

**FINANCIAL CRIMES ENFORCEMENT NETWORK**

Check one:  Issuance  Bulletin  Manual  Supplement  Amendment  Revision

**SUBJECT: Interim Voluntary Modification and Reasonable Accommodation Policy and Procedures**

**1. PURPOSE:**

This Directive implements Executive Order 13164 and establishes the Financial Crimes Enforcement Network's (FinCEN) policy for processing requests for reasonable accommodation and, where appropriate, for providing voluntary job modification or reasonable accommodation to employees and applicants with disabilities.

**2. POLICY:**

FinCEN is committed to providing a reasonable accommodation to employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity (EEO). FinCEN shall provide reasonable accommodations for the known physical or mental limitations of otherwise qualified employees and applicants with disabilities, unless FinCEN can demonstrate that a particular accommodation would impose an undue hardship on the operation of its programs. To ensure FinCEN maintains an effective and efficient workforce, managers are encouraged to provide voluntary modifications, outside of the reasonable accommodation process, when the request is easy and inexpensive to do.

**3. AUTHORITY:**

*The Rehabilitation Act of 1973 (29 U.S.C 701), as amended.*

Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000).

Equal Employment Opportunity Commission (EEOC) Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, No. 915-003 (October 20, 2000).

Equal Employment Opportunity Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act (October 17, 2002).

Americans with Disabilities Act Amendments Act (ADAAA) of 2008, Public Law 110-325 ADAAA, effective 2009.

EEOC's final regulations on the ADAAA issued on March 25, 2011, and effective on May 24, 2011, 29 CFR Part 1630.

Department of the Treasury TN-12-002 (November 15, 2011), Interim Voluntary Modification and Reasonable Accommodation.

EEOC Issues Regulations on the Federal Government's Obligation to Engage in Affirmative Action for People with Disabilities, issued January 3, 2017, which became effective on January 3, 2018 (29 CFR 1614.203).

**4. SCOPE:**

This Directive applies to all organizational components of FinCEN and all requests for reasonable accommodation made by employees, student interns, and applicants for employment with disabilities.

**5. SUPERSEDED MATERIAL:**

This directive supersedes FinCEN Directive 304.02, Policy to Facilitate Provision of Reasonable Accommodation (February 20, 2018).

**6. OFFICE OF PRIMARY INTEREST:**

Equal Opportunity and Diversity Office, Office of the Director.

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Kenneth A. Blanco  
Director

## 1. DEFINITIONS:

- A. Alternative Dispute Resolution (ADR). Any voluntary mechanism through which an individual may request reconsideration of a Deciding Official's denial of reasonable accommodation. FinCEN uses mediation as its method to resolve formal disputes. At FinCEN's discretion, mediators may be obtained from the Treasury Shared Neutrals (TSN) or via appropriately contracted services for this process. Pursuing dispute resolution procedures, including seeking a reconsideration decision, does not suspend the 45-day time limit for initiating claims under the EEO complaint process.
- B. Deciding Official. An individual who has authority to determine whether a requested accommodation will be provided. In most cases, the Deciding Official will be an employee's or an intern's first-line supervisor. HR officials will typically be Deciding Officials for requests from applicants.
- C. Disability. For the purposes of providing a reasonable accommodation, "disability" is defined as a physical or mental impairment that substantially limits one or more of the major life activities or a record (or past history) of such an impairment.
- D. Essential Function. Those job duties so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing those duties. 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 the function. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.
- E. Extenuating Circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation (e.g., identified software is not compatible with existing equipment).
- F. Genetic Information. As defined by the Genetic Information Nondiscrimination Act (GINA) of 2008, includes information concerning the manifestation of disease/disorder in family members ("family medical history"), information about 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.
- G. Individual with a Disability. For the purposes of providing reasonable accommodation, an "individual with a disability" is defined as a person who has a physical or mental impairment that substantially limits one or more of that person's major life activities or who has a record of such impairment.

