IMD Reasonable Accommodation Program
Standard Operating Procedures

Idaho Military Division (IMD) HRO
4794 GEN Manning AVE
Boise, ID 83705
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1. PURPOSE: This SOP establishes the procedure for IMD federal employees and qualified job applicants to request a reasonable accommodation (RA) and, where appropriate, for providing RA to employees and applicants with disabilities. The SOP is focused on establishing procedures that will support the prompt, fair, and efficient processing of requests for RA. All IMD commanders' managers, supervisors, and employees must comply with the mandates of the governing laws, regulations, executive orders, and policy which strictly prohibit taking adverse actions against job applicants or employees based on their need for, or perceived need for a RA.

2. REFERENCES:

2-1. Section 501, Rehabilitation Act of 1973, as amended, 29 U.S.C.§ 791

2-2. Americans with Disabilities Act Amendments Act of 2008, Titles I and V

2-3 Executive Order 13164 of 26 July 2000

2-4. 29 Code of Federal Regulations § 1630

2-5. EEOC Management Directive 715 (MD-715), 1 October 2003

2-6. Equal Employment Opportunity and Diversity, Army Regulation 690-12, Appendix C, 12 December 2019

2-7. Equal Employment Opportunity and Affirmative Employment Programs, AFI 36-205, Chapter8, 1 December 2016

2-8 EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, 17 October 2002

2-9 Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army, 15 December 1993

2-10. Executive Order 13548, 26 July 2010

3. PUBLICATION: This RAP SOP and its applicable procedures are to be disseminated and readily available to all IMD federal employees and qualified job applicants. This shall include:

3-1. Posting on the IMD Human Resource Office public website site.

3-2. Making alternate formats accessible to persons with disabilities, when requested.

4. DEFINITIONS:

4-1. Direct threat: A significant risk to the health, safety or well-being of person with disability (PWD) or others when this risk cannot be eliminated by reasonable accommodation.

4-2. Disability: A physical or mental impairment that substantially limits one or more major life activities of the person, a record of such an impairment, or being regarded as having such an impairment.

4-3. Disability Program Manager (DPM): The person designated by the IMD Human Resource Officer with delegated authority to manage the RA process. Engage in a discussion with the requestor and other relevant persons (e.g., a supervisor, a requestor's health care professional) to collect whatever information is necessary to make an informed decision about whether the requestor is covered as a person with a disability and, if so, what reasonable accommodation(s) will effectively eliminate the barrier identified by the requestor and permit an equal opportunity to apply for a job, to perform a job or to gain access to the workplace, or to enjoy access to the benefits and privileges of employment.

4-4. Essential functions: Job duties that are so fundamental to the position that the person cannot do the job without being able to perform them. A function is "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of employees who could perform the function if it were assigned to them, or the function is specialized, so the incumbent is hired based on their ability to perform it.

4-5. Extenuating circumstances: Factors that could not reasonably have been anticipated or avoided in advance of the request for reasonable accommodation, such as back order of necessary equipment or failure of employee's health care professional to timely provide necessary documentation.

4-6. Health Care Professional: The appropriate professional in any particular situation will depend on the disability and the type of functional limitation it imposes. Appropriate professionals include physicians, psychiatrists, psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists and licensed mental health professionals who the PWD is under the care of.

4-7. Major bodily functions: Term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual

disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

4-8. Major life activities: Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working as well as the operation of a major bodily function.

4-9. Person With a Disability (PWD): Any person, who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment or is regarded as having such an impairment.

4-10. Person With a Targeted Disability (PWTD): Any person, who has a physical or mental impairment identified by the OPM Standard Form 256 which substantially limits one or more of such person's major life activities, has a record of such impairment or is regarded as having such an impairment. Some targeted disabilities include deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental illness and distortion of limb and/or spine.

4-11. Personal Assistance Services (PAS): Means assistance with performing activities of daily living a person would typically perform if they did not have a disability, and is not otherwise required as a reasonable accommodation, including for example, assistance with removing and putting on clothing, eating and using the restroom. These services are not related to job performance.

4-12. Qualified Individual: an individual who can perform the essential functions of the employment position that such individual holds or desires.

4-13. Reasonable accommodation (RA): a change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. This may include making existing facilities readily accessible to and usable by PWD, job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification 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 PWD.

4-14. Stakeholder: Individuals, groups and organizations that may be affected by or could affect the decision making regarding a RA.

4-15. Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in

remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.

4-16. Supervisor: Traditionally the supervisor of record documented by a personnel action form but may also refer to any person of leadership within the chain of command.

