

Approved:

Effective: September 17, 2009

Review: June 6, 2017

Office: Equal Opportunity

Topic No.: 275-000-001-c



Department of Transportation

AMERICANS WITH DISABILITIES ACT (ADA) REQUEST FOR RECOMMENDATION FOR PAYMENT OF REASONABLE ACCOMMODATION

PURPOSE:

This procedure establishes the process to request a recommendation of approval from the Equal Opportunity Office (EEO) for payment of a reasonable accommodation requested under the provisions of the ***Americans with Disabilities Act, Title I (ADA)*** to the Disbursement Operations Office, Office of Comptroller or a district Financial Services Office.

AUTHORITY:

Sections 20.23(3)(a), and 334.048(3), Florida Statutes

SCOPE:

This procedure is applicable to all offices of the Florida Department of Transportation (FDOT).

This procedure does NOT apply to the provisions of the ***Americans with Disabilities Act, Title II, Subtitle A*** or the provisions of the Florida Accessibility Code for Building Construction.

REFERENCES:

The Civil Rights Act of 1991; Title VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act, Title I; the Florida Civil Rights Act of 1992, Chapter 760, Florida Statutes; Section 119.07, Florida Statutes; Equal Employment Opportunity Commission Enforcement Guidance, July 26, 2000, No. 103, 70:113; ADA Amendments Act of 2008.

U.S. Equal Employment Opportunity Commission (EEOC) web site:
<http://www.eeoc.gov>; FDOT, Office of Comptroller, Disbursement Handbook for Employees and Managers, Requirements for Certain Purchases; FDOT, Human Resources Office.

GENERAL BACKGROUND:

The **ADA** requires employers to provide reasonable accommodations to qualified applicants, employees and certain other covered individuals with disabilities. The qualifications are defined by the **ADA, ADA Amendments Act of 2008** and **EEOC Enforcement Guidelines**. Qualified individuals who request an accommodation in order to perform the essential functions of their job and/or have other specific benefits of employment are provided reasonable accommodations, unless the accommodation would cause an undue business hardship. The law also requires supervisors and managers to engage in a timely interactive process with the individual requesting the accommodation in order to determine eligibility under the **ADA** and to determine the appropriate accommodation.

While this procedure addresses accommodations that will require the expenditure of Department funds, the majority of requested accommodations are non-monetary. Non-monetary accommodations are the responsibility of the supervisors and managers of the qualified individual with a disability. Managers should call their Human Resources Office or the Civil Rights Programs Section of the EEO for technical assistance when dealing with any issues under the provisions of the **ADA**. In addition, prior to disqualifying an applicant based upon the results of a pre-employment medical examination, managers will consult with their respective Human Resources Office or the EEO.

DEFINITIONS:

CONFIDENTIALITY: All information concerning requests for reasonable accommodations, the provision of reasonable accommodations and any medical information or information about an individual's impairment is confidential and must not be discussed except as specifically allowed by the **ADA** and **EEOC Guidelines**. All records related to a request for reasonable accommodations and the resulting payment records are confidential and will be maintained in the employee's secure medical file in the appropriate District Human Resources Office or the Central Office Human Resources Office in accordance with the Office of Comptroller's **Disbursement Handbook for Employees and Managers** and **Topic Number 250- 030-005, Employee Personnel Files**. Under no circumstance will any **ADA** record be entered into the MyFloridaMarketPlace or any other non-secure database. All email related to a request for accommodation must contain the prominently displayed statement: **THIS EMAIL IS NOT SUBJECT TO PUBLIC RECORDS REQUESTS.**

DISABILITY: Under provisions of the **ADA** an individual having a physical or mental impairment that substantially limits a major life activity (limits a person's ability to perform the activity / activities of central importance to his/her daily life), has a record of such

impairment or is regarded as having such impairment is considered to have a disability. Disability determinations are made without taking into consideration the effects of mitigating or corrective measures such as medications, prosthesis, assistive devices and existing accommodations, excluding ordinary eyeglasses or contact lenses.

DOO or FSO: Disbursement Operations Office, Office of Comptroller, Florida Department of Transportation or a district Financial Services Office - The Offices authorized to submit payment requests to the Department of Financial Services for the expenditure of state funds which would not otherwise be lawfully authorized.