- H. Interactive Process. The process by which the individual requesting an accommodation and the Deciding Official discuss the request for accommodation, determine whether an accommodation will be provided, and examine potential alternative accommodations.
- I. Major Life Activities. Basic activities that the average person in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, reading, bending, concentrating, learning, working, and the operation of major bodily functions.
- J. Qualified Individual with a Disability. An individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or seeks, and who, with or without reasonable accommodation, can perform the essential functions of such position.
- K. Reasonable Accommodation. An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodations:
- Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job, such as providing application forms in alternative formats like large print or Braille.
  - Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job, such as providing assistive technology to allow a sight-impaired employee to use a computer.
  - Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment, such as removing physical barriers in an organization's office space or facilities.
- L. Reassignment. Reasonable accommodation of last resort, that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to funded vacant positions and for employees who are qualified to fill the vacant position. Informing an employee that she/he may apply for or otherwise compete for a position does not satisfy the obligation of appropriate officials to review vacancies for positions which the employee is qualified to determine if there is another position at the same or lower grade which the employee can perform. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete.
- M. Receiving Officials. FinCEN personnel designated to officially receive a request for reasonable accommodation from an employee, student intern, or applicant (or an individual acting on his/her behalf) and determine who will handle the request (the Deciding Official). First-line supervisors will typically be the Receiving Officials and the Deciding Officials for employee and student intern requests. HR officials and any agency POC identified in a vacancy announcement with whom an applicant has contact during the hiring process will typically be the Receiving Officials for applicant requests.

- N. Requester. A Qualified Individual with a Disability, an applicant with a Disability, or an individual acting on his or her behalf, who requests Reasonable Accommodation.
- O. Undue Hardship. An undue hardship means that a specific accommodation would require significant difficulty or expense to the agency when considered in light of factors such as FinCEN's size, financial resources, and the nature and structure of the position. A determination of undue hardship must be made on a case-by-case basis, considering factors such as the nature and cost of the accommodation needed and the impact of the reasonable accommodation on the operations of the agency.
- P. Voluntary Modification. An adjustment or alteration granted outside of the reasonable accommodation process without requiring the individual to establish that he/she has a disability. Such a modification is particularly appropriate where the modification is easy and inexpensive, e.g., requests for an ergonomic computer mouse or a screen glare protector. Providing a voluntary modification does not mean that FinCEN considers the individual to be an individual with a disability as defined herein or regarded as such.

**NOTE: Nothing in this policy prohibits providing accommodations beyond those required by the ADA or the Rehabilitation Act as amended by the ADAAA.**

## **2. RESPONSIBILITIES:**

- A. The Equal Opportunity and Diversity (EOD) Office is responsible for providing advice and guidance to all FinCEN employees, HR officials, supervisors, and managers concerning reasonable accommodation requests and related issues. The EOD Office shall track and evaluate the reasonable accommodation process through closure, and maintain all records post closure consistent with FinCEN's document retention policies.
- B. The Reasonable Accommodation (RA) Coordinator shall be available to obtain necessary medical documentation and provide any other assistance required for the Deciding Official to make an accommodation decision, and monitor all requests for reasonable accommodation through closure.
- C. The Office of Human Resources (HR) is responsible for receiving and processing requests for reasonable accommodation made by applicants. HR Officials should contact the RA Coordinator for guidance with such requests, and the EOD Office to comply with FinCEN's reporting obligations with respect to the outcomes of requests. HR is also responsible for complying with the requirements as set forth in Section 7 of this Directive for processing reassignments as an accommodation, and must inform applicants and employees how they may track the processing of their requests.
- D. The Requester is responsible for making a request for Reasonable Accommodation, and may be required to provide medical documentation, if needed. The Requester should be involved in the process, including helping to identify the most effective accommodation. The Deciding Official and the Requester should talk to each other to make certain that there is a full exchange of relevant information.

