



INTER-AMERICAN FOUNDATION

EMPOWERED COMMUNITIES, SUSTAINABLE RESULTS

MEMORANDUM

Date: *12/9/2020 PAA*
To: All Inter-American Foundation (IAF) Employees
From: Paloma Adams-Allen, President & CEO

INTER-AMERICAN FOUNDATION POLICY ON REASONABLE ACCOMMODATION FOR DISABILITIES IN EMPLOYMENT

SECTION 1. PURPOSE.

This establishes the Inter-American Foundation (IAF) policy for providing reasonable accommodation for qualified individuals with disabilities who are employees or applicants for employment at the IAF. It also designates responsibilities and describes procedures for submitting and responding to requests for reasonable accommodation.

SECTION 2. AUTHORITY.

The Rehabilitation Act of 1973, as amended, requires Federal agencies to provide reasonable accommodation for qualified individuals with disabilities. 29 U.S.C. Section 791 eq seq.; 29 CFR Part 1614; Executive Order 13164¹; see also 29 CFR Part 1630.

SECTION 3. POLICY.

The IAF shall provide reasonable accommodation for the known physical or mental limitations of qualified applicants and employees, unless the IAF can demonstrate that a particular accommodation would impose an undue hardship on the operation of its program.

SECTION 4. DEFINITIONS.

- .1 Reasonable accommodation: an adjustment to job requirements or to the work environment that assists an employee with a disability in performing the essential duties of his or her position, or a qualified applicant with a disability during the recruitment and selection process.

¹ Visit https://www.eeoc.gov/policy/docs/accommodation_procedures.html for EEOC policy guidance on executive order 13164.

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).**

Reasonable accommodation may include, but is not limited to:

- a. making facilities readily accessible to, and usable by, people with disabilities;
- b. job restructuring;
- c. part time or modified work schedules;
- d. acquiring or modifying equipment or devices;
- e. appropriate adjustment or modification of examinations and training materials;
- f. providing readers, interpreters and other auxiliary aids; and
- g. reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position.

- .2 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 if it were assigned to them, or the function is specialized and the incumbent is hired based on his/her ability to perform it.
- .3 Reassignment: Reassignment is a form of reasonable accommodation. It may be provided to an employee (not an applicant) who, because of a disability, can no longer perform the essential functions of her current job, with or without reasonable accommodation. Where possible, reassignment is to an equivalent position, but if no equivalent position is available, may be to a lower level position that is as close as possible to the employee's current position. If the employee is qualified for such a position and the agency chooses to offer it as an accommodation, the employee will be reassigned to the new job and will not have to compete for it.
- .4 Individual with a disability: one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment².

² An individual who is "regarded as having an impairment" is not entitled to Reasonable Accommodation.

- .5 Qualified: With respect to an individual with a disability, means that the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.
- .6 Major life activities: include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, standing, bending, lifting, and working. Major life activities also include the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. Determining whether an activity is a major life activity does not require assessing whether the activity is of central importance to daily life, nor does the term “major” create a strictly demanding standard for determining disability.
- .7 Deciding official: a supervisor or manager who has the authority to determine whether a requested accommodation will be provided.
- .8 Request: a statement by an individual with a disability that h/she needs an adjustment or change at work for a reason related to a medical condition.
- .9 Requestor: an applicant or employee with a disability who requests a reasonable accommodation.
- .10 Undue hardship: when a specific accommodation would require significant difficulty or expense that would be incurred should a particular accommodation be provided. This determination will be made on a case-by-case basis, considering factors including but not limited to the following:
 - a. nature and cost of the accommodation needed;
 - b. overall size of the organizational unit with respect to the number of employees, number and type of facilities and size of budget; and
 - c. type of operation, including composition and structure of the work force.
 - d. the impact of the accommodation on the operations of the agency
- .11 Interactive Process: Exchange between the individual and the employer that starts with a reasonable accommodation request and continues with a dialogue to understand all the relevant factors an employer needs to accommodate this request.

SECTION 5. RESPONSIBILITIES.

- .1 The President, General Counsel and Chief Operating Officer (COO) of the IAF shall:
 - a. approve policies, directives and other materials outlining the IAF’s reasonable accommodation responsibilities;

- b. foster an environment that supports reasonable accommodation;
- c. provide funds for reasonable accommodation; and
- d. ensure compliance with provisions of this Policy.

.2 The General Counsel shall:

- a. advise IAF officials regarding laws, regulations, and the IAF's policies pertaining to reasonable accommodation;
- b. consult with IAF management, appropriate Equal Employment Opportunity officers, and Human Resource officers on providing reasonable accommodation and making undue hardship determinations; and
- c. conduct periodic reviews to ensure compliance with applicable laws, regulations, and IAF policy.

