

**DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS AND BORDER PROTECTION**

CBP DIRECTIVE NO. 51713-007A

DATE: May 4, 2012

ORIGINATING OFFICE: OC: DCR

SUPERSEDES: CD 51713-007, 6/26/92

REVIEW DATE: May 2015

**SUBJECT: REASONABLE ACCOMMODATION PROCEDURES FOR APPLICANTS
AND EMPLOYEES WITH DISABILITIES**

1 PURPOSE

This directive establishes U.S. Customs and Border Protection (CBP) procedures to comply with the requirements of the Rehabilitation Act of 1973, as amended, to provide reasonable accommodation to qualified employees and applicants with disabilities.

2 SCOPE

This directive applies to all CBP employees and applicants for employment.

3 POLICY

It is the policy of CBP to provide reasonable accommodation for its qualified employees and applicants with disabilities in order to ensure that they enjoy full access to equal employment opportunity, unless a particular accommodation would impose an undue hardship on the operation of CBP's programs.

4 AUTHORITIES

Rehabilitation Act of 1973, as amended; Americans with Disabilities Act of 1990, as amended; 29 C.F.R. Part 1614.203, 29 C.F.R. Part 1630.2(o), EEOC Management Directive – 715, Uniform Federal Accessibility Standards, DHS Procedures to Facilitate the Provision of Reasonable Accommodation.

5 DEFINITIONS

5.1 Applicant: An individual seeking consideration for employment with CBP.

5.2 Decision-maker: A management official in the employee's chain of command with the authority to determine, based on the facts presented, whether a requested accommodation will be provided.

5.3 Employee: A member of CBP's permanent or temporary workforce, full or part-time, and in a competitive or excepted service position.

- 5.4 Individual with a Disability:** A person 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 impairment.
- 5.5 Interactive Process:** The process by which the individual requesting an accommodation and the agency interact with each other to determine whether the requester is a qualified individual with a disability, and if so, to determine the reasonable accommodation that would be most effective under the circumstances.
- 5.6 Major Life Activities:** Basic activities that most people in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The operation of a major bodily function is also considered a major life activity.
- 5.7 Qualified Individual with a Disability:** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the position he or she holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of the position.
- 5.8 Reasonable Accommodation:** An adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy the benefits and privileges of employment. There are three categories of reasonable accommodations:
- 5.8.1** Modifications or adjustments to a **job application process** to permit an individual with a disability to be considered for a job;
 - 5.8.2** Modifications or adjustments to enable a qualified individual with a disability to **perform the essential functions** of the job; and
 - 5.8.3** Modifications or adjustments that enable employees with disabilities to enjoy equal **benefits and privileges of employment**.
- 5.9 Undue Hardship:** An action requiring significant difficulty or expense when considered in light of factors such as the agency's size, financial resources, and the nature and structure of the position. The determination on whether an accommodation will cause undue hardship is made on a case-by-case basis.

6 RESPONSIBILITIES

- 6.1 The Office of Human Resources Management (HRM)** is responsible for processing requests for accommodation from applicants and employees for assessment and selection processes. HRM is also responsible for performing personnel reassignment functions for qualified employees with a disability, as required by law.
- 6.2 The Office of Diversity and Civil Rights (DCR)** is responsible for managing the interactive process required to determine whether the requester (CBP employees only) is a

qualified individual with a disability, and if so, facilitating the interaction between the requester and the designated deciding official to determine an effective accommodation in light of the essential functions of the requester's job.

- 6.3 **The Executive Director, DCR**, will consult with the impacted CBP Assistant Commissioner or Chief of the U.S. Border Patrol, or their designee(s), to make final determinations on job placement.
- 6.4 **The Office of Chief Counsel (OCC)** is available to provide advice to management officials on legal issues associated with requests for reasonable accommodation.
- 6.5 **Office of Information and Technology (OIT)** is responsible for ensuring that electronic and information technology procured, developed, maintained, or used is accessible to CBP employees and customers with disabilities.
- 6.6 **Local senior managers and supervisors** (e.g., Chief Patrol Agents; Directors, Field Operations; Directors, Air and Marine Branch, etc.) are the Decision-makers authorized to determine whether a requested accommodation will be granted or denied.

