

U.S. Trade and Development Agency Reasonable Accommodation Policy

I. Introduction

The U.S. Trade and Development Agency (“USTDA” or the “Agency”) is fully committed to maintaining a work environment in which all employees have equal access to employment opportunity. In order to ensure such rights for qualified individuals with a disability, USTDA has established this policy. Many people with disabilities can apply for and perform jobs without the need for accommodation. However, the purpose of this policy is to ensure that people with disabilities who need reasonable accommodation to perform the essential functions of their job or to enjoy benefits and privileges of employment granted to employees without disabilities, can receive such accommodation.

USTDA will provide reasonable accommodation for known physical and mental limitations of qualified applicants and for employees with known disabilities unless an accommodation would impose an undue hardship on USTDA or endanger the health and safety of the applicant, employee or others. Furthermore, USTDA will not tolerate discrimination against qualified individuals with a disability in the hiring process or any other stage of employment.

II. Understanding Reasonable Accommodation

A. What Is Reasonable Accommodation?

1. A reasonable accommodation is a change to the workplace that enables a person with a disability to enjoy equal employment opportunities. Reasonable accommodations remove barriers that prevent people with disabilities from applying for, or performing, jobs for which they are qualified or benefits and privileges of employment to which they are entitled. “Reasonable accommodation” is a legal term. To see the legal definition of reasonable accommodation and other terms used in this policy, see *Attachment A (Definitions)*.
2. Examples of reasonable accommodations (depending upon the situation) include making existing facilities used by employees readily accessible to and usable by individuals with disabilities; acquisition or modifications of equipment or devices; job restructuring; part-time or modified work schedules; reassignment to a vacant position; appropriate adjustment or modifications of examinations, training materials, or policies; the

provision of qualified readers or interpreters; and other similar accommodations.

B. Who Is Entitled to Reasonable Accommodation?

Any qualified applicant or employee with a disability who needs reasonable accommodation to perform the essential functions of her or his job is entitled to reasonable accommodation.

III. Submitting Requests For Reasonable Accommodation

A. Who Can Make a Request?

You, a family member, your health professional or another representative may, on your behalf, request reasonable accommodation.

B. When Can I Make a Request?

It is the responsibility of a disabled employee who believes he or she needs reasonable accommodation to make a request. USTDA will not assume that an individual has a disability or needs reasonable accommodation, unless the need for reasonable accommodation is obvious. You should make the request as soon as you become aware of the need for reasonable accommodation, but you have the right to make a request for reasonable accommodation at any time.

C. To Whom Should I Make the Request?

1. Requests for reasonable accommodation should be made to your immediate supervisor. In the event that you feel uncomfortable making a request to your immediate supervisor, you may make the request to your secondary or higher-up supervisor in your chain-of-command. Additionally, you may make the request to the EEO Officer or the Deputy Director.
2. If you are an applicant, you can make a request for reasonable accommodation with the USTDA official with whom you have contact.
3. USTDA employees who receive requests for reasonable accommodation should forward such requests to the EEO Officer.

D. How Do I Make the Request? Does It Have to Be in Writing?

There are no magic words that must be used to make a request for reasonable accommodation. You merely need to convey, in your own words, that you need assistance in performing job tasks, due to a disability and functional limitations. The request does not have to be in writing. However, once you do make a request for reasonable accommodation, you will be asked to complete a **Form ADA-1, Request for Reasonable Accommodation**, so that the Agency can clarify and better understand your request. The processing of your request will be determined as of the date you make the oral or written request, not the date you submit the Form ADA-1 to the Agency.

E. Do I Have to Indicate a Specific Accommodation I Want?

No. As detailed below, the Agency will work with you and your health care professional to determine an effective reasonable accommodation. However, you should describe the problems posed by the workplace barrier in question.

F. Do I Have to Submit a Doctor's Certification or Anything Else with the Request?

No. However, as detailed below, the Agency may need more specific information from your treating health care professional concerning your disability and possible accommodations. In that event, you may be asked to provide medical documentation from a health care professional or to allow the Agency to communicate with such persons.