4-17. Undue hardship: An action requiring significant difficulty or expense when considered in light of factors such as the IMD's size, financial resources, and the nature and structure of the position. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the IMD. This SOP's "undue hardship" standard is different from that applied by courts under Title VII of the Civil Rights Act of 1964 for religious accommodation.

5. INITIATING THE REASONABLE ACCOMMODATION PROCESS: The RA process and time requirements begin as soon as the request for accommodation is made either orally or in writing by indicating a need for an adjustment, change at work, or within the application process for a reason related to a disability.

5.1. THE REQUEST: The request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." A person may request a RA whenever they choose, even if they had not previously disclosed the existence of a disability. For example, it is sufficient for a vision impaired person to ask for assistance with certain work-related materials. This is a request for reasonable accommodation. Supervisors should record the date and circumstances of this request for record (date of request).

5.1.1. While an IMD federal employees or qualified job applicants may request a specific change due to a medical condition, this request does not necessarily mean that the employer is required to provide that change.

5.1.2. The request may be initiated by a IMD federal employee or qualified job applicant, by a family member, health professional, or other representative who is acting on the person's behalf (EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Sec. II (A), Q.6 (Oct.20, 2000). To the extent possible, the person should be contacted to confirm that they in fact desire an accommodation.

5.1.3 Requests for accommodation should ordinarily be addressed to the

direct supervisor so the request can be properly tracked and acted upon. At the requestor's discretion, however, the request may be made to any of the following:

- the person's supervisor

- another supervisor or manager in the person's immediate COC

- the Disability Program Manager (DPM) office

- the Occupational Health Nurse, or

- in the case of an applicant involved in the application process, the POC listed on the vacancy announcement by contacting the IMD Human Resource Office (HRO).

5.1.4. Requests for accommodation made to persons or offices other than those listed cannot be properly tracked and may not be processed timely or accurately and shall be re-routed immediately to any of the persons identified above in this paragraph.

5.2. INITIAL MEETING: Becoming aware of a potential disability needing accommodation, the IMD representative will consult with the employee or qualified applicant. IMD representatives are encouraged to seek guidance from the DPM at any time during the process. IMD federal employees and qualified job applicants are encouraged to follow up an oral request for accommodation with a written confirmation using the IMD Reasonable Accommodation Request Form.

5.2.1. All IMD job applicants shall be directed to the DPM. The DPM will contact the qualified job applicants as soon as practicable to begin discussing the accommodation request.

5.2.2. Supervisors will engage in the interactive process by discussing the following with the requesting employee and by documenting the conversation in writing. A sample record is contained in appendix A of this SOP.

- What are the limitation(s) that are interfering with or create a barrier to the employee's job functions?

- What adjustments to the work environment or position responsibilities would enable the employee to perform these job functions? The employee does not need to have a particular accommodation in mind before making a request (29 C.F.R. § 1614.203(d)(3)(i)(D).

- Providing advance notice that the employee may be required to provide the DPM with sufficient medical documentation establishing the underlying disability

or medical issue

5.2.3. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary.

5.2.4. The supervisor will inform the employee they will be notified whether the requested accommodation is approved or denied as soon as possible, but not later than thirty (30) calendar days, absent extenuating circumstances from the date of request. 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).

5.2.5. At the close of the initial meeting, the supervisor will collect the IMD RA Request Form from the employee and inform them of their right to obtain information on their request and assistance from the DPM office.

5.2.6. Processing of the request will begin as soon as it is made, whether or not written confirmation has been provided. While the written confirmation should be made as soon as possible following the request, it is not a requirement for the request itself.

5.2.7 The supervisor will elevate the request by contacting the DPM as soon as practicable, preferably within 2 business days. The DPM will assign a tracking number.

6. PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

6.1. THE INTERACTIVE PROCESS: Once it is determined the person requesting an accommodation has a qualifying disability and is therefore a person with a disability (PWD), the supervisor will consult with the DPM to determine whether the requested accommodation is appropriate under the circumstances. If the supervisor does not have authority to grant a particular accommodation (such as the authority to allow the employee to disregard a particular work policy), the supervisor and DPM will consult with the next supervisor with such authority.

6.1.1. The IMD will engage in a process in which the PWD, health care professional (if requested by the DPM), supervisor and DPM each share information about the nature of the disability and the limitations that may affect the PWD's ability to perform the position duties. Both the IMD and the PWD must provide a good-faith effort to discuss the limitations and/or performance issues the disability may pose. The purpose of this discussion is to determine what (if any) accommodations may be needed. Stakeholders involved in the provision of reasonable accommodation should take a proactive approach in searching out and considering possible accommodations. The PWD requesting the accommodation should also participate, to the extent possible, in helping to identify an effective

accommodation.

