



**Civil Rights & Diversity
Issuance System**



CRD – 008 Policy for Personal
Assistance Services

Date: July 20, 2018

1. **PURPOSE.** This Issuance establishes Departmental policy and procedures for providing Personal Assistance Services (PAS) to qualified employees with targeted disabilities. These are employees who, because of a targeted disability, require assistance to perform basic daily activities in the workplace, at an approved telework site, during employer sponsored events and while on job-related travel. The services will allow qualified employees with targeted disabilities the opportunity and independence offered by paid employment.
2. **SCOPE.** This issuance applies to all bureaus, offices, and organizations in the Department of the Treasury, including the Offices of Inspectors General within the Department. The provisions of this issuance shall not be construed to interfere with or impede the authorities or independence of the Department's Inspector General, the Treasury Inspector General Tax Administration, or the Special Inspector General for the Troubled Asset Relief Program.
3. **POLICY.** It is the policy of the Department of the Treasury to provide Personal Assistance Services to qualified employees with targeted disabilities in order to ensure full access to equal employment opportunity (EEO). The Department has the right to deny PAS when provision of the services would pose an undue hardship.
4. **RESPONSIBILITIES.**
 - a. **The Office of Civil Rights and Diversity shall:**
 - (1) Develop and issue policy and procedures governing the provision of PAS;
 - (2) Advise Department and bureau officials regarding laws, regulations, executive orders and Departmental policy related to the provision of PAS;
 - (3) Ensure compliance with the governing laws, regulations, executive orders, and Departmental policy related to the provision of PAS.

b. Heads of Bureaus shall:

- (1) Develop and issue procedures for processing requests for PAS, consistent with governing laws, regulations, executive orders, Equal Employment Opportunity Commission (EEOC) directives, and Departmental policy;
- (2) Ensure supervisors, managers, human resources and EEO officials understand their obligations with respect to the provision of PAS;
- (3) Ensure that PAS requests from qualified individuals with targeted disabilities are processed in accordance with the bureau's procedures and in a timely, efficient, and fair manner;
- (4) Ensure the bureau's PAS policy and procedures are readily accessible to all employees. The policy and procedures shall be posted on the bureau's internet, intranet website, and in designated locations such as bureau libraries, EEO Offices, and Human Resource Offices;
- (5) Ensure policy and procedures are accessible in alternative formats, such as large print or Braille, on request;
- (6) Inform individuals with disabilities about their rights and responsibilities under Section 501 of the Rehabilitation Act, as it relates to PAS; and,
- (7) Develop systems to track and report in Part J of the MD-715 on the provision of PAS.

5. **AUTHORITIES.**

- a. 29 U.S.C. §791, Section 501 of the Rehabilitation Act of 1973.
- b. 29 C.F.R. §1614.203, "Rehabilitation Act."
- c. 42 U.S.C. §12101, "Americans with Disabilities Act (ADA) of 1990."
- d. Public Law 110-325, Sept. 25, 2008, "ADA Amendments Act of 2008 (ADAAA)."
- e. 29 C.F.R. §1630, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, as Amended."

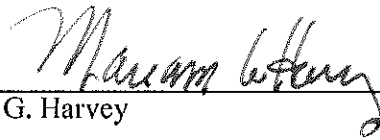
6. **REFERENCES.**

- a. CRD-008 Publication, "Procedures for Processing Request for Personal Assistance Services", Office of Civil Rights and Diversity Issuance System dated (TBD).

- b. Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act, Equal Employment Opportunity Commission, dated September 18, 2017.
- c. Enforcement Guidance for Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act, Equal Employment Opportunity Commission, dated July 27, 2000.

This issuance supplements requirements contained in the references cited above; it is not self-contained, and must be read in conjunction with the cited references, any subsequent revisions or successor documents, and any applicable collective bargaining agreements. The references in this document may change without alteration of this policy, in which case the most recent version of the reference in question will apply to this policy and its requirements.

- 7. **OFFICE OF PRIMARY INTEREST.** Office of the Assistant Secretary for Management and Office of Civil Rights and Diversity.



