodation denied because: (may check more than one)**
 - Accommodation Ineffective
 - Accommodation Would Cause Undue Hardship
 - Medical Documentation Inadequate
 - Accommodation Would Require Removal of an Essential Function
 - Accommodation Would Require Lowering of Performance or Production Standard
 - Other (Please identify) _____

5. **Detailed Reason(s) for the denial of reasonable accommodation (Must be specific and state *why* accommodation is ineffective or causes undue hardship):**

6. If the individual proposed one type of reasonable accommodation which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.

7. If an individual wishes to request reconsideration of this decision, he or she may take the following steps:

- First, ask the decision-maker to reconsider his or her denial. The requester may provide additional information to support this request. The decision-maker will respond to the request for reconsideration within 20 business days.
- Second, if the decision is sustained:
 - i. If the decision-maker is not an Office Director, the individual may seek a second level of reconsideration from the appropriate Office Director. The individual may present additional information in support of his or her request. The Office Director will respond to the request for reconsideration within 20 business days.
 - ii. If the decision-maker is an Office Director, the individual may seek a second level of reconsideration from the Chief of Staff. The individual may present additional information in support of his or her request. The Chief of Staff will respond to the request for reconsideration within 20 business days.

8. If an individual wishes to file an EEO complaint, or pursue MSPB procedures, he or she must take the following steps:

- For an EEO complaint pursuant to 29 C.F.R. § 1614, contact an EEO Counselor *within 45 days from the date of this notice of denial of reasonable accommodation*; or

- Initiate an appeal to the Merit Systems Protection Board *within 30 days of an appealable adverse action* as defined in 5 C.F.R. § 1201.3.

Name of Decision-Maker

Signature of Decision-Maker

Date Reasonable Accommodation Denied _____

If denial was based on undue hardship, concurrence by CHCO (if CHCO was decision-maker, concurrence by COS):

Name

Signature and Date

REASONABLE ACCOMMODATION INFORMATION REPORTING FORM

1. Name of the Individual requesting a reasonable accommodation:

2. Office of Requesting Individual: _____

3. Reasonable accommodation: (check one)

_____ Approved

_____ Denied (If denied, attach copy of the Denial of Request form)

4. Date reasonable accommodation requested: _____

Who received request: _____

5. Date reasonable accommodation request was referred to the decision-maker:

Name of decision-maker: _____

6. Date the request for reasonable accommodation was approved or

denied: _____

7. Date reasonable accommodation was provided (*if different from date*

approved): _____

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

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

10. Reasonable accommodation needed for: (*check one*)

_____ Application Process

_____ Performing Job Functions or Accessing the Work Environment

_____ Accessing a Benefit or Privilege of Employment
i.e., attending a training program or social event

11. Type(s) of reasonable accommodation requested (*for example, adaptive equipment, reader, removal of architectural barrier*):

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

13. Was medical information required to process this request? If yes, explain why.

14. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (*for example, Job Accommodation Network, disability organization, Disability Program Manager*):

Comments:

Submitted by: _____ Phone: _____

Attach copies of all documents obtained or developed in processing this request.