6.1.2. The DPM will contact the PWD as soon as practicable to begin discussing the accommodation request. When the disability and/or the need for accommodation is not obvious, the DPM may ask the PWD for reasonable documentation about their disability and functional limitations. The DPM is entitled to know that the person has a covered disability for which they need a reasonable accommodation. Such information may not be necessary if the disability is obvious (e.g., the requestor is blind or has paralysis), if the disability is already known to the DPM (e.g., a prior request revealed that a disability existed and there has been no change in the person's medical condition), or if the need for the requested accommodation is clear.

6.1.3. The DPM may need to consult with SMEs and stakeholders to obtain information necessary for making a determination about the request. The IMD expects that all IMD personnel will give a high priority to responding quickly to a DPM's request for information or assistance. When necessary, supervisors, the DPM, and the IMD HRO Classification Specialist should coordinate to identify the following:

- Essential job functions of the PWD's position;

- The PWD's functional limitations to completing the essential job functions; and

- Whether there are any reasonable alternative approaches to meeting essential job functions.

6.1.4. Appendix D contains a list of resources to help supervisors and DPM in considering possible reasonable accommodations.

6.2. APPROVAL OR DENIAL OF ACCOMMODATION REQUESTS: The supervisor, next supervisor (for appeals) or DPM shall provide written notice whether the request has been approved or denied and document the date and circumstances of the notification. The written notification to the PWD must contain:

- The name of the supervisor who made the decision;

- The decision (approved or denied);

- A notice if the PWD wants to appeal or file an EEO complaint, the PWD must contact the SEEM office within 45 days of receiving this notice.

6.2.1 The employee can engage in the Informal Resolution Process (paragraph 9) by appealing the decision to the next supervisor in the chain of command.

6.2.2. Utilizing the Informal Resolution Process does not extend the 45 days that the employee must contact the EEO office.

6.2.3. The supervisor will implement any approved RA at the earliest possible moment, but normally within 30 thirty calendar days from the date of request. 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).

6.2.4. A copy of the supervisor's written notification will go into a separate file for the PWD, as discussed in information tracking.

6.3. TIME AND COST RULE: For those accommodations lasting less than 2-weeks and/or that have no cost to the IMD, approval may be granted immediately by the supervisor.

7. TIME LIMITS: 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. At a minimum, however, requests shall be processed as follows:

7.1. REQUESTS NOT INVOLVING EXTENUATING CIRCUMSTANCES: In situations where a disability is obvious or likely, the reason given for needing an accommodation seems plausible, and the requested accommodation is straightforward to provide, requests shall be processed and the accommodation, if granted, provided as soon as possible but not more than 30 days from the date of request made.

7.2. REQUEST INVOLVING EXTENUATING CIRCUMSTANCES: When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. The following are examples of extenuating circumstances:

7.2.1. The purchase of equipment may take longer than 30 days because of requirements under regulation or policy.

7.2.2. Equipment may be backordered, the vendor typically used by the organizational element 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.

7.2.3. The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before the organizational element buys the equipment.

7.2.4. New staff needs to be hired or contracted for, or an accommodation

involves the removal of architectural barriers.

7.2.5. There is an outstanding initial or follow-up request for medical information, or the designated organizational element official is evaluating medical information that has been provided.

7.2.6. When extenuating circumstances are present and processing a request for or providing a reasonable accommodation is going to take more than 30 days, the supervisor must notify the PWD in writing of the reason for a delay, including any extenuating circumstance justifying the delay 29 C.F.R. § 1614.203(d)(3)(i)(S). If the IMD cam1ot provide the accommodation immediately, the IMD shall provide an interim accommodation that allows the person to perform some, or all essential functions of their job, if it is possible to do so without imposing undue hardship on the IMD. 29 C.F.R. § 1614.203(d)(3)(i)(Q). (Interim Accommodations, paragraph 8.4).

7.3. EXPEDITED REQUEST PROCESSING: Decisions will be expedited for the following reasons:

7.3.1. The RA is needed to enable an applicant to apply for a job.

7.3.2 The RA is needed for a short notice un-forecasted mission requirement.

7.3.3. Failure to provide an accommodation in a prompt manner may result in a danger to the employee and/or may result in a violation of the Rehabilitation Act. 29 C.F.R. § 1614.203(d)(3)(i)(O). For example: Ruth's employer prohibits employees from eating or drinking at their workstations. Ruth has insulin-dependent diabetes and asks her supervisor to permit her to eat a candy bar or drink fruit juice at her desk if necessary to avoid going into insulin shock. The employer's reasonable accommodation procedures state that decisions about whether to grant or deny requests for reasonable accommodation should be made within 30 days of the date of the request. In this case, however, the employer should be able to provide the reasonable accommodation in no more than a day or two, and hopefully sooner. The employer should not wait the full 30 days before responding to Ruth's request.