- E. Receiving Officials are responsible for: (1) receiving requests; (2) getting written confirmation (i.e., Fin081A Request for Reasonable Accommodation) of an oral request from the Requester **within three (3) business days** of receiving the oral request or, alternatively, documenting when the oral request was received and the nature of the accommodation requested; (3) determining who will be responsible for handling requests (typically the Deciding Official); (4) forwarding the request to the Deciding Official **within five (5) business days** of receiving the request; and (5) if applicable, notifying the RA Coordinator of the request. In most cases, the first line supervisor can be the Receiving and Deciding Official.
- F. Deciding Officials are responsible for: (1) engaging in the interactive process with the Requester in an effort to identify possible accommodations and determining whether an accommodation will be provided; (2) contacting the RA Coordinator for general guidance and to consult about whether medical documentation is necessary to process the request; (3) complying with all Deciding Official duties for processing requests as outlined in this Directive; (4) determining whether the request is granted or denied; and (5) completing and submitting a copy of the Reasonable Accommodation Confirmation FIN081C form to the RA Coordinator.

### 3. **VOLUNTARY MODIFICATION:**

Upon request for an accommodation, a manager or any designated official with responsibility for identifying possible accommodations may choose to grant a voluntary modification outside of the reasonable accommodation process. When applicable and when the requested accommodation is easy and/or inexpensive, this option allows managers/designated officials to grant a modification without first establishing that the individual has a disability. As FinCEN strives to be an employer of choice, managers or designated officials are encouraged to provide applicants and employees with a modification that will allow them to apply for a job, perform job duties, or enjoy the benefits and privileges of employment.

**NOTE: Voluntary modification typically does not require obtaining supporting medical information. However, if medical documentation is necessary for a voluntary modification, the documentation requirement must be minimal and straightforward in nature. If the information provided necessitates interpretation, a medical opinion and/or a medical release, the request shall be considered and processed within the standard reasonable accommodation process.**

**If a voluntary modification is not granted, or if it is not quick and easy, with or without minimal medical documentation, the request must be treated within the standard reasonable accommodation process.**

Making a voluntary modification does not, standing alone, mean, and may not be used to imply, that FinCEN has determined that the individual is an individual with a disability or that an accommodation is needed. Examples of voluntary modifications that can easily be provided outside of the reasonable accommodation process include:

- An applicant requests the vacancy announcement in large print.

- An employee asks for four breaks a day to test his/her blood sugar levels.
- An employee requests an ergonomic keyboard.
- An employee requests a footrest to elevate his/her legs to decrease swelling in his/her legs and feet.

#### **4. PROCEDURE FOR REQUESTING A REASONABLE ACCOMMODATION:**

- A. The reasonable accommodation process begins as soon as the Requester makes a request orally or in writing. In order for the interactive process to begin, the Requester does not have to fill out any specific form or have a particular accommodation in mind before making a request to a supervisor or manager in the individual's chain of command, the office designated by the agency to oversee the accommodation process, or agency official connected with the application process. For tracking purposes, a written request is preferable. (Request for Reasonable Accommodation Form Fin081A). If the Requester makes a request orally, the Receiving Official should, within three business days, request that the Requester fill out the FIN081A form. Alternatively, the Receiving Official can confirm the receipt of the oral request by documenting when the oral request was received and the nature of the accommodation requested to ensure accurate records. The request does not have to use any special or legal terms such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation at any time, even if she/he has not previously disclosed the existence of a disability. This request can be from a family member, health professional or any other representative on behalf of an employee or applicant with a disability. The person with a disability will be contacted to confirm if in fact she/he wants a reasonable accommodation. Requesting reasonable accommodation does not necessarily mean that it will be granted or that FinCEN is required to provide the accommodation. The individual with a disability may decline to make a request or refuse to accept an accommodation.
- B. FinCEN is required to consider a request if it is made by an employee or student intern to a management official in the individual's chain of command or the HR, or the RA Coordinator. FinCEN officials involved in the process should seek out and consider possible accommodations, including consulting appropriate resources for assistance through the RA Coordinator. The employee/intern requesting reasonable accommodation should also participate in helping to identify the most effective accommodation. When an applicant makes a request, it will be processed by the HR official or a FinCEN POC identified in the vacancy announcement.
- C. When an individual needs a reasonable accommodation on a recurring basis (e.g., the assistance of sign language interpreters or readers), a written request is required only for the initial request; however, appropriate notice must be given each time the accommodation is needed.

