



Smithsonian Institution

**PROCEDURES FOR PROVIDING
REASONABLE ACCOMMODATION
FOR INDIVIDUALS WITH DISABILITIES**

September 2016

Smithsonian Institution
Procedures for Providing Reasonable Accommodation for Individuals with Disabilities
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Smithsonian Institution
Procedures for Providing Reasonable Accommodation for Individuals with Disabilities

I. Introduction

The Smithsonian Institution is committed to the provision of reasonable accommodation for qualified employees and applicants with disabilities unless to do so would cause undue hardship. To this end, the Smithsonian is voluntarily complying with Executive Order 13164 in developing these procedures¹. Requests for reasonable accommodation will be processed and, when appropriate, accommodations will be provided in a prompt, fair, and efficient manner. The Smithsonian may take steps beyond those required by the reasonable accommodation process, as appropriate. The Smithsonian provides reasonable accommodations when:

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

These procedures are intended only to improve internal management and do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Smithsonian Institution, its officers, its employees, or any person. The procedures provide guidance and exceptions may occur based upon the circumstances of a particular case.

II. Smithsonian Policy on Reasonable Accommodation

The Smithsonian Institution complies with the reasonable accommodation requirements of the Rehabilitation Act of 1973, as amended. This law protects qualified employees and applicants with disabilities from employment discrimination based on disability and requires the provision of reasonable accommodations for their known disabilities unless to do so would cause undue hardship.

¹Because the Smithsonian Institution is a trust instrumentality of the United States and not an "executive branch agency," it is not subject to Executive Order 13164. See *Dong v. Smithsonian Institution*, 125 F.3d 877 (D.C. Cir. 1997), cert. denied, 118 S. Ct. 2311 (1998) (D.C. Circuit held, as part of its determination that the Smithsonian Institution was not subject to the Privacy Act, that the Institution is not "an establishment in the executive branch.") However, to further the purposes of the Rehabilitation Act, made applicable to the Smithsonian Institution by Section 341 of the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998), the Smithsonian voluntarily has established and here submits to the Equal Employment Opportunity Commission for its information the following written procedures for processing requests for accommodation by employees and applicants with disabilities.

III. Definition of Key Terms

Essential Functions: The job duties that are so fundamental to the position that the individual holds or desires that s/he cannot do the job without performing them or the function is cited as part of a critical element in the individual's Performance Plan. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that they reflect the job as actually performed, and not simply the components of a generic position description.

Individual with a Disability: A person is considered to have a disability if s/he: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of a substantially limiting impairment; or (3) is regarded as having a substantially limiting impairment.

A major life activity is a function that the average person in the general population can perform with little or no difficulty. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities may also include the operation of a major bodily function, such as 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.

Qualified Individual with a Disability: An individual with a disability is qualified if (1) s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position, and (2) s/he can perform the essential functions of the position, with or without reasonable accommodation.

Reasonable Accommodation: Any change in the work environment or in the way things are customarily done that enables a qualified individual with a disability to enjoy equal employment opportunities. Examples include, but are not limited to, making existing facilities used by employees readily accessible to and usable by individuals with disabilities, the acquisition or modification of equipment or devices, job restructuring, the provision of qualified readers or interpreters, reassignment, and other similar accommodations for individuals with disabilities.

Undue Hardship: The Smithsonian does not have to provide a particular accommodation if the specific accommodation causes significant difficulty or expense to the Institution. The 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 unit or program. See Section VIII for additional information.

IV. Responsible Offices and Staff

The Office of Equal Employment and Minority Affairs (OEEMA) monitors the Smithsonian's efforts to ensure equal opportunity in hiring, advancement, and other personnel actions among employees and applicants with disabilities and oversees the implementation of these procedures. To this end, the Reasonable Accommodation Coordinator in OEEMA provides assistance to employees and supervisors in identifying and implementing reasonable accommodations. In addition, OEEMA staff report on the Institution's provision of reasonable accommodations and work with all parties to process and attempt to resolve complaints of discrimination on the basis of disability.