.3 Equal Employment Opportunity (EEO) Officers³ shall:

- a. work with the IAF's General Counsel to ensure that IAF management, supervisors and human resource officers understand the law and regulations regarding reasonable accommodation and advise them on:
 - 1. reasonable accommodation issues;
 - 2. the appropriateness of a request as determined by whether it relates to the work to be performed and/or the work place environment; whether the accommodation is used primarily at work, and is not primarily for personal use;
 - 3. alternate methods of accommodations that would effectively meet the need; and
 - 4. undue hardship.
- b. Assist management and employees with training on reasonable accommodation related issues at the IAF, as appropriate.

.4 IAF Management, including Office Directors, shall:

- a. promptly acknowledge receipt of reasonable accommodation requests (usually within three (3) business days), in writing, to the requestor; begin processing immediately and expedite time sensitive requests;
- b. request medical documentation to support the accommodation request, as needed;

³ EEO officers will not be assigned to decision making roles in the processing of requests for reasonable accommodations. The role of these officials will be limited to administrative tasks.

c. share medical documentation only with individuals who have a valid need to know for the purpose of processing an accommodation request; this confidentiality requirement applies to all persons involved in the process;

d. determine if the:

1. requestor is a qualified individual with a disability as defined in paragraph 4.3 above; and,

2. request is a reasonable accommodation as defined in paragraph 4.1 above.

e. consult with the requestor regarding the kind of accommodation needed and determine an effective method of accommodation to address the need;

f. determine if he or she has the authority to make a decision regarding the accommodation request; and if not, refer the request to a higher-level official;

g. address the agency's responsibility to provide reasonable accommodation to a qualified individual with a disability, when it is observed that a disability may be limiting an employee's ability to perform the job at a fully successful level, or could otherwise improve an employee's job performance, or an applicant's ability to participate in the selection process⁴; and,

h. seek guidance and consult with EEO service providers on reasonable accommodation issues, and before determining that an undue hardship would occur if an accommodation is provided.

i. establish a system to retain information about each request which should include at a minimum: the specific reasonable accommodation; the job (occupational series, grade level, and agency component) sought by requesting applicant or held by the employee; whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment; whether the request was granted or denied; the identity of the deciding official; the basis of the denial; and the number of days taken to process the request. Such information will be used to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501, and to make such records available to EEOC upon EEOC's request.

j. ensure that requests for accommodation are not denied for reasons of cost, and that individuals with disabilities are not excluded from employment due to the anticipated cost of a reasonable accommodation, if the resources available to the IAF would enable it to provide an effective reasonable accommodation without undue hardship.

.5 Deciding Officials shall:

a. promptly provide reasonable accommodation absent extenuating circumstances⁵ and

⁴ Qualified individual with a disability may request accommodation at any time when such individual determines an accommodation is needed.

⁵ Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance

expedite time sensitive requests;

b. engage in an interactive process and respond promptly (usually within 3 business days from the date deciding official being made aware) to the accommodation request received from the requestor or referred by other official;

c. take necessary actions and explain to the requestor what will happen next in the process;

d. keep requestors, human resource, and EEO officers apprised of progress in responding to accommodation requests, as appropriate;

e. seek guidance from and consult with the General Counsel and EEO service providers on reasonable accommodation issues and undue hardship determinations;

f. monitor the processing of requests until decisions are made and communicate these decisions in writing to requestors;

g. provide written decisions on accommodation requests. When a request is denied, the decision must include a written notice for the denial;

h. reassign qualified employees with impairment(s), as an accommodation of last resort and if appropriate, to a vacant funded position available;

i. work with human resource and EEO officers to ensure that subordinate managers, supervisors and other employees are provided appropriate training on reasonable accommodations;

j. immediately initiate a corrective action where deficiencies in processing of a reasonable request occurred;

k. maintain a record or tracking system for reasonable accommodation requests; all employees involved in processing of reasonable accommodation requests must maintain confidentiality of medical information received during the process.

.6 Human Resource Officers shall:

a. ensure that all vacancy announcements:

1. inform qualified individuals with disabilities that reasonable accommodations may be requested; and

2. provide instructions for making such requests;

of the request for the accommodation. These can include situations in which equipment must be back-ordered or the vendor typically used by an agency has unexpectedly gone out of business. In addition, an agency will not be expected to adhere to its usual time frames if an individual's health professional fails to provide needed documentation. See https://www.eeoc.gov/policy/docs/accommodation_procedures.html

- b. identify opportunities to provide training on reasonable accommodation.
- c. assist supervisors and other relevant agency employees to search for available vacancies when considering reassignment as a reasonable accommodation.