#### **5. THE INTERACTIVE PROCESS:**

- A. Communication is a priority throughout the entire process. Officials involved in the provision of reasonable accommodation should take a proactive approach in searching for

and considering possible accommodations, including consulting appropriate resources for assistance. The individual requesting the accommodation should also participate, to the extent possible, in helping to identify an effective accommodation. Personnel involved in the interactive process should record their activities.

- B. Ongoing communication is particularly important where the specific limitation, problem, or barrier is unclear, an effective accommodation is not obvious, or there are different possible reasonable accommodations. In cases where the disability, the need for accommodation, and type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the Deciding Official and requester should talk to each other to make sure that there is a full exchange of relevant information.

## 6. **TIME FRAMES FOR PROCESSING REQUESTS AND GRANTING REASONABLE ACCOMMODATIONS:**

Managers and supervisors must ensure accommodations are quickly identified and processed. As soon as a reasonable accommodation is granted, the Deciding Official shall promptly notify the individual, and fill out the Reasonable Accommodation Confirmation Form, FIN081C. If there is a delay in providing the accommodation, the Deciding Official must inform the individual in writing of the projected time frame when the accommodation will be delivered. The Deciding Official may take temporary or permanent measures, such as providing assistive technology or altering the physical layout of an office, to facilitate the work of an employee. Taking such measures does not, standing alone, mean, and may not be used to imply, that FinCEN has determined that the individual is an individual with a disability or that any reasonable accommodation is needed.

The time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting medical documentation. Once the Deciding Official receives a request, he/she should determine as soon as possible, preferably within **five (5) business days** of receiving the request, whether medical documentation is needed to process the request and should consult with the RA Coordinator about that determination.

- A. **Requests Not Involving Extenuating Circumstances.** If the request does not require obtaining supporting medical information, the request shall be processed within **20 business days** from the initial date of the request. **This maximum time frame provision does not mean managers and supervisors should routinely take the full length of the time allowed. Failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act.**
- B. **If the request requires obtaining supporting medical information** to determine whether the individual has a disability and/or to identify the functional limitations, the RA Coordinator will request the documentation as soon as possible after his/her receipt of the request, but before the expiration of the 20 business-day period. Once the RA Coordinator makes the request for medical documentation, the 20 business-day period timeframe is frozen (i.e., stayed, tolled) until the RA Coordinator receives sufficient medical documentation. FinCEN recognizes that the need for documentation may not become apparent until after the interactive process has begun.



- C. **Requests Involving Extenuating Circumstances.** When Extenuating Circumstances are present, the time for processing a request and providing the accommodation will be extended as deemed necessary. Where Extenuating Circumstances are present, the Deciding Official must notify the individual, in writing, of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected.
- D. **Temporary Measures.** If there is a delay in providing an accommodation that has been approved, the Deciding Official must decide whether temporary measures can be taken to assist the individual. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. If the delay is attributable to the need to obtain or evaluate medical documentation and the Deciding Official has not yet determined whether the individual is entitled to an accommodation, the Deciding Official may provide an accommodation on a temporary basis. In such a case, the Deciding Official will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.
- E. **Expedited Processing.** In certain circumstances, a request may require an expedited review and decision in a time frame that is shorter than the 20 business days, (e.g., an employee needs a sign language interpreter or some other assistance needed to attend a meeting scheduled to take place in five days). With respect to applicants applying for jobs with FinCEN, depending on the timetable for receiving applications, conducting interviews, and making hiring decisions, there may be a need to expedite an applicant's request to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, FinCEN's HR officials, in consultation with the RA Coordinator if necessary, will address these requests as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation.