The Office of Human Resources (OHR) provides assistance to supervisors, employees, and applicants through the following branches and staff:

- Labor and Employee Relations (LER) assists supervisors in requesting medical documentation and addressing performance- and conduct-based issues.
- Human Resources Specialists assist management in reviewing vacant, funded positions for reassignment of employees when other accommodations are ineffective and assist applicants to request accommodations.
- Employee Assistance Program (EAP) may provide information relevant to an employee's request for accommodation to OGC, OEEMA, and OHS. EAP does not make legal determinations, including whether an employee or applicant is a qualified individual with a disability under the Rehabilitation Act and therefore entitled to reasonable accommodation. EAP does not maintain medical information received from the employee's health care providers in response to a request for medical documentation.

Office of General Counsel (OGC) provides legal advice, when requested by OEEMA, LER/OHR, unit personnel manager, supervisor, or other appropriate Smithsonian official, regarding (1) whether an employee or an applicant is a "qualified individual with a disability" under the Rehabilitation Act, and (2) if the employee or applicant is "a qualified individual with a disability," whether the accommodation requested would impose an "undue hardship" and therefore cannot be granted.

Occupational Health Services (OHS) receives and maintains medical information provided by the employee's designated health care providers relevant to the request for accommodation. When the medical information submitted to OHS is inadequate or ambiguous, OHS communicates directly with the health care providers to obtain additional information after a written authorization for release of medical information is received from the employee. OHS reviews an employee's medical information to identify the nature, severity and duration of the

individual's impairment, the activities that the impairment limits, the extent to which the impairment limits the individual's ability to perform the activities, and/or how the reasonable accommodation may assist the individual. When requested by OEEMA and/or OGC, OHS discloses medical information and documentation (including diagnosis and prognosis) to OEEMA/OGC in order to facilitate the review of the request. If the employee has not signed a written authorization for release of medical information, OEEMA and/or OGC sends a written request for the medical information to the OHS' Associate Director. OHS does not make legal determinations, including whether an employee is a qualified individual with a disability under the Rehabilitation Act and therefore entitled to reasonable accommodation.

The Accessibility Program coordinates the Smithsonian's efforts to make facilities, public programs, and activities accessible to people with disabilities. This program advises Smithsonian offices, museums, and research institutes on accessibility issues and provides training to employees and volunteers.

Responsible Smithsonian Officials are Smithsonian officials who have responsibility for granting or denying a request for accommodation. They are usually the supervisors of employees who request accommodations. Section VII contains a detailed list of Responsible Smithsonian Officials.

V. Requests for Accommodation

A request for accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a disability. The reasonable accommodation process begins as soon as the request for accommodation is made.

A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever s/he realizes the disability's impact on his/her performance or work environment even if s/he has not previously disclosed the existence of a disability.

An employee may request an accommodation orally or in writing from his/her supervisor, another supervisor or manager in his/her immediate chain of command, or the Reasonable Accommodation Coordinator. An applicant may request an accommodation orally or in writing from the selecting official of the position, the Human Resources specialist, or the Reasonable Accommodation Coordinator. A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant (however the discussions about accommodation will always be with the employee unless s/he is incapacitated and cannot participate adequately). The request should be made to the same person(s) to whom the employee or applicant would make the request. Any Smithsonian employee or applicant may consult the Reasonable Accommodation Coordinator in OEEMA for further information or assistance with requesting or processing a request for accommodation.

VI. Written Requests for Record Keeping Purposes

Though not a requirement to initiate the process, employees seeking an accommodation are asked to follow up requests either by completing a “Request for Accommodation” form, which is available by contacting OEEMA, or otherwise confirming their request in writing (including by e-mail) to the Reasonable Accommodation Coordinator. Written confirmation enhances communication and enables the Smithsonian to keep accurate records regarding requests for accommodation. The Smithsonian will begin processing the request as soon as it is made, whether or not the confirmation has been provided.