Mariam G. Harvey
Director
Office of Civil Rights and Diversity



Office of Civil Rights and Diversity Issuance Publication (CRD-008)

Procedures for Processing Requests for Personal Assistance Services

The issuance of this Civil Rights and Diversity Publication (CRD P) has been authorized by CRD-008, "Policy for Personal Assistance Services" (TBD).

This CRD P provides further direction to all bureaus, offices, and organizations in the Department of Treasury (Department) for compliance with CRD-008. Contact the Office of the Assistant Secretary for Management and Office of Civil Rights and Diversity for questions and guidance.

1. **PROCEDURES**. This issuance establishes the Departmental procedures for processing requests for Personal Assistance Services (PAS) as established by CRD-008, dated TBD.
2. **DEFINITIONS**
 - a. **Deciding Official**. An individual who has authority to approve or deny PAS requests.
 - b. **Department**. The Department of the Treasury, including all of its bureaus and offices.
 - c. **Dispute Resolution Process**. Any voluntary mechanism through which an individual can request reconsideration of a denial of a request for PAS.
 - d. **Essential Functions**. The basic duties of the job that an employee must be able to perform, with or without reasonable accommodation. A function can be "essential" if, among other things, the reason the position exists is to specifically perform that function; there are a limited number of other employees who could perform the function; the function is specialized and the individual is hired based on his/her ability to perform it; or the position requires an employee to be physically located in a particular place. 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.
 - e. **Extenuating Circumstances**. Factors that could not reasonably have been anticipated or avoided in advance of the request for PAS, or situations in which unforeseen or unavoidable events prevent prompt processing and delivery of PAS.

- f. Genetic Information. As defined by the Genetic Information Nondiscrimination Act of 2008 (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.
- g. Interactive Process. Discussions between the Requester and the Receiving Official and/or any official designated to process requests for PAS. The information shared during the interactive process is used to determine whether PAS will be provided and to examine potential temporary assistance services.
- h. Personal Assistance Services (PAS). Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a targeted disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, drinking, and using the restroom. For example, someone providing PAS might assist someone with getting into or out of a vehicle at the worksite. *Note: PAS does not include medical services. For example, it does not include performing medical procedures such as administering injections or medical monitoring (e.g., monitoring blood sugar).*
- i. Personal Assistance Service Provider. An independent contractor or an employee whose primary job function is to perform assistance with the daily living activities requested by the employee entitled to PAS.
- j. Qualified Employee. An employee of the Department who requires services because of a targeted disability and who, with or without reasonable accommodation, can perform the essential functions of the employee’s position.
- k. Processing Official. The office or individual(s) responsible for processing requests for PAS received by Receiving Officials, and managing the requests through to closure.
- l. Receiving Officials. Treasury personnel designated to receive a PAS request, such as an employee’s immediate supervisor; a supervisor or manager in his/her immediate chain of command; the EEO Office or any office designated to officially receive a request for PAS from an employee (or an individual acting on his/her behalf).
- m. Requester. A qualified employee with a targeted disability or an individual acting on his or her behalf who requests PAS.



- n. Targeted Disability. A subset of conditions that would be considered disabilities under the Rehabilitation Act. The Department follows the list of targeted disabilities (below) as set forth by OPM on the Standard Form (SF) 256.
- 1) Developmental Disability, for example, autism spectrum disorder
 - 2) Traumatic Brain Injury
 - 3) Deaf or serious difficulty hearing, benefiting from, for example, American Sign Language, CART, hearing aids, a cochlear implant and/or other supports
 - 4) Blind or serious difficulty seeing even when wearing glasses
 - 5) Missing extremities (arm, leg, hand and/or foot)
 - 6) Significant mobility impairment, benefiting from the utilization of a wheelchair, scooter, walker, leg brace(s) and/or other supports
 - 7) Partial or complete paralysis (any cause)
 - 8) Epilepsy or other seizure disorders
 - 9) Intellectual disability
 - 10) Significant Psychiatric Disorder, for example, bipolar disorder, schizophrenia, PTSD, or major depression
 - 11) Dwarfism
 - 12) Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders
- o. Undue Hardship. An action requiring significant difficulty or expense when considered in light of factors such as the Department's size, financial resources, and the nature and structure of the position. Determination of undue hardship is always made on a case-by-case basis, considering factors such as the nature and cost to provide PAS needed and the impact of the PAS on the operations of the Department. An undue hardship based on cost should rarely be an issue. The inability to find a PAS provider with the security clearance level of the employee may, under some circumstances, be sufficiently difficult as to constitute an undue hardship.