7.3.4. Expedited requests will be actioned as soon as possible but not later than 15 calendar days.

8. ABOUT ACCOMMODATIONS: A modification or adjustment is "reasonable" if it is feasible or plausible under the circumstances. An accommodation must also be effective in meeting the needs of the PWD. This means that the reasonable accommodation enables a PWD to perform the essential functions of their position or allows a PWD an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy.

8.1. The PWD may refuse to accept an accommodation.

8.2. In the event that a PWD is willing to provide their own accommodations, this does not relieve the IMD of the duty to provide this or another RA should the PWD for any reason be unable or unwilling to continue to provide the accommodation.

8.3. CETERIS PARIBUS: All other things being equal "Ceteris paribus", the preference of the PWD should be given consideration, but the supervisor has the ultimate discretion to choose between effective accommodations. Thus, as part of the interactive process, supervisors may offer PWDs alternative suggestions for accommodations and discuss their effectiveness in removing the workplace barrier impeding the PWD. If there are two possible reasonable accommodations, and one costs more or is more burdensome than the other, supervisors may choose the less expensive or burdensome accommodation as long as it is effective. Similarly, when there are two or more effective accommodations, supervisors may choose the one easier to provide. In either situation, the supervisor is not required to show it is an undue hardship to provide the more expensive or more difficult accommodation.

8.4. INTERIM ACCOMMODATIONS: The Supervisor may provide an interim accommodation if processing a request for or providing a reasonable accommodation is going to take more than 30 days, the supervisor must notify the individual in writing of the reason for a delay, including any extenuating circumstance justifying the delay 29 C.F.R. § 1614.203(d)(3)(i)(S).

8.4.1. The supervisor must make clear to the requestor that this is only an interim accommodation until the DPM can complete the review and make a final decision.

8.4.2. If the DPM has completed review and determined that the employee is entitled to a RA, however the IMD cannot provide the accommodation immediately, the IMD shall provide an interim accommodation that allows the individual to perform some, or all essential functions of their job, if it is possible to do so without imposing undue hardship on the IMD. 29 C.F.R. § 1614.203(d)(3)(i)(Q).

8.5. LEAVE: Leave, whether accrued paid leave or unpaid leave, is a form of RA when necessitated by an employee's disability. Paid leave beyond which is provided to similarly situated employees is not required/allowed. Supervisors should remember there may be Family Medical Leave Act (FMLA) or other legal implications and impacts when considering leave as an accommodation. When intermittent unpaid leave occurrences extend beyond the 2-week threshold, the accommodation request must be coordinated with the DPM.

8.6. WORK MODIFICATIONS: For certain positions, the time during which an essential function is performed may be critical and a modification may disrupt operations and lead to undue hardship. This could affect whether a supervisor can

grant a request to modify an employee's schedule or if reassignment is more appropriate.

8.7. JOB RESTRUCTURING: Job Restructuring involves modifications such as reallocating or redistributing marginal job functions an employee is unable to perform because of a disability, as well as altering when and or how a function, essential or marginal, is performed. Supervisors will not, however, reallocate essential functions as a reasonable accommodation.

8.8. Modified workplace policies constitute a RA when necessitated by an employee's disability-related limitations and do not cause undue hardship. Modification under these circumstances only applies to the PWD and not to other employees in the supervisor's section or working unit.

8.9. Specific to individuals who are deaf or hard of hearing, supervisors should consider amplification devices, closed caption decoders and captioning for training tapes, signaling devices, teletypewriters (TTYs), sign language interpreters, and TTY modems.

8.10. Specific to individuals with visual impairments, supervisors should consider Braille displays, Braille embossers, portable note-takers, print enlargers, scanner/readers, and screen readers.

8.11. Specific to individuals with impaired dexterity, supervisors should consider alternative input systems, alternative keyboards, alternative pointing devices, keyboard enhancement programs, and voice recognition systems.

8.12. ACCOMMODATION OF LAST RESORT: Reassignment to a "vacant" position is the RA of last resort and is only required if: there are no effective accommodations enabling the employee to perform the essential functions of their current position and all other accommodations would impose an undue hardship 29 C.F.R. § 1614.203(d)(3)(i)(B).

8.12.1. Reassignment to a "vacant" position must be considered by the IMD for an employee only and does not apply to a qualified applicant.