A written confirmation is not required when an individual needs a particular accommodation on a repeated basis for the same disability (e.g., the assistance of sign language interpreters or readers). Notice to the appropriate individual, usually the supervisor, must be given by the employee each time the accommodation is needed.

Applicants seeking an accommodation may contact the Human Resources Specialist to request an accommodation. If an individual with a disability requires assistance with this requirement, contact the Reasonable Accommodation Coordinator in OEEMA.

VII. Responsible Smithsonian Officials Who Handle Requests for Accommodation

Requests for accommodation from employees will be decided by the requesting employee's immediate supervisor (unless management identifies another official in writing or the request is one which should be handled by one of the individuals or units below). Responsible officials should coordinate all requests for accommodations with OEEMA, LER, and/or OGC. Supervisors may also coordinate discussions with their unit's Human Resources Liaison.

- The Reasonable Accommodation Coordinator will oversee requests for adaptive equipment, including information technology and communications equipment. Requests for adaptive equipment will be processed according to the guidelines of the Department of Defense's Computer/Electronic Accommodations Program.
- The unit sponsoring a meeting, training, or program is responsible for providing and funding accommodations related to the unit's events. The Smithsonian Central Accommodation Fund may provide assistance when units are unable to budget in advance for the requested accommodation.
- The Parking Office handles requests for accessible parking for employees. Procedures for requesting accessible parking are detailed in Smithsonian Directive (SD) 411, “Smithsonian Institution Parking Program.”
- Human Resources Specialists assist in responding to requests for reassignments from employees by providing information on available vacant positions for which they may be

qualified. They also handle requests for accommodation from applicants with assistance from the Reasonable Accommodation Coordinator and/or the selecting official.

- The Accessibility Coordinator, in coordination with Smithsonian Facilities and its components, will handle requests for the removal of architectural barrier(s) on Smithsonian grounds.

VIII. The Interactive Process - Selecting a Reasonable Accommodation

The individual requesting the accommodation and the Responsible Smithsonian Official should talk to each other about the request, the process for determining whether an accommodation will be provided, and potential accommodations. Communication is a priority throughout the entire process. The Responsible Smithsonian Official will have the principal responsibility for identifying possible accommodations. S/he will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee (and/or the employee's representative) should also participate to the extent possible in helping to identify an effective accommodation. Resources that are available to help both the Responsible Smithsonian Official and the individual requesting the accommodation to identify possible accommodations are listed in the Appendix. The Reasonable Accommodation Coordinator is also available to provide assistance.

As an initial step, the Responsible Smithsonian Official should contact the Reasonable Accommodation Coordinator to receive guidance and assistance in the accommodations process. The Responsible Smithsonian Official should (1) explain to the applicant or employee that s/he will be making the decision on the request, and (2) describe what will happen in the processing of the request. This initial discussion should happen as soon as possible. When a request for accommodation is made by a third party, the Responsible Smithsonian Official should, if possible, confirm with the individual with a disability that s/he, in fact, wants an accommodation before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, the Smithsonian will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.

On-going communication is particularly important when the specific limitation, problem, or barrier is unclear, when an effective accommodation is not obvious, or when the parties are considering different possible accommodations. The Responsible Smithsonian Official and the requesting individual should talk to each other to make sure that there is a full exchange of relevant information. The Reasonable Accommodation Coordinator may facilitate these discussions. Any Smithsonian official who receives information in connection with a request for accommodation may share information connected with that request with other agency officials only when the agency officials need the information in order to make determinations on an accommodation request or provide advice on the handling of such requests. (See Section XI for specific guidelines governing the confidentiality of medical information.) The Responsible Smithsonian Official makes the final determination of a reasonable accommodation. The

Smithsonian does not have to provide the accommodation that was initially requested; however, the accommodation must allow the employee to perform the essential functions of the job.