**7. REASSIGNMENT AND OTHER POSITION CHANGES AS AN ACCOMMODATION:**

- A. Reassignment is an accommodation of last resort. Reassignment will only be considered if a determination is made that no other reasonable accommodations are available to enable the individual to perform the essential functions of his or her current job, or if the only effective accommodation would cause undue hardship. There is no obligation to create a position for the purpose of reassignment.

**Note: The inability to work for a particular supervisor is not a disability.**

- B. If a determination is made that an employee cannot perform the essential function of his or her position with or without a reasonable accommodation, appropriate FinCEN Officials must review vacancies for which the employee is qualified to determine if there is another position at the same or lower grade which the employee can perform with or without an accommodation. FinCEN Officials are responsible for reviewing the employee's qualifications, determining the essential functions of a position, and making the final decision on whether an employee has the requisite qualifications for a position. HR will review vacancies for a minimum of 30 business days before expanding the search to other bureaus. See 7.D. of this process.

- C. Since it may take a minimum of 30 business days to determine whether an appropriate vacant position exists, the supervisor and the employee should discuss the employee's options during that period, i.e., use of accrued leave, use of unpaid leave, or a temporary assignment.
- D. In considering whether there are positions available for reassignment, HR will identify:
1. All funded vacant positions within FinCEN for which the employee may be qualified, with or without reasonable accommodation; and
  2. All funded positions which, there is reason to believe, will become vacant over the next 30 business days and for which the employee may be qualified.

If applicable, the employee can be asked to update his/her resume and identify what grade(s) and locations the employee will accept. The HR Office will first focus on positions which are equivalent to the employee's current job in terms of grade, pay and other relevant factors. If there is no vacant equivalent position, the HR Office will complete 7.E. of this process and forward to FinCEN's RA Coordinator. If a vacant position is identified at a lower grade level, the HR Office will keep that position vacant until the Treasury Department's Disability Program Manager conducts a search in other Treasury bureaus for positions at the employee's current grade level.

**NOTE: FinCEN is not required to consider positions at a higher grade or positions with known promotional potential greater than the employee's current position. The employee is entitled to apply for such a position under any competitive process.**

- E. Based upon EEOC's guidance, a search must be conducted Treasury-wide; however, before a request is sent to the Treasury Department's Disability Program Manager for assistance in a Treasury-wide search, HR will complete a Request for Reassignment Form and must certify in writing:
1. That a search for all funded vacant positions for which the employee is qualified, with or without a reasonable accommodation, was conducted for a period of 30 business days;
  2. That no equivalent position or a position at a lower grade was identified and;
  3. That there are no equivalent vacant positions that HR has reason to believe will become vacant over the next 30 days for which the employee may be qualified.

The RA Coordinator will forward this information to the Treasury Department's Disability Program Manager, who will coordinate a search for a position for an additional **30 business days**. If there is no vacant equivalent position and FinCEN is not holding a position at a lower grade level, the Department will consider vacant lower graded positions for which the individual is qualified. If FinCEN is holding a position at a lower grade level, the Department will only search for positions at a higher grade level not to exceed the employee's current grade level (i.e., if the employee is a GS-12 and the bureau

is holding a GS-7 position, the Department will only search for positions at the GS-8 thru GS-12 level).

**NOTE: Before FinCEN can request a Department-wide search, the employee must be given the opportunity to submit an updated resume or a brief description of his/her current skills and accomplishments. Failure to provide such information could result in the inability to identify positions for which the employee may be qualified.**

- F. 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, FinCEN is not required to pay for the employee's relocation costs, unless required in other types of agency reassignments.
- G. Once a reassignment offer has been made, the employee has up to 14 business days to accept or decline the offer.
- H. If no vacant positions for which the employee is qualified are available, FinCEN has 30 business days from the date of the Department's notification to issue the employee a final decision letter explaining why reassignment as a reasonable accommodation could not be provided.