.7 Employees with disabilities who desire accommodations shall:

- a. request an accommodation from their immediate supervisor in writing or verbally at any time when a need for such an accommodation arises;
- b. provide appropriate medical information⁶ related to the functional impairment/disabling condition, where the disability or need for accommodation is not obvious; failure to provide requested information may delay the processing or result in denial of the accommodation;
- c. provide a description of the accommodation requested, if known, and an explanation of how it would enable the employee to perform the job;
- d. acknowledge and respond to the immediate supervisor's offer to provide an accommodation when the employee has not requested an accommodation; and
- e. accept or reject an accommodation initiated to improve employee's job performance. However, an employee's decision to reject the accommodation could jeopardize employee's employment status if he or she is performing below a satisfactory level, or if the disability is contributing to employee's misconduct.

.8 Applicants with disabilities who desire accommodations shall:

- a. request a reasonable accommodation from the human resource officer or contact provided in vacancy announcement;
- b. provide medical documentation of the disabling condition, if requested;
- c. provide a description of the accommodation requested, if known, and an explanation of how it would assist the applicant in the selection process;
- d. acknowledge and respond to a human resource officer's offer to provide an accommodation when the applicant has not requested accommodation; and
- e. have the option to accept or reject an accommodation initiated by a human resource officer to improve the applicant's performance during the application process.

The applicant's decision to reject an accommodation may jeopardize competitiveness for the position in question should he or she fail to successfully complete the application process.

SECTION 6. PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION.

⁶ If submitted medical information is insufficient or does not clearly explain the nature of the disability, the agency may request the individual be examined by its own physician.

- .1 Requests for reasonable accommodations may be submitted by an employee or applicant with a qualifying impairment, or an authorized individual acting on behalf of an affected employee or applicant, orally or in writing. Written requests are encouraged, however requests need not include specific verbiage such as “reasonable accommodation,” “Rehabilitation Act,” or “Americans with Disabilities Act”.
 - a. Employees with disabilities may submit their accommodation requests to their 1st or 2nd level supervisor, a more senior official in their chain of command, or Ms. Felicia Ellis, Disability Program Manager at fellis@usgs.gov or 703-648-7770.
 - b. Qualified applicants with disabilities must submit requests to the human resource officer at a reasonable time prior to the occasion (absent extenuating circumstances) for which the accommodation is needed.
- .2 Qualified individuals with disabilities must provide the following information:
 - a. their name and daytime telephone number;
 - b. a description of the disabling condition;
 - c. a description of the accommodation requested, if known, and an explanation of how it would enable an employee to perform the job, or how it would assist an applicant in the selection process; and
 - d. the date of the request and signature of the requestor where applicable.
- .3 Once an employee has requested a type of reasonable accommodation that s/he is likely to need on a repeated basis (e.g., sign language interpreters), the IAF may not require the individual to submit a written request for recordkeeping purposes each time the accommodation is needed.
- .4 The IAF may require an individual who requests a reasonable accommodation to provide medical information that is sufficient to explain: (1) the nature of the individual’s disability; (2) the need for reasonable accommodation; and (3) how the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. 29 C.F.R. § 1614.203(d)(3)(i)(I). Under the Rehabilitation Act, an agency is entitled to know that a requester has a covered disability and needs an accommodation. Accordingly, when a disability and/or need for accommodation is not obvious or known to the agency, the agency may ask that the individual provide reasonable documentation about the disability and functional limitations. The IAF has the right to have medical information reviewed by a medical expert chosen by the agency at the agency’s expense. 29 C.F.R. § 1614.203(d)(3)(i)(K). The IAF will keep medical information confidential, in accordance with applicable laws and regulations, as well as, the limited circumstances under which IAF may disclose such information. 29 C.F.R. § 1614.203(d)(3)(i)(L). That said, under the Rehabilitation Act, the agency may not request documentation where: (a) the disability and need for accommodation is obvious; or, (b) where the individual has already provided the agency with sufficient information to document the existence of the disability and/or functional limitations.

SECTION 7. PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

- .1 Interactive Process- The primary goal of the interactive accommodation process is to respond to accommodation requests and to remove obstacles in the workplace that interfere with applicants' and employees' opportunity for equal employment in as short a time frame as reasonably possible. Toward this end, managers, supervisors, and employees at all levels involved in the process must make good faith efforts to participate in the accommodation process and help to ensure expeditious consideration of requests and delivery of effective accommodations.

A supervisor should be able to recognize when a reasonable accommodation request is being made.

EXAMPLE - An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of the anti-depressants I take." This is a request for reasonable accommodation. Whether or not the employee is ultimately entitled to an accommodation, the agency must start to consider the request.