8.12.2. The DPM must ask if the employee would consider a reassignment as a RA. The DPM must communicate that employee will not have to compete for the reassignment. Allowing or granting a PWD permission to compete for such position constitute the criteria for reassignment consideration. If the employee is amenable to reassignment as a RA, the DPM must search for any "vacant" positions for which the employee is qualified and willing to consider.

8.12.3. "Vacant" means the position that is available on the date of request, or the employer knows that it will become available within a reasonable amount of time.

The DPM will notify IMD management and other officials they are conducting searches for "vacant" positions 29 C.F.R. § 1614.203(d)(3)(i)(C). The employer does not have to bump another employee from a job in order to create a vacancy; nor does it have to create a new position.

8.12.4. Reassignment is to be to an equivalent position where possible, but if no equivalent position is available, may be to a lower-level position.

8.12.5. 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, IMD will not pay for relocation costs or expenses incurred as a result of a reassignment as a reasonable accommodation.

8.12.6. For the employee to be considered qualified for the vacant position, they must:

- Be able to meet the conditions of employment

- Have the requisite skill, experience, education, and other job-related requirements of the position.

- Be able to perform the essential functions of the new position, with or without a reasonable accommodation.

8.12.7 The employee must only meet the requirement of being qualified for the position and need not necessarily be the best qualified or most desirable. The IMD is not obligated to assist the employee to become qualified for the new position, unless they would normally provide such training to an individual transitioning into the position.

8.13. PERSONAL ASSISTANCE SERVICES: Personal Assistance Services (PAS) are defined as "assistance with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a RA as these services are not related to job performance. Since a PAS is a form of accommodation for a PWTD, the process for requesting PAS, the process for determining whether such services are required, and the IMD's right to deny such requests when provision of the services would pose an undue hardship, are the same as for the reasonable accommodation process.

8.13.1. The IMD is only required to provide PAS if:

- A person is an employee of the IMD;

- A person has a targeted disability (or a PWTD);

- A person requires the services because of their targeted disability;

- A person will be able to perform the essential functions of the job, without posing a direct threat to safety, once PAS and any required reasonable accommodation have been provided; and

- Providing PAS will not impose an undue hardship on the IMD.

8.13.2. Personal assistance services will be provided by a PAS provider. The IMD may require PAS providers to perform services to more than one person, and PAS providers may perform tasks unelated to personal assistance services, but only to the extent that doing so does not result in failure to provide PAS in a timely manner.

8.13.3. If the IMD is utilizing a PAS provider who will be assigned to a single person, and if that person prefers a particular provider (e.g. because the provider has worked with the person in the past), the IMD will give primary consideration to the employee's choice to the extent permitted by law.

9. INFORMAL RESOLUTION PROCESS: The Informal Resolution Process is voluntary and will not be used to limit a person's rights. There is no requirement that a person challenging the denial of a RA request use this informal dispute resolution process. Use of this process does not prevent such a person from filing an EEO complaint, an MSPB claim, or a grievance, even if they are also pursuing the agency's informal resolution process. This process is not an administrative remedy that must be exhausted before a complaint may be filed.

9.1. An employee may appeal the decision of their supervisor to the next supervisor in the chain of command within seven (7) calendar days of receipt of the original supervisor's decision. The appeal should be in writing and should contain any additional information or documentation the employee would like the higher supervisor to consider. If the employee desires to meet with the next supervisor, this request should be included in their appeal. There is no requirement for the next supervisor to meet with the employee. There is also no requirement the employee utilize this process before filing a complaint.

9.2. The next supervisor who receives the appeal will consult with the DPM to review the original supervisor's notes and any documentation submitted by the employee. The next supervisor will render a written determination on the appeal within fourteen (14) calendar days of receiving the appeal from the employee (this determination will adhere to the same requirements contained in the section "Approval or Denial of Reasonable Accommodation").

10. EXCLUSIONS:

10.1. ACCOMMODATIONS THAT WOULD ELIMINATE A POSITIONS ESSENTIAL FUNCTIONS. Supervisors are prohibited eliminating an essential function, i.e., a fundamental duty of the position. This is because a person with a disability who is unable to perform the essential functions, with or without reasonable accommodation, is not a "qualified" individual or PWD within the meaning of this SOP.

10.2. ACCOMMODATIONS THAT LOWER PRODUCTIONS STANDARDS. Supervisors are prohibited from agreeing to lower production standards, whether qualitative or quantitative, that are applied uniformly to other employees with and without disabilities.

10.3. ACCOMMODATIONS THAT PRESENT A DIRECT THREAT. Supervisors are prohibited from making accommodations which present a direct threat to the health, safety or well-being of PWD or others (where this risk cannot be eliminated by reasonable accommodation). The assessment of risk will be based on the accommodation requested and an individualized assessment of current circumstances, working environment, and accommodation requested.