#### **8. REQUEST FOR MEDICAL INFORMATION:**

- A. The Financial Crimes Enforcement Network is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation, and may require medical documentation. In cases where the nature and extent of the disability and need for accommodation are obvious or already known, further medical information may not be requested and the Deciding Official shall process the request. When the nature and extent of the disability and/or need for reasonable accommodation is not obvious or known, the Deciding Official should forward the request to the RA Coordinator for a determination of whether it is appropriate to require the individual requesting a reasonable accommodation to provide medical documentation about the disability and his/her functional limitations.
- B. The RA Coordinator will determine whether medical documentation is needed to evaluate the reasonable accommodation request. If a request for medical documentation is not necessary, the RA Coordinator will inform the Deciding Official of this determination, and he/she will continue their review of the request.
- C. If medical information is necessary, the RA Coordinator will seek information or documentation about the disability and/or functional limitations from the Requester, and/or ask the Requester to obtain such information from an appropriate health care professional, such as a doctor, social worker, or rehabilitation counselor. Documentation unrelated to the claimed disability should not be requested. Requests for medical information will follow the requirements set forth in EEOC's Enforcement Guidance: "Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act," available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>.

- D. Once the medical documentation is received, the RA Coordinator will evaluate the documents. If the information provided is insufficient to determine whether an accommodation is appropriate, the RA Coordinator may ask for further information. The EOD Office shall explain to the individual seeking the accommodation, in specific terms, why the information provided is insufficient, what additional information is needed, and the reason the information is necessary for the determination of the reasonable accommodation request. The Requester may ask the health care or other appropriate professional to provide the missing information.
- E. FinCEN is permitted to have medical documentation reviewed by a medical expert, of FinCEN's choosing and expense. As a result, the individual requesting the accommodation may be asked to sign a medical release form, giving the RA Coordinator or FinCEN's consulting physician permission to review the individual's medical documentation, and if needed, submit a list of specific questions to the individual's healthcare professional. Failure by the individual to provide the requested medical documentation may result in a denial of the reasonable accommodation request.
- F. The RA Coordinator will notify the Deciding Official when the requested medical documentation is received and share the employee's functional limitation(s) with the Deciding Official in order for the Deciding Official to determine the nature and extent of the limitations, as well as potential accommodation for those limitations.
- G. Deciding Officials may never contact a health care professional directly. The Deciding Official must contact the RA Coordinator when medical documentation is required.
- H. In some cases, the individual requesting the accommodation will supply medical information directly to the Receiving or Deciding Official without being asked. In these cases, the Official will forward the documents in a sealed envelope to the RA Coordinator.
- I. If the individual requesting accommodation does not provide appropriate documentation or does not cooperate in FinCEN's efforts to obtain such documentation, the request for accommodation may be denied.

PLEASE NOTE: Any request for medical information must comply with the Genetic Information Nondiscrimination Act (GINA) of 2008, as well as the laws, regulations, and guidance referenced in the "Authority" section above, and other applicable confidentiality statements. GINA includes information concerning the manifestation of disease/disorder in family members ("family medical history"), information about 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.

## **9. CONFIDENTIALITY OF MEDICAL DOCUMENTATION:**

- A. All medical information, including information about the functional limitations and reasonable accommodation needs received in support of a reasonable accommodation request is confidential and will be kept separate from the individual's official personnel file, and shall be stored in a locked file cabinet in the EOD Office. It will not be disclosed except as follows:
1. Deciding Officials, supervisors, and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information will only be disclosed if absolutely necessary.
  2. First aid and safety personnel, when appropriate, if the disability might require emergency treatment or special arrangements in emergency situations such as building evacuations.
  3. The EOD Office may be given the information to process requests, maintain records, evaluate and report on FinCEN performance in processing reasonable accommodation requests.
  4. In certain circumstances, to workers' compensation offices or insurance carriers.
  5. FinCEN's RA Coordinator in connection with providing advice to Receiving and Deciding Officials.

Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that apply.

## **10. DENYING A REASONABLE ACCOMMODATION REQUEST:**

- A. If the Deciding Official denies a request for reasonable accommodation, she/he shall provide prompt notification in writing to the Requester with an explanation as to why the request was denied and provide a copy to the EOD Office for record keeping purposes. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. The Deciding Official should complete, sign, and date the Confirmation of Reasonable Accommodation Form FIN081C and attach to the Request for Reasonable Accommodation form FIN081A.
- B. The Deciding Official must notify the Requestor of the Requestor's right to request reconsideration and the Requestor's right to file an EEO complaint of discrimination as well as instructions on how to do so.
- C. If the Deciding Official offers an alternative accommodation that is not accepted by the requester, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the alternative accommodation would be effective. The Deciding Official's written decision must include specific reasons for the denial of a

reasonable accommodation, such as why the accommodation would not be effective or why it would result in undue hardship.

## 11. DISPUTE RESOLUTION:

- A. If the Deciding Official denies the request, the Requester has the right to request reconsideration of the decision to the next management official level within 10 business days of receiving the written denial decision. The next management official level will respond in writing to the request for reconsideration within 10 business days. Alternatively, the Requester may request to the EOD Office to participate in the ADR process. The Requester must make the request for ADR within 5 business days of receiving the written denial decision.
- B. Pursuing dispute resolution procedures, including seeking a reconsideration decision, **does not suspend the time limits for initiating claims under the EEO complaint process.**
- C. An employee who chooses to pursue other available remedies must still comply with the following time filing requirements:
  - 1. EEO Complaint. Contact an EEO counselor within 45 days from the date of receipt of the Deciding Official's written notice of denial.
  - 2. Merit Systems Protection Board (MSPB) Appeal. Initiate an appeal within 30 days of an appealable adverse action as defined in 5 C.F.R. 1201.3.

## 12. INFORMATION TRACKING AND EVALUATION:

- A. The EOD Office shall be responsible for maintaining custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records and will follow established disclosure/protection requirements for the records. All records will be maintained in accordance with the Privacy Act and the confidentiality requirements of 29 C.F.R. 1611 and the Equal Employment Opportunity Commission order 150.003.
- B. For tracking purposes, FinCEN will require collection of the following information:
  - 1. The specific reasonable accommodation.
  - 2. The job (occupational series, grade level, and agency component) sought by the applicant or held by the employee. Including whether the accommodation was needed to:
    - a. Apply for a job.
    - b. Perform the essential functions of a job.
    - c. Enjoy the benefits and privileges of employment.

3. Whether the request was granted or denied, including the basis for the denial.
  4. Identify the deciding Official.
  5. The number of days taken to process the request.
- C.** The EOD Office will annually evaluate FinCEN's reasonable accommodation program. An effective reasonable accommodation program is part of a model EEO program and results must be included in FinCEN's MD-715 report. The executive summary of FinCEN's MD-715 report will include a discussion of the following:
1. accessibility of the reasonable accommodation policy to employees and applicants with or without a disability, e.g., posted on the Internet, Intranet, disseminated in employee handbooks, or available in alternative formats, such as Braille;
  2. the number of reasonable accommodation requests approved; of that, the number approved within the timeframes set out in bureau procedures; and
  3. the number of reasonable accommodation requests denied.

### **13. FORMS:**

#### **Forms shall be available in alternative formats.**

- A.** Request for Reasonable Accommodation form, FIN081A
- B.** Reasonable Accommodation Confirmation Form, FIN081C (replaces obsolete form, Denial of Reasonable Accommodation, FIN081B)