

UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

**DIRECTIVE**

4720.1

4/26/04

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**DISABILITY EMPLOYMENT PROGRAM**

**I. PURPOSE**

This Directive sets forth Agricultural Marketing Service (AMS) policy concerning the responsibilities of the Agency Disability Employment Program Manager, supervisors, and employees to effectuate the AMS Disability Employment Program. This Directive also outlines the means by which the Agency can meet its disability recruitment goals and the procedures for requesting reasonable accommodation.

**II. REPLACEMENT HIGHLIGHTS**

This Directive replaces AMS Directive 4720.1, Disability Employment Program, dated August 26, 1997.

**III. AUTHORITIES**

The authority for establishing a Disability Employment Program is based on Public Law 93-112, as amended by Public Law 93-516; Public Law 93-508; Public Law 93-454; and USDA Departmental Regulation 4300-008 (Reasonable Accommodations).

**IV. DEFINITIONS**

A. Disability, with respect to an individual, means:

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual.

2. A record of such impairment. An example of "a record of such impairment" includes a person who has a history of, or is considered as having, a mental or physical impairment that substantially limits one or more of their major life activities. A "history" of an impairment covers persons who have recovered from substantially limiting physical or mental impairments. Examples of persons who would fall under this part of the definition of the term "disability" include individuals who have histories of substantially limiting forms of heart disease or mental or emotional illness.

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3. Being regarded as having such impairment. An example of "being regarded as having such impairment" may include a person who has an impairment that does not substantially limit a major life activity, yet who is treated by the agency as if he/she has an impairment. For example, an employer's practice of excluding otherwise qualified job applicants purely on the basis of x-rays, with no consideration of their actual medical history or ability to perform the essential functions of the job. Thus, the definition of an individual with a disability precludes discrimination against persons who are treated as if they have a substantially limiting impairment, even if in fact they have no such current impairment.

B. Essential functions are the fundamental duties of the job which the person with a disability holds or the fundamental duties of the job for which the person with a disability applies.

C. Major life activities are functions which include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, sitting, standing, reaching, interacting with others, concentrating, lifting, sleeping, reproduction, running, and working.

D. Mental impairment is any psychological or mental disorder which may include mental retardation, organic brain syndrome, emotional or mental illness or specific learning disability.

E. Physical impairment is any physiological disorder or condition which may include ailments which affect one or more of the following body systems: neurological, musculoskeletal, sensory organs, respiratory, cardiovascular, reproductive, digestive, genital-urinary, hemic and lymphatic, and skin or endocrine.

F. Qualified individual with a disability is a person with a disability who satisfies the skill, experience, education, and other job-related requirements of the job which the person holds or for which the person applies. In addition, the person can, with or without reasonable accommodation, perform the essential functions of the job.

G. Reasonable accommodation is a change in the work environment or the application process that would enable a qualified individual with a disability to enjoy equal employment opportunities. There are three general categories of reasonable accommodations:

1. Changes to a job application process to ensure that applicants with disabilities will have an equal opportunity to participate in the application process and to be considered for jobs;

2. Changes which enable a person with a disability to perform the essential functions of the job or to gain access to the workplace; and

3. Changes which allow persons with disabilities to have equal access to the benefits and privileges of employment.

H. Substantially limits involves a person who is unable to perform a major life activity which an average person in the general population can perform. In addition, a situation may arise when a person is significantly restricted concerning the manner or duration in which one can perform a particular major life activity.

I. USDA TARGET Center is the Department's resource center that provides on-site workplace assessments, demonstrations of assistive technology, and ergonomic solutions to ensure appropriate implementation of reasonable accommodations for USDA's workforce.

J. Undue hardship involves a specific accommodation which may result in significant difficulty or expense. The determination of what constitutes an undue hardship is made on a case-by-case basis and pertains to the cost of the accommodation, the financial resources of USDA as a whole, and/or the impact of the accommodation on the operations of the particular office or facility involved.

K. Targeted disabilities are disabilities that the Federal Government, as a matter of policy, has identified for special emphasis in affirmative action programs. They include: 1) deafness; 2) blindness; 3) missing extremities; 4) partial paralysis; 5) complete paralysis; 6) convulsive disorders; 7) mental retardation; 8) mental illness; and 9) distortion of limb and/or spine (see Attachment 1 to this Directive).

L. Disabled veterans are people with disabilities who were separated under honorable conditions from active duty in the Armed Forces and who have established the present existence of a service-connected disability or who are receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans Administration or a military department. On an annual basis, the Civil Rights Program submits a Disabled Veterans Accomplishment Report to update the Department on the status of AMS's recruitment of disabled veterans.

## V. RECRUITMENT POLICY

It is the policy of the AMS to follow the recruitment goals set forth by the Department of Agriculture. To accomplish these established goals, AMS will, as appropriate: 1) engage in outreach and targeted recruitment activities; 2) take advantage of excepted appointing authorities; 3) create training and development plans for individuals with disabilities; and 4) take disability into account in selection decisions where an individual with a disability is otherwise qualified with or without a reasonable accommodation. Recruiting tools

may include the Workforce Recruitment Program for college students with disabilities, State vocational rehabilitation agencies, and college disabled student services offices.

## **VI. HIRING AUTHORITIES FOR PEOPLE WITH DISABILITIES**

A. Schedule A, 5 CFR 213.3102(t), Hiring People with Mental Retardation. This authority is used to appoint persons with cognitive disabilities (mental retardation) who meet the eligibility requirements. Upon completion of 2 years of satisfactory performance, the employee may qualify for conversion to the competitive service.