10.4. ACCOMMODATIONS FOR THOSE WITHOUT HAVING A DISABILITY CODIFIED IN STATUE IAW 42 U.S.C. § 12211.

10.5. ACCOMMODATIONS RELATED TO ILLEGAL DRUG USE. Persons who are currently using illegal drugs are excluded from protections under the 42 U.S. Code§ 12210. The term "person with a disability" does not include a person who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

10.6. ACCOMMODATIONS FOR PERSONAL USE AMENITIES. The IMD will not provide personal use items needed in accomplishing daily activities both on and off the job as reasonable accommodations. Thus, the IMD will not provide an employee with a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices if they are also needed off the job. Furthermore, the IMD will not provide personal use amenities, such as a hot pot or refrigerator, if those items are not provided to employees without disabilities. However, items that might otherwise be considered personal may be considered as reasonable accommodations in appropriate cases where they are specifically designed or required to meet job-related rather than personal needs.

10.7. ACCOMMODATIONS THAT CAUSE AN "UNDUE HARDSHIP". Requests will be denied where the requested accommodation would cause "undue hardship" to the IMD. Undue hardship, which generally involves significant difficulty or expense, is to be determined on a case-by-case basis. The analysis focuses on the

resources and circumstances of the IMD in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to those accommodations that are unduly extensive, substantial, or disruptive, or those fundamentally altering the nature or operation of the business. In determining whether an accommodation would impose an undue hardship on the IMD, factors to be considered include:

- The nature and cost of the accommodation.

- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.

- The overall financial resources of the IMD; the size, number, type and location of facilities.

- The type of operations of the IMD, including the composition, structure and functions of the workforce.

- The positions' location within the IMD, including the funding source and requirements.

- The duration of the accommodation.

- The impact of the accommodation on the IMD's operations and its ability to serve stakeholders appropriately and in a timely manner.

11. RELATIONSHIP TO POLICY AND STATUTORY CLAIMS. The terms and conditions of employment, and protections of the Americans With Disabilities Act do not restrict or limit the IMD's ability to engage in or impose actions as set forth in regulations and policies. This includes but is not limited to performance expectations, leave policies, drug-free workplace policies, and dress and personal appearance polices.

11.1. This SOP does not limit or supplant statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation. This SOP is in addition to and does not modify or replace the Merit Systems Protection Board (MSPB) or the EEO complaint process. Requirements governing the initiation of statutory claims remain unchanged, including the time frames for filing such claims. A person who chooses to pursue remedy for denial or offer of an alternative reasonable accommodation must:

11.1.1. EEO Process. In accordance with IMD 27 (Equal Employment Opportunity/Equal Employment Opportunity), to file a complaint the person must

contact the State Equal Employment Manager (SEEM) office within 45 calendar days of receiving the initial denial of the request for RA (not the decision on reconsideration) The SEEM office will guide the employee through the EEO complaint process.

11.1.2. MSPB Process. The appeal must be filed the MSPB within 30 calendar days of the effective date of the action, if any, or within 30 calendar days after the date of receipt of the agency's decision, whichever is later.

11.2. This SOP creates no new enforceable rights under section 501 of the Rehabilitation Act, any other law, or the collective bargaining agreement. Executive Order 13164, which requires all Federal agencies to adopt reasonable accommodation procedures, explains in section 5(b) that the procedures are "intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United State, [or] its agencies."

12. RESPONSIBILITIES:

12.1. IMD HUMAN RESOURCE OFFICER (HRO). The HRO is responsible for the following:

- Designating of the Disability Program Manager who has direct administrative responsibility for the program.

- Ensuring compliance with the governing laws, regulations, executive orders and IMD policy related to the provision of reasonable accommodation or PAS.

- Developing and issuing this SOP governing the provisions of reasonable accommodation or personal assistance services.

- Providing notice to IMD supervisors and employees designating the Disability Program Manager and changes to this SOP.

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for reasonable accommodation must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information, including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

12.2. IMD Disability Program Manager (DPM). The DPM is responsible for the following:

- Ensuring compliance with the governing laws, regulations, executive orders and IMD policy related to the provision of reasonable accommodation or PAS by tracking requests, actions and decisions to ensure compliance.

- Ensuring that supervisors and managers, and employees understand their obligation with respect to the provisions of this SOP and pertinent laws or regulations.

- Ensuring incorporation of reasonable accommodation request and disability training into orientations and supervisory trainings.

- Assigning case tracking numbers and assisting with accommodation or PAS requests.