IV. Processing of Reasonable Accommodation Requests

A. What Happens Once I Make My Request for Reasonable Accommodation?

The EEO Officer will evaluate your request in consultation with the appropriate Agency officials. After such consultation, the EEO Officer will issue the decision on your request.

B. How Is My Request Processed?

1. If the reasonable accommodation requested requires only a slight adjustment to the work environment or a job function, as determined by your first-line supervisor, then it will be granted as soon as possible.

2. If the accommodation requested requires more than a slight adjustment, then management will engage in an interactive process with you to determine if the request should be granted.

C. What Is the Interactive Process?

The interactive process is the proactive, informal process by which you and management communicate with each other to determine how best to respond to your request. During the interactive process, management will analyze job functions to establish essential and nonessential job tasks, identify barriers to job performance, consult with you to learn your precise limitations and discover the types of accommodations that would be most effective.

D. What Are My Responsibilities During the Interactive Process?

You are required to engage in the interactive process in good faith. You are responsible for answering the Agency's reasonable requests for information, including assistance in securing medical documentation from an appropriate health care professional. Also, you should be willing to try accommodations and discuss alternatives with the Agency. Failure to engage in the interactive process in good faith may result in denial of your request for reasonable accommodation.

E. What Are My Rights During the Interactive Process?

1. You have the right not to respond to requests for medical information that are unreasonable. For example, you have the right to refuse a request for medical information that is not relevant to your disability or reasonable accommodation request. Also, you have the right to refuse requests for medical information where the need for reasonable accommodation is obvious or if you have previously provided the Agency with sufficient information to document the existence of your disability and functional limitations.
2. You have the right to request from the Agency information that will assist your health professional in understanding the nature of your job, the essential functions which you are required to perform and any other relevant information.
3. You have the right not to be harassed due to your disability or retaliated against due to your request for reasonable accommodation.

F. How Does the Interactive Process Work and What Medical Information Can USTDA Request?

1. The interactive process commences after you submit your request for reasonable accommodation. If you wish, you may provide management with medical documentation concerning your disability, limitations and possible accommodations or management may request medical information from your provider.
2. Management is entitled to and may request medical information related to your disability and any functional limitations you have as a result of the disability. This includes, but is not limited to:
 - a. The nature, severity and duration of your impairment;
 - b. The activities the impairment limits;
 - c. The extent to which the impairment limits your ability to perform any activities;
 - d. Why you require reasonable accommodation or the particular accommodation requested; and
 - e. How the reasonable accommodation requested will assist you to apply for a job, perform the essential functions of your job, or enjoy a benefit of the workplace.
3. The Equal Employment Opportunity Commission allows employers to ask employees requesting reasonable accommodation for a limited medical release, which enables the employer to submit medical questionnaires to the employee's treating health care professionals. Management may ask you to complete a **Form ADA-2, HIPAA-Compliant Release for Medical Information Concerning Disability and Reasonable Accommodation Request** and may submit to your health care professional, a **Form ADA-3, Medical Questionnaire Concerning Disability and Reasonable Accommodation Request** or a similar form with questions tailored to your individual situation. Failure to cooperate with management in this process may constitute bad faith participation in the interactive process and result in denial of your reasonable accommodation request.