EXAMPLE - An applicant who is vision-impaired asks for assistance with the agency's application materials. This is a request for reasonable accommodation and triggers the agency's obligation to engage in its reasonable accommodation process.

Once a supervisor or Office Director receives a reasonable accommodation request, s/he will respond to the requestor promptly (usually within three (3) business days), in writing and begin processing immediately. Time sensitive requests shall be expedited. The agency decision makers must communicate, early in the interactive process and periodically throughout the process, with individuals who have requested an accommodation.

The following links are provided to assist individuals with disabilities and agency decision-makers in identifying and evaluating possible accommodations:

- Equal Employment Opportunity Commission, Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (Oct. 20, 2000), https://www.eeoc.gov/policy/docs/accommodation_procedures.html.
- Equal Employment Opportunity Commission Technical Assistance Document: Employer-Provided Leave and the Americans with Disabilities Act (May 9, 2016), <https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>.
- Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act (July 27, 2000), <https://www.eeoc.gov/policy/docs/guidance-inquiries.html>.
- EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002), <https://www.eeoc.gov/policy/docs/accommodation.html#reassignment>.
- EEOC Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act (Sept. 18, 2017),

<https://www.eeoc.gov/federal/directives/personal-assistance-services.cfm>

- .2 Maximum Time Limits- A request, whether oral or written and/or explicit or implicit, triggers the time limits for processing and providing or denying an accommodation. Once a request is received, absent extenuating circumstances, the maximum time limits for processing requests for accommodation are:
- a. For Applicant Requests. (i) No more than fifteen (15) business days from the date of receiving the request for accommodation, if the request relates to an applicant's participation in the hiring process and medical information is not required. (ii) No more than twenty (20) business days from the date of receiving the request, if the request relates to an applicant's participation in the hiring process and medical information is required.
 - b. For Employee Requests. (i) No more than fifteen (15) business days from the date of receiving the request for accommodation, when the request is very simple, does not require medical documentation, and does not involve extenuating circumstances. (ii) No more than twenty (20) business days from the date of receiving the request for accommodation, when the request requires medical documentation. (iii) No more than thirty (30) business days from the date of receiving a request for accommodation that requires considering reassignment as a possible accommodation.

Where an accommodation can be provided in less than the maximum time frame, failure to provide an accommodation in a prompt manner may result in a violation of the Rehabilitation Act. 29 C.F.R. § 1614.203(d)(3)(i)(O).

- a. Expedited processing for reasonable accommodation requests may be required if the accommodation is needed, for example: (1) to enable an individual with a disability to apply for a job; or, (2) the accommodation is needed for a specific agency activity that is scheduled to occur shortly.
- b. Pursuant to 29 C.F.R. § 1614.203(d)(3)(i)(Q), when all the facts and circumstances known to the agency make it reasonably likely that the individual will be entitled to an accommodation, but the accommodation cannot be provided immediately, the IAF must provide the individual with an interim accommodation that allows the individual to perform some or all of the essential functions of the job, absent undue hardship.
- c. Where there is a delay in either processing a request for accommodation or providing an accommodation, the IAF will notify the individual of the reason for delay, including any extenuating circumstances that justify the delay. 29 C.F.R. § 1614.203(d)(3)(i)(S).
- d. Pursuant to 29 C.F.R. § 1614.203(d)(3)(iii), the IAF will provide a job applicant or employee who is denied a reasonable accommodation with a written notice at the time of denial. The written notice will explain the reasons for the denial and notify the job applicant or employee of any available internal appeal or informal dispute resolution processes. The IAF encourages the use of voluntary informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of accommodation requests.

SECTION 8. COMPLIANCE.

Two procedures are available to individuals who are dissatisfied with an Agency's response to a request for an accommodation, and who wish to seek redress:

1. to initiate an EEO contact, employees and applicants for employment must contact an EEO Counselor within 45 days after receiving a response to the request. Employees and applicant for employment may contact an EEO Counselor by calling (703)-648-7770, (866) 816-1106, or Federal Relay Service (800) 877-8339;
2. to file a grievance, employees and applicants for employment must contact their Human Resource Officer promptly after receiving the decision, to find out the applicable procedures and time limits for filing a grievance under a negotiated grievance procedure or the administrative grievance system, as appropriate by contacting Ms. Lesley Duncan at (202) 688-3047.

SECTION 9. ASSISTANCE.

Questions concerning this Policy should be addressed to the IAF's EEO service provider, the EEO Office of the U.S. Geological Survey: Contact Ms. Felicia Ellis, Disability Program Manager at fellis@usgs.gov or 703-648-7770 or the Federal Relay Service at (800) 877-8339.