IX. Funding a Reasonable Accommodation

Units are responsible for funding reasonable accommodations for their employees except that a unit sponsoring a meeting, training, or program is responsible for providing and funding accommodations related to its event. If funding is not available, the unit should request funds through the Central Accommodation Fund by contacting the Reasonable Accommodation Coordinator in OEEMA or by submitting a written request for additional funds to the Under Secretary's office to which the unit reports, as appropriate, with a copy of the request to the Director of OEEMA.

If a Responsible Smithsonian Official believes s/he is unable to accommodate, s/he must contact the OEEMA before denying the employee's request for accommodation. All determinations of undue hardship will be reviewed by OEEMA in consultation with OGC before notification is sent to the employee. If the requested accommodation constitutes an undue hardship, the Responsible Smithsonian Official and the individual with a disability must attempt to identify another alternative that would not impose such a hardship. In addition, if the cost of an accommodation would impose an undue hardship, the individual with a disability will be given the option of providing an accommodation or paying that portion of the costs that constitutes an undue hardship.

X. Reassignment

Reassignment will only be considered for employees (not applicants) if no reasonable accommodations are available to enable the individual to perform his/her current job, or if the only effective accommodation would cause undue hardship. An employee with a disability is eligible for reassignment to a new position, regardless of his/her employment status, as long as the employee adequately performed the essential functions of the position, with or without reasonable accommodation. Federal employees are eligible for federal vacancies. To be reassigned to trust vacancies, federal employees must choose to resign or retire from their federal positions. Trust employees are eligible only for trust vacancies. In considering reassignment to a different position, an employee with a disability must (1) satisfy the requisite skill, experience, education, and other job-related requirements of the position, and (2) be able to perform the essential functions of the position with or without reasonable accommodation.

Positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors will be considered first. If there is no vacant equivalent position, the Smithsonian will consider vacant lower-level positions for which the individual is qualified. The Smithsonian is under no obligation to create a new position to accommodate an employee. When considering whether there are positions available for reassignment, OHR will review current vacancies and positions that are reasonably anticipated to become vacant in 30 days for which the employee may be qualified, with or without reasonable accommodation. OHR will

contact the employee requesting the accommodation to obtain updated information on the employee's qualifications.

XI. Requests for Medical Information

The Smithsonian is entitled to know that an employee or applicant is an individual with a disability under the Rehabilitation Act and that an accommodation has been requested. In some cases, the disability and need for accommodation will be obvious or the disability and need for accommodation may already be known. Otherwise, the Smithsonian, through the supervisor, may require that the individual provide documentation about his or her mental or physical impairment and how that impairment may limit major life activities. The Responsible Smithsonian Official, with assistance from LER, will request documentation regarding the mental or physical impairment(s) and any limitations on major life activities from the physician, psychiatrist, or other appropriate medical practitioner(s). This information must be provided at the individual's expense before the Institution considers providing an accommodation. The Smithsonian may also require that an examination be conducted by the Smithsonian's designated physician at the Institution's expense.

Requests for medical information describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. A copy of the position description is attached to, and referenced in, the request. Medical documentation must be returned to OHS. If the medical documentation submitted does not clearly explain the nature of the disability, or the need for reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace or, in the case of an applicant, assist him or her with the application process, then the Smithsonian has the right to request relevant supplemental medical information. OHS may consult with the medical practitioner to obtain further information if a release for medical information has been signed by the employee. The Smithsonian has the right to have medical information reviewed by a medical expert of the Institution's choosing at the Institution's expense. When requested by OEEMA or OGC, OHS will disclose the requested medical information and documentation (including diagnosis and prognosis) to facilitate the legal review of the request.

The Genetic Information Nondisclosure Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, neither employees nor their medical providers should not provide any genetic information when responding to requests for medical information. "Genetic Information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. See 29 C.F.R. 1635.8(b)(1)(i)(B).