G. From Whom Can USTDA Obtain Information Concerning My Disability and Workplace Limitations?

Any appropriate health professional such as, but not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

H. What If the Medical Documentation Provided By My Health Care Professional Is Insufficient?

1. The Agency is entitled to sufficient medical documentation in order to make a sound, reasoned and informed decision on your reasonable accommodation request. If documentation provided by you or by your health care professional in response to the Agency's request for information is insufficient, the Agency may request from your health care professional further information or clarification of the information previously provided. Documentation is insufficient if it does not clearly explain the nature of your disability or the need for reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist you in performing the essential functions of your job.
2. If, on repeated occasions and after repeated requests from the Agency, your health care professional fails to provide sufficient medical documentation, your reasonable accommodation request may be denied.
3. If the medical documentation provided by your health care professional is unclear or inadequate, USTDA may enlist a health care provider of its choosing to analyze the medical documentation provided by you and your health care professional, in order to make a determination on your reasonable accommodation request. In that case, you will be asked to complete a **Form ADA-4, HIPAA-Compliant Request for Release of Medical Information for Analysis**. USTDA will bear any expense involved in having your medical information reviewed by its own medical expert.
4. If the medical documentation provided by your health care professional is unclear or inadequate, the Agency may require you to submit to a medical examination by a medical provider of the Agency's choice. However, this option is only available after you have received an explanation of why the documentation provided is inadequate; the medical information sought has been

identified; and you been given reasonable opportunity to provide the missing information. The examination will be limited to a determination of whether you have a disability and any functional limitations that require reasonable accommodation. If you are required to submit to an exam by a medical provider of USTDA's choice, the Agency will pay all costs associated with the medical exam. Under the circumstances described above, your failure to submit to a medical exam may result in denial of your reasonable accommodation request.

I. Is There Any Other Information USTDA May Request From Me During the Interactive Process?

Yes. USTDA may ask you questions concerning your job duties and limitations and discuss with you possible accommodations. Management may ask you any relevant questions to help it understand your situation and make a decision on your request.

J. When Does the Interactive Process End?

When the Agency has all the necessary information it feels it needs to make a sound, reasoned and informed decision on your reasonable accommodation request.

V. Decisions on Reasonable Accommodation Requests

A. How Long Does USTDA Have to Respond to My Request for Reasonable Accommodation?

1. The amount of time it takes to respond to a request for reasonable accommodation will depend on the nature of the accommodation and whether it is necessary to obtain supporting medical information. This policy allows USTDA up to thirty (30) days to respond to your request, absent extenuating circumstances. However, if a particular reasonable accommodation can be provided in less than thirty (30) days, the Agency's failure to respond promptly to the request may result in a Rehabilitation Act violation.
2. Remember that the length of the interactive process depends on numerous factors such as: the time it takes to secure information from your physician; whether more information is required from your physician and time it takes for such repeated requests; whether USTDA's chosen physician analyzes your medical documentation and the time it takes for such review/analysis; or whether you are required to submit to medical exam by

USTDA's chosen physician and the time it takes to do so. To maintain an efficient interactive process, it is management's duty to determine what information it needs and to analyze information received in a prompt manner. It is your duty to expedite provision of any relevant information management requests.

3. *Expedited Cases.* USTDA is required to expedite reasonable accommodation requests where the reasonable accommodation is needed to enable an individual to apply for a job or the reasonable accommodation is needed for a specific USTDA activity that is scheduled to occur shortly.
4. *Extenuating circumstances.* If extenuating circumstances exist, a decision will be made within a reasonable period after the initial thirty (30) day guideline. Extenuating circumstances are factors that could not reasonably have been avoided in advance of the request for accommodation. These can include situations in which equipment must be back-ordered or a vendor has unexpectedly gone out-of-business. In addition, USTDA is not expected to adhere to its usual time frames if your health care professional fails to provide needed documentation in a timely manner.
5. *Delays.* If a delay occurs in processing a request for, or delivering, a reasonable accommodation, the EEO Officer must notify you of the reason for delay. To the extent possible, USTDA will keep you informed of the date on which the process is to be completed.

B. What Happens During the Time Period Between Making My Request for Reasonable Accommodation and USTDA's Decision?

It is in the Agency's discretion whether or not to provide you any type of temporary accommodation during the interactive process and while a decision is being made. Any accommodation that is provided has no bearing upon your request and the Agency is under no legal obligation to provide a temporary accommodation.