B. Schedule A, 5 CFR 213.3102(u), Hiring People with Severe Physical Disabilities. This authority is used to appoint persons with severe physical disabilities who: (1) under a temporary appointment have demonstrated their ability to perform duties satisfactorily; or (2) have been certified by a counselor from a State vocational rehabilitation agency (SVRA) or the Department of Veterans Affairs Vocational Rehabilitation Office as likely to succeed in performance of duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to the competitive service.

C. Schedule A, 5 CFR 213.3102(ll), Hiring Readers Interpreters, and Other Personal Assistants. This authority permits appointments of readers, interpreters, and personal assistants for employees with severe disabilities when filled on a full-time, part-time, or intermittent basis. Upon completion of at least 1 year of satisfactory service under this authority, the employee may qualify for conversion to the competitive service.

D. Schedule B, 5 CFR 213.3202(k), Hiring People Who Have Recovered from Mental Illness. This authority permits appointments at Grades GS-15 and below when filled by persons who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Department of Veterans Affairs counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the position to which they will be appointed, and that any residual disability is not job related. Employment under this authority may not exceed 2 years following each significant period of mental illness.

## **VII. RESPONSIBILITIES**

A. The Agency Disability Employment Program Manager shall:

1. Promote the recruitment, employment, advancement, and retention of people with disabilities, particularly those with targeted disabilities, including disabled veterans (particularly those with a 30 percent or more compensable service-connected disability).

2. Ensure non-discrimination against people with disabilities and foster full participation in, and access to, all USDA programs, activities, and services.

3. Provide technical support and assistance in providing reasonable accommodations for applicants and employees with disabilities.

4. Analyze data to identify whether AMS is making progress in the hiring of individuals with disabilities.

B. Supervisors shall:

1. Review proposed or vacant positions during initial recruitment, modifying or restructuring them when possible to allow the placement of person with a disability. The SF-52, Request for Personnel Action, to recruit for positions, shall be annotated to alert the servicing personnel office of the desire to target recruitment of applicants with disabilities.

2. Give full and careful consideration to all applications referred under the Disability Employment Program and promptly notify the Agency Disability Employment Program Manager of the status of such applications.

3. Make appropriate accommodations for employees.

4. Provide for necessary retraining of employees with disabilities.

5. Notify the Agency Safety Officer, Compliance and Analysis Program, when a person with a disability is hired at headquarters (for the purpose of facilitating emergency evacuation).

6. If an employee or supervisor is in a field location and they require assistance in accommodating a person with a disability, they should contact the Agency Disability Employment Program Manager for assistance.

C. Employees. Any employee who wishes to be considered for an accommodation may bring the request to the attention of his/her first line supervisor, Deputy Administrator/Staff Director, or the Agency Disability Employment Program Manager. This request may be oral or in writing.

D. Deputy Administrators and Staff Directors shall:

1. Actively support the Agency Disability Employment Program.

2. Appoint Civil Rights Coordinators who will also serve as their Program Disability Coordinators.

3. Encourage headquarters, regional, and field supervisors to target specific positions to be filled with individuals with disabilities.

4. Encourage regional and field offices to establish and maintain contact with local organizations responsible for referring applicants with disabilities for employment consideration.

E. Civil Rights Coordinators shall:

1. Serve as the focal point within their Programs/Staffs for the referral of applicants under the Disability Employment Program.

2. Provide information to Program/Staff management concerning the operation of the Disability Employment Program.

3. Continuously encourage managers and supervisors to hire persons with disabilities.

4. Assist the Agency Disability Employment Program Manager in improving the Disability Employment Program by making recommendations and suggestions.

## **VIII. REASONABLE ACCOMMODATION**

A. The need for accommodation is determined on a case-by-case basis, taking into consideration the applicant's or employee's specific disabling condition, the existing limitations to the performance of a particular job function, the essential duties of a particular job, the work environment, and whether the proposed accommodation would create an undue hardship on the agency. In all cases, the applicant or employee must be consulted before an accommodation is made.

B. When requesting reasonable accommodation, employees, applicants, or family members should complete the Confirmation of Request for Reasonable Accommodation form. In addition, the deciding official, typically the supervisor, fills out a Reasonable Accommodation Information Reporting Form. If the employee is requesting assistive technology through the USDA Computer Electronics Accommodations Program (CAP) partnership, then the employee and supervisor should complete the USDA CAP Partnership Accommodation Request form. If the deciding official denies reasonable accommodation, then the deciding official should complete the Denial of Reasonable Accommodation Request, and outline their specific reasons for denying the employee's reasonable accommodation request. All forms referenced in this paragraph are contained in Attachment 2 of this Directive.

C. If the employee's request for reasonable accommodation is denied, he or she may ask the decision maker to reconsider the denial and provide additional supporting information. If the reconsideration decision does not reverse the denial, and the decision

maker is the employee's supervisor, the employee may ask the next higher level reviewing official to review the request. If the decision maker is the office chief or director, the individual can ask the Agency Disability Employment Program Manager to review the request.

D. The Department's reasonable accommodation guidelines can be found at the USDA Target Center's website, <http://www.usda.gov/oo/target>. Also, the Agency Disability Employment Program Manager can provide copies of the guidelines.

## **IX. INQUIRIES**

Questions concerning the Agency's reasonable accommodation procedures should be directed to the AMS Civil Rights Program Staff and brought to the attention of the Agency Disability Employment Program Manager.

/s/

A. J. Yates  
Administrator

Attachments