- Administering the RA program by processing requests for employees and applicants for completeness; assessing requests to determine whether the person meets the definition of a PWD and needs the accommodation requested; initiating the interactive process with the requesting person and appropriate officials; issuing timely decisions granting or denying accommodation requests; and facilitating implementation granted accommodations.

- Coordinating with the PWD's supervisor to ensure that any accommodation, if appropriate, meets the person's disability-related needs, does not entail eliminating essential functions of the position, is feasible, and does not pose an undue hardship.

- Assisting qualified job applicants with disabilities who need accommodation to apply for or be interviewed for a job.

- Identifying stakeholders, Subject Matter Experts and coordinates with USPFO and SJA, as applicable. Consulting with the IMD Labor Relations Manager when appropriate for any union or workplace considerations and adjustments.

- Approving reasonable accommodations (when appropriate).

- Disapproving accommodations or PAS that place an undue hardship on the IMD or pose a direct threat to the safety of the employee or others in the workplace.

- Notify the supervisor and stakeholders when considering reassignment as a reasonable accommodation in accordance with 29 C.F.R. § 1614.203(d)(3)(i)(C).

- Ensuring proper dissemination of this SOP in accordance with the Publication requirements contained herein.

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for reasonable accommodation must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information, including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

12.3. IMD COMMANDERS AND DIRECTORS. IMD Commanders and Directors are responsible for the following:

- Promulgating a working environment that ensures PWDs enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

- Providing the necessary resources in support of accommodation process.

- Ensuring that all subordinate IMD federal managers, supervisors, and employees subject to their authority understand their obligation with respect to the provisions of this SOP and pertinent laws or regulations.

- Attend and ensure that all subordinate IMD federal managers, supervisors, and employees subject to their authority attend initial reasonable accommodation request and disability training.

- Identifying requests for accommodation and entering into the interactive process. Supervisors should not unilaterally ask employees if they have a disability or if they need an accommodation.

- Participating in the interactive process helping facilitate and determine the best course of action. The IMD expects that all personnel will give a high priority to responding quickly to a DPM's request for information or assistance.

- Receiving, reviewing and processing requests for accommodations that may require higher level approval or in the case of reconsiderations, may have been previously denied by a subordinate supervisor.

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for reasonable accommodation must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information, including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

12.4. IMD MANAGERS AND SUPERVISORS. Manager and supervisors are

responsible for the following:

- Promulgating a working environment that ensures PWDs enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities

- Identifying requests for accommodation and entering into the interactive process. Supervisors should not unilaterally ask employees if they have a disability or if they need an accommodation.

- Participating in the interactive process for reasonable accommodation by receiving, documenting, and reviewing requests.

- Elevating requests to the DPM to obtain a tracking number as soon as practicable, preferably within 2 business days. Approvals for requested reasonable accommodation will be reviewed by the DPM.

- Participating in the interactive process helping facilitate and determine the best course of action. The IMD expects that all personnel will give a high priority to responding quickly to a DPM's request for information or assistance.

- Communicating the status and ultimate disposition of accommodation requests.

- Reporting potential and actual disability discrimination.

- Contacting the DPM when an employee may no longer need a reasonable accommodation. The DPM will decide if there is a reason to contact the employee to discuss whether a continuing need for reasonable accommodation exists.

- Contacting the DPM, prior to a course of action, when disapproval of an accommodation is being contemplated.

- There are several modifications or adjustments to which supervisors do not have the authority to agree. (Exclusions-paragraph 10).

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for RA must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information, including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

12.5. IMD FEDERAL EMPLOYEES AND QUALIFIED JOB APPLICANTS. IMD

Federal employees and qualified job applicants are responsible for the following:

- Informing the IMD that they have a disability and need a RA. Informing of a disability does not qualify as requesting an accommodation.

- Submitting the IMD Reasonable Accommodation Request Form to the appropriate supervisor or representative.

- Participating in the interactive process by, communicating needs, barriers, and limitations.

- Promptly provides any requested information about the disability, including medical information (only as requested by the DPM), limitations, and need for accommodation. The IMD expects that all personnel will give a high priority to responding quickly to a DPM's request for information or assistance.

- Maintaining and meeting position qualification requirements for educational background, employment experience, skills, licenses, and any other essential qualification standards that are position related.

- Reporting potential and actual disability discrimination.

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for reasonable accommodation must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information, including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

12.6. SUBJECT MATTER EXPERT (SME). Involvement by SME is situational dependent and will be considered by the DPM as necessary to ensure approved reasonable accommodation course of actions receive full consideration prior to implementation. SMEs are responsible for the following:

- Providing their knowledge and/or skills of a particular domain critical to the assessment of a requested accommodation to the best of their ability.