3. **PAS REQUEST.** The process begins as soon as the request for PAS is made either orally or in writing to a Receiving Official. The request does not have to use any special words, such as "PAS," "Section 501," "disability," "EEOC's regulations" or "Rehabilitation Act", nor does the request have to be a direct request. A sample request form is provided in Attachment A-1. An employee with a targeted disability may request assistance with daily life activities that the individual cannot perform because of the targeted disability. Bureaus must establish and maintain a system for tracking PAS requests, from the date of the request through closure.

a. Types of Request.

- 1) Requests for PAS may be made to any Receiving Official, including an employee's immediate supervisor; a supervisor or manager in his/her immediate chain of command; the EEO Office; or, any office designated to oversee the PAS process.
- 2) A family member, friend, health care professional, or other representative may request a PAS on behalf of an employee with a targeted disability. The request shall be made to one of the persons listed in Section 2.a (1). If possible, the employee with a disability should be contacted to confirm that he/she in fact wants PAS. The employee with the targeted disability may decline to make a request or refuse to accept services.

b. Referral of Request to the Processing Official. A Receiving Official to whom a request for PAS is made should immediately refer the request and the Requester to the Processing Official.

c. PAS Provider Preference. Bureau officials involved in providing PAS should take a proactive approach to ensure PAS providers have the necessary skill sets for the services required. All PAS providers must satisfy the applicable security clearance and background investigation requirements.

- 1) A request for a specific PAS provider (e.g., a family member or a PAS provider with whom the employee has previously worked) will be considered and, where the PAS provider is dedicated to a single employee, given primary consideration to the extent permitted by law.
- 2) A request without a preference for a specific provider will be processed through the established Treasury-wide PAS contract.

3. **THE INTERACTIVE PROCESS.**

- a. The employee requesting the services should participate, to the extent possible, in helping to identify the skill set required from the PAS provider.



- b. Personnel involved in the interactive process should record their activities. On-going communication is particularly important where the specific need or skill set, or extenuating circumstance is unclear.
- c. The official processing the request for PAS and the employee requiring the PAS should talk to each other to make sure that there is a full exchange of relevant information.

4. **WRITTEN REQUEST.**

- a. While a written request is preferable, it is not required. To ensure accurate records, the Processing Official should confirm in writing the receipt of a request for PAS, documenting to whom the request was made, when the request was received and the nature of the services required. A sample "Request Form" is provided in Attachment A-1.
- b. Repeat requests for a recurring PAS are not required (e.g., assistance in the winter putting on and taking off outerwear). While appropriate notice may be required each time recurring assistance is needed, the written confirmation form is only required for the first request.

5. **RESPONSIBILITIES.** Bureaus must designate specific responsibilities to individuals (see examples below) involved in processing a PAS request. Bureaus shall ensure procedures are in place to provide back-up coverage to continue receiving, processing, and providing PAS when the Receiving and Deciding Officials are unavailable. The time frames discussed in Section 9.a., may not be suspended or extended because of the unavailability of the Receiving or Deciding Official.

- a. **Receiving Official.** Each bureau shall identify the individual(s) responsible for receiving the request, such as an employee's immediate supervisor; a supervisor or manager in his/her immediate chain of command; the EEO Office; or, any office designated to officially receive a request for PAS from an employee (or an individual acting on his/her behalf).
- b. **Processing Official.** Each bureau shall identify the individual(s) responsible for: processing requests; ensuring all parties involved are notified of a request; implementing a process to ensure requests are handled expeditiously; and, monitoring requests through to the implementation of the decision on the request.
- c. **Deciding Official.** Each bureau shall designate an official responsible for determining what, if any, PAS will be provided.