The failure to provide appropriate documentation or to cooperate in the Smithsonian's efforts to obtain such documentation can result in the denial of a requested accommodation.

XII. Confidentiality Requirements Regarding Medical Information Obtained in the Reasonable Accommodation Process

OHS maintains custody of all medical records and responds to all requests for disclosure of the records obtained during the processing of a request for accommodation. Any Smithsonian employee who receives or obtains medical information during the reasonable accommodation process must keep that information confidential. All medical information must be kept in files separate from the individual's personnel file. Other than to OEEMA or OGC, this information may be disclosed only as follows:

- Supervisors or selecting officials involved in the selection process or responsible for affirmative action may be informed that an applicant is eligible under special appointing authority for individuals with disabilities;
- Supervisors, LER, and unit HR liaisons may be informed of restrictions on work or duties and accommodations as appropriate;
- Emergency and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
- Government officials investigating compliance with laws, regulations, and instructions relevant to equal employment opportunity and affirmative action for individuals with disabilities shall be provided information upon request.

Whenever medical information is disclosed, the recipients must be informed of the confidentiality requirements.

XIII. Granting an Accommodation Request

As soon as the Responsible Smithsonian Official determines that a reasonable accommodation will be provided, s/he should contact the Reasonable Accommodation Coordinator to discuss implementation of the decision. The final decision should be immediately communicated to the individual in writing with a copy to the Reasonable Accommodation Coordinator. If the accommodation cannot be provided immediately, the Responsible Smithsonian Official must inform the individual of the projected time frame for providing the accommodation. For additional guidance, see "Extenuating Circumstances" in section XV.D.

XIV. Denial of Accommodation Request

When a determination has been made that a request for accommodation will be denied, the Responsible Smithsonian Official inform the individual who requested the accommodation in writing using a memorandum, email, or the "Denial of Request" form. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. As appropriate, the denial should state the following:

- The reasons the accommodation would not be effective.
- The reason that providing the accommodation would result in undue hardship. [**Before making a decision that an accommodation request will be denied, the Responsible Smithsonian Official must consult with the OEEMA and explore whether other effective accommodations exist that would not impose undue hardship.**]
- Medical documentation is inadequate to establish that the individual has a disability under the Rehabilitation Act and/or needs a reasonable accommodation.
- The accommodation would require the removal of an essential function.
- The requested accommodation would require the lowering of a performance or production standard.

The written notice of denial also informs the individual that s/he has the right to file an EEO complaint and may have rights to pursue a grievance. The notice also explains the Smithsonian's procedures for informal dispute resolution.

Where the Responsible Smithsonian Official has denied a specific requested accommodation but offered to make a different one in its place that was not agreed to during the interactive process, the denial notice should explain (1) the reasons for the denial of the requested accommodation and (2) the reasons that the chosen accommodation will be effective.

XV. Time Frames for Processing Requests and Providing Reasonable Accommodations

The Smithsonian will process requests for accommodation and provide reasonable accommodations in as short a time frame as possible. However, 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. The time frames below identify the maximum amounts of time allowed before providing a decision. Agency officials who receive requests for accommodation must refer the request to the designated Responsible Smithsonian Official within 7 calendar days to allow timely processing of the request. Responsible Smithsonian Officials should try to make decisions sooner whenever possible.

All Responsible Smithsonian Officials must have designated back-ups to receive and process requests for accommodation and provide reasonable accommodations when the Responsible Smithsonian Official is unavailable. Responsible Smithsonian Officials should ensure that individuals know who has been designated as back-up. The time frames will not be suspended or extended because of the unavailability of a Responsible Smithsonian Official.