- Participating in the interactive process helping facilitate and determine the best course of action. The IMD expects that all personnel will give a high priority to responding quickly to a DPM's request for information or assistance.

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for reasonable accommodation must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information,

including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

- Example of SMEs that may be called upon are, but are not limited to:

IDARNG Occupational Health Nurse
IDARNG Deputy State Surgeon
IDARNG Construction Facilities Management Office (CFMO)
IDARNG G6
IDANG Medical Group
IDANG Civil Engineers Office
IDANG Communications Squadron
USPFO
SJA
Other internal and external stakeholders.

12.7. IMD STATE EQUAL EMPLOYMENT MANAGER (SEEM). The SEEM is responsible for the following:

- Reporting on reasonable accommodation requests, actions and decisions in the annual 'Persons with Disabilities Affirmative Action Program Plan' for the purpose of identifying trends and problems.

- Submitting reasonable accommodation data for IMD federal employees in the annual EEOC MD-715 report.

- EEO Complaint processing in accordance with IMD-27 and MDI 10.

- Maintaining confidentiality of the information and the process. Disclosing any information obtained in connection with a request for reasonable accommodation must be kept confidential. Information should not be shared with other managers, co-workers, or even other employers. All medical information, including information about functional limitations and reasonable accommodation needs is strictly bound by confidentiality requirements.

13. INFORMATION TRACKING REQUIREMENTS. The proponent for reasonable accommodation is the DPM Office. As a result, at the operational level, the servicing DPM is responsible for tracking the following information:

13.1. DPM will assign a Tracking Number to the RA request form. Example: IMD-RA- FYXX (fiscal year)-XX (number). DPM will notify the person in writing of their tracking number within 5 calendar days of the RA request. The person can track their request process by using their tracking number and calling the DPM. 29 C.F.R. § 1614.203(d)(3)(i)(R).

13.1.1. The number and types of accommodations requested in the application for employment process and whether those requests were granted or denied.

13.1.2. The jobs (occupational series, grade level, and organization) for which accommodations have been requested.

13.1.3. The types of accommodations requested for each of those jobs.

13.1.4. By organization, the number and types of accommodations approved or denied for each job.

13.1.5. The number and types of requests for accommodations related to benefits or privileges of employment, and whether those requests have been granted or denied.

13.1.6. The reasons for denial of accommodation requests.

13.1.7. The amount of time taken to process each accommodation request.

13.1.8. The source of technical assistance consulted in trying to identify possible reasonable accommodations.

13.1.9. Dispositions of Reasonable Accommodation Request Data, including medical information.

13.1.10. The tracking information data is maintained for a period of 5 years. This data will assist an organization in evaluating its performance regarding the adequate, timely processing of RA requests and their corrective action, as required per EEOC MD-715 and the Installation Status Repo1iing requirements.

13.2. Documentation related to a particular person and a requested accommodation is required to be maintained independently from supervisor files and personnel records, safeguarded by law or HIPPA standards, regarded as confidential and maintained for the duration of the employee's employment. This information is not treated the same as a light duty notification.

13.3. Records concerning requests, approval and disapproval are maintained by the DPM.

APPENDIX A: IMD REASONABLE ACCOMMODATION REQUEST FORM

See Enclosure

APPENDIX B: IMD REASONABLE ACCOMMODATION REQUEST FLOWCHART

See Enclosure

APPENDIX C: REASONABLE ACCOMMODATION RESOURCES

U.S. Equal Employment Opportunity Commission
San Francisco District Office 450 Golden Gate Avenue
5 West, P.O Box 36025
San Francisco, CA 94102-3661 1-800-669-4000 www.eeoc.gov

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA and the Rehabilitation Act. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship.

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 providing 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. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Registry of Interpreters for the Deaf 1-301- 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.

Computer/Electronic Accommodation Program
1-703-614-8416
http://www.cap.mil/

The Computer/Electronic-Accommodation Program (CAP) was established by DOD to help provide RA to individuals or persons with disabilities. The purpose of the CAP is to ensure that all disabled DOD employers get equipment which best meets their needs at no charge to the employer. The Defense Medical Information Management Office is the executive agent for the CAP. The CPA is available to advice on ways to provide RA. The CAP serves the DOD community by: Buying accommodations to make computer and telecommunications systems accessible to individuals with disabilities, as required by law. Providing funds for sign-language interpreters, readers, and personal assistants for employees attending long-term training (two days or more). Providing expertise in solving accessibility problems through the use of software, hardware, and other assistive technology. Providing training and educational support.