7 APPLICANT REQUESTS

- 7.1 Applicants may submit a request for reasonable accommodation, orally or in writing, for any part of the application or hiring process, to the HRM staff member identified in the job opportunity announcement or to the Office of Personnel Management (OPM) when OPM is the agency that is administering assessments to applicants.
- 7.2 The HRM staff member will ask the applicant to follow-up an oral request for accommodation with a written confirmation of the request by completing the "CBP Request for Reasonable Accommodation Form." (See Attachment A).
- 7.3 The appropriate HRM official will adjudicate the request.

8 EMPLOYEE REQUESTS

- 8.1 An employee may submit a request for reasonable accommodation, orally or in writing, to his or her immediate supervisor, another management official in the chain of command, or to a DCR staff member. Requests may also be submitted by someone acting on the employee's behalf, such as a family member, friend, health care provider or other representative.
- 8.2 The employee will be asked to follow-up an oral request for accommodation with a written confirmation of the request by completing the "CBP Request for Reasonable Accommodation Form." (See Attachment A).
- 8.3 All uniform wear and personal appearance standard waiver requests by employees covered by the National Treasury Employees Union (NTEU) will be processed in accordance with the NTEU Contract Article 44, Section 1.

8.4 Bargaining unit employees are entitled to be assisted in the reasonable accommodation process by a personal representative of their choosing.

9 TIME FRAMES

9.1 The time necessary to process a request will depend on the nature of the identified impairment, the accommodation requested, and whether it is necessary to obtain supporting information.

9.1.1 **Requests Not Involving Extenuating Circumstances:** If the request does not require supporting documentation, it shall be processed and the accommodation, if granted, provided as soon as possible but not more than **15 business days** from the date the request was initially made.

9.1.2 **Requests Involving Extenuating Circumstances:** The time for processing the request and providing the accommodation will be extended as reasonably necessary.

10 FUNDING ACCOMMODATIONS

10.1 Funding of accommodations, such as interpreters, readers, personal assistants, and job coaches, is the responsibility of the office where the individual making the request is employed.

10.1.1 Procurement of assistive technology can be requested through a federal program housed within the Department of Defense called the Computer/Electronic Accommodations Program (CAP).

10.1.2 CAP provides assistive technology and services to people with disabilities throughout the federal government free of charge. CAP will provide needs assessments, purchase the needed technology, train the employee on how to use it, and follow-up with updates.

10.1.3 CAP services may be accessed through their website at <http://www.tricare.mil/cap/>. **All requests for technology shall be coordinated with the Section 508 Compliance Officer assigned to the Office of Information and Technology.**

11 CONFIDENTIALITY AND DISCLOSURE

11.1 All medical information, including information regarding functional limitations and reasonable accommodation needs, obtained in connection with a request for reasonable accommodation must be kept confidential.

11.1.1 This information can be disclosed for official use only. Supervisors and managers (including the Decision-maker) who need to know may be told about necessary work

restrictions or limitations, and necessary accommodations, but medical information should be disclosed only if absolutely necessary.

- 11.1.2 All applicable federal confidentiality laws, regulations and policies apply with regard to the disclosure of information obtained or received in the processing of a request for reasonable accommodation.

12 ADDITIONAL INFORMATION

For additional information or questions, please contact your local DCR staff member or visit the DCR Intranet website at <http://www.cbp.gov/xp/cgov/admin/fl/eo/accommodation/>.

13 BARGAINING UNIT EMPLOYEES

This policy does not supersede any procedures contained in existing collective bargaining agreements (CBAs) covering bargaining unit employees in CBP or the Guide to Processing Reasonable Accommodation Requests Based on a Disability.

14 NO PRIVATE RIGHTS CREATED

This document is an internal policy statement of the CBP and does not create or confer any private rights, privileges, or benefits for any person or party.



Acting Commissioner
U.S. Customs and Border Protection

ATTACHMENT A:

CBP REQUEST FOR REASONABLE ACCOMMODATION FORM

<i>REQUEST FOR REASONABLE ACCOMMODATION</i>	
Applicant/Employee Name:	Office Location and Address:
Position Title, Series and Grade:	Work Phone Number:
Home Address:	Home or Cell Phone Number:
Supervisor's Name and Title:	Supervisor's Work Phone Number:
Briefly describe the medical condition requiring accommodation.	
Briefly describe the specific accommodation being requested. (If additional space is needed, attach a separate sheet.)	
Explain how the requested accommodation would assist you in: (1) performing the essential duties of your position, (2) using the job application process, or (3) taking advantage of a benefit or privilege offered by the office/bureau.	

Applicant/Employee's Signature: _____ Date: _____