A. Fewer than 30 Calendar Days: In certain circumstances, a request for accommodation must be processed in an expedited manner. Therefore, Responsible Smithsonian Officials need to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation. The following are examples:

- To enable an applicant to apply for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for accommodation to ensure that an applicant with a disability has an equal opportunity to apply for a job.
- To enable an employee to attend a meeting scheduled to occur shortly, such as when an employee may need a sign language interpreter for a meeting scheduled to take place in 3 days.

B. 30 Calendar Days: If a request for an accommodation can be processed without supporting medical information and there are no extenuating circumstances (see below), the request shall be processed in no more than 30 calendar days from the date the Responsible Smithsonian Official receives the request (orally or in writing). Such processing includes the provision of the accommodation, the identification of another reasonable accommodation (as a result of the interactive process), or a written denial of the request (see Section XIV). These actions should be taken in consultation with the Reasonable Accommodation Coordinator. Since Responsible Smithsonian Officials may need the full 30 calendar days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because a Responsible Smithsonian Official delayed processing the request is not an extenuating circumstance. This time frame includes requests using the Computer/Electronic Accommodations Program (CAP).

Following is an example of an accommodation that should be provided within this 30 calendar day time frame:

- A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks that the agenda be distributed ahead of time because the disability makes it difficult to read and he needs more time to prepare.

C. 30 Calendar Days Plus Time for Medical Documentation: If medical information is

needed to determine whether the requesting applicant or employee is an individual with a disability under the Rehabilitation Act and/or to determine a reasonable accommodation, the Responsible Smithsonian Official will give the employee a "Request for Medical Information" and an "Authorization for Release of Medical Information" within 14 calendar days of the request for accommodation. The employee should ensure that the medical documentation is received by OHS within 15 calendar days.

Once medical documentation is requested by the Responsible Smithsonian Official, the time period is stayed. After OHS receives the requested medical information, and OGC provides legal advice based on that medical information, the Reasonable Accommodation Coordinator communicates this information to the Responsible Smithsonian Official. A decision should be made within 14 calendar days after receipt of this information.

Examples of accommodations for which medical documentation may be necessary include:

- An employee with diabetes who sits in an open area asks for four breaks a day to test her blood sugar levels so that she may do these tests in private.
- An employee who takes anti-depressants which make it hard for her to get up in time to get to the office at 9:00, requests that s/he be allowed to start work at 10:00 and still put in an 8-hour day.

D. Extenuating Circumstances: These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for accommodation and providing a reasonable accommodation will be extended as necessary. Extensions based on extenuating circumstances should be limited to situations in which they are strictly necessary and must be discussed with the Reasonable Accommodation Coordinator in advance. All Smithsonian staff are expected to act as quickly as reasonably possible in processing requests for accommodations and providing reasonable accommodations. The following are examples of extenuating circumstances:

- The purchase of equipment may take longer than 30 calendar days because of contracting requirements under the Federal Acquisition Regulation.
- Equipment is back-ordered or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective.
- New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.

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

If there is a delay in providing an accommodation that has been approved, the Responsible Smithsonian Official must investigate whether temporary measures can be taken to assist the employee. These measures could include providing a reasonable accommodation on a temporary basis or providing a less effective form of reasonable accommodation. In addition, the Responsible Smithsonian Official may provide measures that are not reasonable accommodations within the meaning of the law (e.g., temporary removal of an essential function) if (1) they do not interfere with the operations of the employee's unit, and (2) the employee is clearly informed in writing that they are being provided only on a temporary, interim basis. For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.

If a delay is attributable to the need to obtain or evaluate medical documentation and the Smithsonian has not yet determined that the individual is entitled to an accommodation, the Smithsonian may provide an accommodation on a temporary basis. In such a case, the Responsible Smithsonian Official will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.

Responsible Smithsonian Officials who approve such temporary measures are responsible for assuring that they do not take the place of a permanent reasonable accommodation and that all necessary steps to secure the permanent reasonable accommodation are being taken.