EOO: Equal Opportunity Office, Florida Department of Transportation - The EOO is authorized to determine an impaired individual's eligibility under the **ADA** and to recommend payment for requested reasonable accommodations.

EEOC: U.S. Equal Employment Opportunity Commission. The EEOC enforces the federal laws prohibiting job discrimination based upon disability and provides guidance used to determine reasonable accommodations under applicable law.

IMPAIRMENT: Any physical disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, hemic and lymphatic, skin and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

MAJOR LIFE ACTIVITIES: Major life activities include those activities and bodily functions that are of central importance to daily life and include but are not limited to, the following:

- performing manual tasks, walking, seeing, hearing, speaking, reading, communicating, breathing, sitting, standing and lifting.
- major bodily functions, which include, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, reproductive, circulatory and endocrine functions.

OTHER COVERED PERSONS: Consultants and contract employees working in FDOT facilities.

REASONABLE ACCOMMODATION: Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires or modifications or adjustments to the work environment or to the manner or circumstances under which the position held or desired is customarily performed that enable a qualified individual with a disability to perform the essential functions of that position or modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

(a) Reasonable accommodation may include but is not limited to making existing facilities used by employees readily accessible to and usable by individuals with disabilities and job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities.

(b) To determine the appropriate reasonable accommodation, it may be necessary for the covered entity to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

1. REQUESTS FOR APPROVAL RECOMMENDATION

1.1 FILING REQUESTS

1.1.1 Any FDOT employee, applicant for a position, other covered person or his/her designated representative may request the EOO review a request for payment of a reasonable accommodation. All determinations will be made in accordance with the provisions of the **ADA** and **EEOC Guidelines**. Initial requests may be verbal or in writing. Managers should call the EOO or his/her Personnel Office for technical assistance prior to submitting the documentation required in **Section 1.2** below. In all cases, the office initially contacted will notify the other office of the pending request.

1.1.2 All requests for accommodation, including requests that are initially made to a Department supervisor or manager, must be sent to the appropriate Personnel Office for submission to the EOO. The EOO will review all requests and provide a recommendation to the initiating requestor. Prior to any commitment to expend funds, or the actual expenditure of funds, the initiating requestor must have the final recommendation from the EOO.

1.2 REQUIRED INFORMATION

1.2.1 Provide the name, telephone number and address of the individual for whom the accommodation is being requested and, if different, the name, telephone number and address of the person making the accommodation request. This information shall be for the work location of individuals employed by the Department.

1.2.2 In accordance with **EEOC Guidelines**, unless the individual's disability is obvious, all requests must provide medical documentation on identifying correspondence such as letterhead stationery that is signed by an appropriate healthcare professional (as determined by the EOO). In all cases, documentation shall

- a. describe the nature, severity, and duration of the impairment

- b. describe the major life activity or activities that the impairment limits, and the extent to which the impairment limits it / them; and,
- c. substantiate why the requested reasonable accommodation is needed.

1.2.3 Provide a current position description that clearly states the essential functions of the position held, or the position for which the individual applied.

1.2.4 If the individual's disability is obvious, the manager of the cost center in which the request originates will provide, in lieu of the healthcare professional's statement, a signed statement (on Department letterhead stationary) providing the information required in **Sections 1.2.1 through 1.2.3** above.

1.3 RECEIPT OF REQUESTS

1.3.1 Within five (5) workdays after receipt of a request, the EOO will respond in writing to the individual seeking the accommodation or to the requestor, if different, stating approval or disapproval or requesting additional information required for the determination. Upon final determination, the EOO will notify the individual seeking the accommodation, the requestor, if different, and the appropriate Human Resources Office in writing of its decision.

1.3.2 Upon approval of an accommodation request by EOO, actions may be taken to implement the approved accommodation to include procurement and payment as authorized in the final decision. Where payment is accomplished with State funds, it is the responsibility of the requestor, to provide a copy of the EOO approval to the DOO or FSO before payment is made. Payment of a reasonable accommodation will be made in accordance with the Office of the Comptroller's ***Disbursement Handbook for Employees and Managers***. A payment made under the **ADA** is inappropriate without the required approval from the EOO.

1.3.3 All records related to the request for accommodation, and payment of the accommodation, are confidential. Under no circumstance will any record related to a request or payment for reasonable accommodation under the **ADA** be entered into the MyFloridaMarketPlace database.

2. TRAINING

None required.

3. FORMS

None required.