C. Decision on Reasonable Accommodation Request

1. If you are entitled to reasonable accommodation, USTDA is obligated to provide you an effective accommodation, not necessarily the accommodation you want most or the "best" accommodation. Every effort will be made to provide you the accommodation you desire, so long as it is effective. However,

your right is to an effective accommodation, which may or may not be the accommodation you requested initially. USTDA has the right to select one accommodation over another in order to provide a cost-effective solution, as long as that solution will effectively remove the barrier giving rise to the reasonable accommodation request.

2. If you are denied a specific reasonable accommodation but offered another, the written decision must specify the reason for denial of the requested accommodation and a statement as to why the chosen accommodation would be effective.
3. If your reasonable accommodation request is denied, you are entitled to a written decision on your request that specifies the reasons for denial.

D. Do I Have to Accept a Reasonable Accommodation I Don't Want?

No. USTDA cannot require you to accept an accommodation. If, however, you need a reasonable accommodation to perform an essential function of your job or to eliminate a direct threat, and you refuse to accept an effective accommodation, you may not be qualified to remain in your job.

E. Reassignment as a Reasonable Accommodation

Reassignment to a vacant position is a form of reasonable accommodation and may be available when you are qualified for the new position and reassignment does not impose an undue burden on the Agency. When available, reassignment is a reasonable accommodation of last resort. As USTDA is a small agency, it may not be possible to locate a vacant position at your same or lower grade level for which you are qualified. Also, due to the Agency's limited human resources it is likely reassignment may impose an undue burden on the Agency, and therefore may be unavailable as a reasonable accommodation. Please also note that your right to reassignment does not require USTDA to create a new position or move a current employee from his or her position to create a vacancy. Reassignment is a potential reasonable accommodation available only to current USTDA employees; it is unavailable to applicants.

F. What Can I Do If My Request Is Denied?

1. The purpose of the interactive process is to encourage as much communication as possible between you and management to eliminate the need for further evaluation once a decision has

been reached. Both you and the Agency should first attempt to resolve any differences or disagreements during the interactive process.

2. USTDA's informal dispute resolution procedures with respect to reasonable accommodation requests is as follows:
 - a. Within seven (7) calendar days of the denial of your request, you should request in writing that the EEO Officer reconsider the decision. The EEO Officer must reconsider your request and render a decision within seven (7) calendar days of receipt of your written request for reconsideration.
 - b. If you wish to appeal the EEO Officer's reconsideration on your request, you must do so within seven (7) calendar days of the decision following reconsideration. Appeals must be in writing addressed to the Deputy Director. The Deputy Director will render a decision within seven (7) calendar days or a reasonable time period afterwards.
3. If you believe that you have been discriminated against in the denial of your reasonable accommodation request and on the basis of your disability, you may file an EEO complaint within forty-five (45) days of the occurrence of the discriminatory event, in accordance with the EEO complaint process described in the Agency's EEO Policy.
4. You may request to enter into the Agency's Alternative Dispute Resolution process, as described in Appendix IV hereto.

VI. Additional Information Relevant to Applicants

A. Can USTDA Ask Me If I Have a Disability?

No. USTDA cannot conduct a medical examination or ask a job applicant whether he or she has a disability or inquire into the nature or severity of a job applicant's disability, if any.

B. Can USTDA Ask Me Whether I Can Perform Job Related Functions?

Yes. After a conditional offer of employment is extended, USTDA can ask you about your ability to perform job-related functions (both essential and marginal) and may ask you to describe or demonstrate how, with or without reasonable accommodation, you would perform job-related functions.

C. Can USTDA Ask Me If I Need Reasonable Accommodation When I Have Not Made a Request?

1. USTDA may inform all applicants of the Agency's hiring process and inquire whether any applicant requires reasonable accommodation to engage in the process.
2. In addition, if USTDA knows of an applicant's disability (i.e., such disability is obvious or the applicant discloses a disability) and if USTDA reasonably believes an applicant may need a reasonable accommodation to perform an essential job function, the Agency may ask if the applicant will need a reasonable accommodation. If the answer is in the affirmative, USTDA may inquire as to the type of reasonable accommodation that would be needed.