XVI. Informal Dispute Resolution

Individuals with disabilities can request prompt reconsideration of a denial of accommodation by using the following informal dispute resolution process:

- The employee or applicant should first ask the Responsible Smithsonian Official to reconsider the decision. The individual may present additional information in support of his/her request. The Responsible Smithsonian Official will respond in writing to the request for reconsideration within **seven calendar days**.
- If the Responsible Smithsonian Official does not reverse the decision, the individual can ask the next-level supervisor to do so within five calendar days. The next-level supervisor will respond in writing to this request within **fourteen days**.

Pursuing the informal dispute resolution procedures identified above does not satisfy the requirements of or stop the time limits for bringing a claim under the EEO complaint process and/or the MSPB or union grievance procedures. However, once one of these procedures is initiated, the informal dispute process cannot be used.

XVII. Formal EEO Complaints Process

The informal dispute resolution process described above is in addition to the EEO complaint process, including mediation, and MSPB and grievance procedures available to Smithsonian employees and applicants. Denials of accommodation must be in writing and include notice that, if the individual wishes to pursue the EEO complaint process, s/he must do so within 45 calendar days of the receipt of the denial, even if s/he is also participating in the agency's informal dispute resolution process. To initiate the EEO complaint process, the individual must contact an EEO counselor in OEEMA within 45 calendar days from the date of receipt of the written notice of denial.

XVIII. Information Tracking and Reporting

The Reasonable Accommodation Coordinator in OEEMA will track and report information on the provision of reasonable accommodations throughout the Smithsonian in consultation with Responsible Smithsonian Officials.

The Reasonable Accommodation Coordinator will maintain these records for the longer of the employee's tenure with the Smithsonian or three years. The Reasonable Accommodation Coordinator will prepare an annual report to evaluate the Institution's performance in responding to requests for accommodation. The report will contain the following information:

- the number of accommodations requested by employees and applicants;
- whether those requests have been granted or denied;
- the types of accommodations requested;
- the reasons for denial of requests for accommodation;
- the amount of time taken to process each request for accommodation; and
- the sources of technical assistance consulted in trying to identify possible reasonable accommodations.

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

XIX. Inquiries

Any person wanting further information concerning these procedures may contact OEEMA at (202) 633-6418 (voice).

Appendix - Selected Reasonable Accommodation Resources

Equal Employment Opportunity Commission (EEOC)

www.eeoc.gov

The EEOC provides resource materials on their website, including but not limited to “EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (July 27 2000), and “EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act (March 1, 1999). Both documents address frequently-asked questions regarding provision of reasonable accommodation and related issues, including when and what type of medical documentation may be solicited by an agency in support of an accommodation request, the confidentiality protections applicable to accommodation requests and medical information, and the circumstances in which undue delay in providing reasonable accommodation may violate the Rehabilitation Act.

Computer/Electronic Accommodations Program (CAP)

703-614-8416 (Voice)

571-384-5629 (Videophone)

www.cap.mil

Through an agreement with the Smithsonian Institution, the Department of Defense's Computer/Electronic Accommodations Program provides a wide variety of assistive technology devices and services for people with disabilities. Frequently requested accommodation solutions include videophones, captioning for training videos, print enlargers, screen readers, alternative keyboards, pointing devices, and speech recognition software. These accommodations are provided at no cost to the Smithsonian.

The *CAP Technology Evaluation Center (CAPTEC)* contains several computer workstations equipped with a wide variety of technology designed to accommodate persons with disabilities. CAPTEC is available to Smithsonian employees and their supervisors so that they can evaluate and become familiar with assistive technology and facilitate the process of choosing the appropriate equipment.

Job Accommodation Network (JAN)

800-526-7234 (Voice)

<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)

www.ilusa.com/links/dbtac.htm

1-800-949-4232 (Voice)

The DBTACs consist of 10 federally funded regional centers that provide information,

training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TTY)

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

RESNA Technical Assistance Project

(703) 524-6686 (Voice)

<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.