D. Can USTDA Ask me to Take a Medical Exam?

Yes. USTDA can require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant. USTDA may condition an offer of employment on the results of such examination, as long as all entering employees are subjected to such an examination regardless of disability. Medical records obtained as a result of such exams are subject to the privacy rights as described below.

VII. Medical Documentation and Privacy

A. Who is Entitled to See the Medical Documentation I Submit in Support of My Reasonable Accommodation Request?

1. USTDA may share your relevant medical information with any person involved in determining whether to grant your reasonable accommodation request. Typically, this will include your supervisor(s), the Administrative Officer, the EEO Officer, the Office of General Counsel, the Deputy Director, the Director and any medical provider contracted to assist in making a decision on your request.
2. Supervisors and managers who need to know may be told about necessary restrictions on the work or duties and the necessary accommodation(s);
3. First aid and safety personnel may be told if the disability might require emergency treatment;

4. Appropriate government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act;
5. USTDA's EEO Officer may be given the information to maintain records and evaluate and report on USTDA's performance in processing reasonable accommodation requests.
6. When medical information is disclosed to any Agency official, such officials will be informed about confidentiality requirements.

B. Where Will the Medical Documentation I Submit in Support of My Reasonable Accommodation Request be Kept?

Any medical information you submit is required to be kept in a confidential file, separate and apart from your regular personnel file. The only persons entitled to access to such files are those listed above, on a need to know basis. Your records are subject to the confidentiality provisions of the Rehabilitation Act of 1973, the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act of 1996.

C. How Long Will the Medical Documentation I Submit in Support of My Reasonable Accommodation Request be Kept?

Your medical documentation will be kept for the duration of your employment, as allowed by federal law.

D. Tracking

1. Executive Order 13164 requires executive agencies to track certain information with respect to reasonable accommodation requests, including but not limited to:
 - a. The number and types of reasonable accommodations that have been requested in the application process and whether those requests have been granted or denied;
 - b. The jobs 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 and types of reasonable accommodations for each job, that have been approved, and the number and types that have been denied;

- e. The reasons for denial of requests for reasonable accommodation; and
 - f. The amount of time taken to process each request for reasonable accommodation.
2. Cumulative records used to track USTDA's performance with respect to reasonable accommodation must be kept for at least three (3) years.

Attachment A

Legal Authorities

Rehabilitation Act of 1973, as amended, 29 USC § 701, et. seq.; 29 CFR § 1614.203.

Americans with Disabilities Act, as amended, 42 USC § 1201, et. seq., 29 CFR § 1630, et. seq.

Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation.

EEOC Enforcement Guidance, Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (October 2002).

EEOC Enforcement Guidance, Americans with Disabilities Act and Psychiatric Disabilities (March 1997).

EEOC Enforcement Guidance, Effect of Representations Made in Applications for Benefits on the Determination of Whether a Person Is a "Qualified Individual with a Disability" Under the Americans with Disabilities Act of 1990 (February 1997).

EEOC Enforcement Guidance, Workers' Compensation and the ADA (September 1996).

EEOC Enforcement Guidance, Preemployment Disability-Related Questions and Medical Examinations (October 1995).

EEOC Technical Assistance Manual Addendum (October 2002).

EEOC Compliance Manual

EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (October 2000).

EEOC Enforcement Guidance, Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (July 2000).

EEOC Instructions for Field Offices: Analyzing ADA Charges After Supreme Court Decisions Addressing "Disability" and "Qualified" (December 1999).

Attachment B

Definitions

Disability

- (1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (2) A record of such an impairment; or
- (3) Being regarded as having such an impairment.

Essential functions

- (1) In general, the term essential functions means the fundamental job duties of the employment position the individual with a disability holds or desires. The term “essential functions” does not include the marginal functions of the position.
- (2) A job function may be considered essential for any of several reasons, including but not limited to the following:
 - a. The function may be essential because the reason the position exists is to perform that function;
 - b. The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or
 - c. The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
- (3) Evidence of whether a particular function is essential includes, but is not limited to:
 - a. The employer’s judgment as to which functions are essential;
 - b. Written job descriptions prepared before advertising or interviewing applicants for the job;
 - c. The amount of time spent on the job performing the function;
 - d. The consequences of not requiring the incumbent to perform the function;
 - e. The terms of a collective bargaining agreement;
 - f. The work experience of past incumbents in the job; and/or
 - g. The current work experience of incumbents in similar jobs.

Major life activities

Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Medical documentation or documentation of a medical condition

A statement from a licensed physician or other appropriate practitioner which provides information the agency considers necessary to enable it to make an employment decision.

Physical or mental impairment

- (1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Qualified individual with a disability

An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable accommodation

- (1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- (2) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- (3) Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.
- (4) Reasonable accommodation may include but is not limited to:
 - a. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
 - b. Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.
- (5) To determine the appropriate reasonable accommodation it may be necessary for the agency to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

Substantially Limits

- (1) The term substantially limits means:

- a. Unable to perform a major life activity that the average person in the general population can perform; or
 - b. Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.
- (2) The following factors should be considered in determining whether an individual is substantially limited in a major life activity:
- a. The nature and severity of the impairment;
 - b. The duration or expected duration of the impairment; and
 - c. The permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment.
- (3) With respect to the major life activity of working -
- a. The term substantially limits means significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The inability to perform a single, particular job does not constitute a substantial limitation in the major life activity of working.
 - b. In addition to the factors listed above, the following factors may be considered in determining whether an individual is substantially limited in the major life activity of working:
 - (i) The geographical area to which the individual has reasonable access;
 - (ii) The job from which the individual has been disqualified because of an impairment, and the number and types of jobs utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (class of jobs); and/or
 - (iii) The job from which the individual has been disqualified because of an impairment, and the number and types of other jobs not utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (broad range of jobs in various classes).

Undue hardship

- (1) In general, undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by an agency, when considered in light of the factors set forth in paragraph (2) of this definition.
- (2) Factors to be considered in determining whether an accommodation would impose an undue hardship on an agency include:
- a. The nature and net cost of the accommodation needed under;

- b. The overall financial resources of the agency involved in the provision of the reasonable accommodation, the number of persons employed at such agency, and the effect on expenses and resources;
 - c. The type of operation or operations of the agency, including the composition, structure and functions of the workforce of such agency, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the agency; and
 - d. The impact of the accommodation upon the operation of the agency, including the impact on the ability of other employees to perform their duties and the impact on the agency's ability to conduct business.
- (3) Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business.

Vacant

A position that is open at the time an employee requests reasonable accommodation or that the employer knows will become available within a reasonable amount of time.

Attachment C

Selected Reasonable Accommodation Resources

U.S. Equal Employment Opportunity Commission

1-800-669-3362 (Voice) 1-800-800-3302 (TT)

<http://www.eeoc.gov/>

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. § 12101 et seq., and the regulations, 29 C.F.R. § 1630. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The three 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; (2) *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act*, 8 FEP Manual 405:7601 (1999); and (3) *A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act*, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992) (*Technical Assistance Manual*). The *Technical Assistance 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 guidances and documents: (1) *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); (2) *Enforcement Guidance: Workers' Compensation and the ADA* at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996); (3) *Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities* at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997); (4) *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 (5) *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).

All of the above-listed documents, with the exception of the *Technical Assistance Manual* are also available through the Internet at www.eeoc.gov. All of these documents provide guidance that applies to federal agencies through the Rehabilitation Act of 1973, 29 U.S.C. § 791.

Job Accommodation Network (JAN)

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

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

A service of the President's Committee on Employment of People with Disabilities. 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)

The DBTACs consist of 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.

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

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

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.