- d. Bureau EEO Office. The EEO Office or the alternative office a bureau instead designates as responsible for obtaining medical and other necessary documentation (hereinafter referred to as the "EEO Office") shall be responsible for receiving and safeguarding such documentation, and for providing any other assistance required to make a decision. The EEO Office may share with the Deciding Official the employee's functional limitation(s) in performing daily living activities, as well as the need for potential assistance to perform those activities. Medical documentation should not be shared with the Deciding Official.
- e. Bureau Disability Program Manager. The Disability Program Manager shall be available, as needed, to provide assistance to employees, human resources officials, and Deciding Officials in processing requests for PAS.
6. **MEDICAL INFORMATION**. In most cases, the targeted disability will be obvious or otherwise already known to the Deciding Official. In these cases, further medical information will not be sought. However, when the need for PAS is not obvious or otherwise already known to the Deciding Official, the bureau may require that the employee requiring PAS provide medical documentation about the need for PAS and/or his/her functional limitations. Any request for medical information must comply with GINA, as well as the laws, regulations, and guidance referenced in CRD-008, "Policy for Personal Assistance Services", and the "Confidentiality and Disclosure" statement in Section 8 of this CRD P.
- a. If the Deciding Official believes medical information is necessary to evaluate a request for PAS, he/she should contact the bureau EEO Office.
- b. If a determination is made to seek medical information, the requested information should be limited to that necessary to establish that the employee requires PAS because of his/her targeted disability and the nature of the PAS required. Documentation unrelated to the claimed targeted disability should not be requested. Bureau requests for medical information will follow the requirements set forth in the Enforcement Guidance for Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act.
- c. The EEO Office will seek information or documentation about the functional limitations from the Requester, and/or ask the employee to obtain such information from an appropriate health care professional, such as a doctor, social worker, or rehabilitation counselor. Once medical documentation is received, the bureau EEO Office and any other appropriate bureau official will evaluate the documentation.
- d. Alternatively, the employee requiring assistance may agree to sign a limited release, giving the EEO Office permission to submit a list of specific questions to the employee's health care professional or to contact the employee's doctor.



- e. The EEO Office may ask for additional information if the information provided by the health care professional or volunteered by the Requester is insufficient. The EEO Office should explain to the employee seeking PAS, in specific terms, why the information provided is insufficient, what additional information is needed, and the reason the information is necessary for determining the need for PAS. The individual may then ask the health care provider or other appropriate professional to provide the missing information.
 - f. Agency officials should not contact a health care professional directly without express permission from the employee, as described in subpart d of this section. In any event, any contact with a health care professional should be discussed in advance with bureau legal counsel and the EEO Office.
 - g. In the event the Requester supplies medical information directly to the Deciding Official, the Deciding Official will adhere to the "Responsibilities" in Section 6 of this process, and forward documents in a sealed envelope to the bureau EEO Office.
 - h. If the Requester does not provide appropriate documentation or does not cooperate in the bureau's efforts to obtain such documentation, the bureau may deny the requested PAS.
8. **CONFIDENTIALITY AND DISCLOSURE.** All medical information, including information about the employee's functional limitations and PAS needs, obtained in connection with a request for PAS, must be kept confidential. The information shall be kept in files separate from the employee's official personnel file and shall be stored in a separate locked cabinet and/or other password-protected file. In addition, individuals who obtain or receive such information are strictly bound by these confidentiality requirements. Whenever medical information is disclosed, the individual(s) disclosing the information must inform the recipients of the information about the confidentiality requirements that apply. The information may be disclosed only to the following individuals:
- a. Deciding Officials, supervisors, and managers who need to know may be told about the PAS needed by the employee, but medical information should be disclosed only if necessary for the safety or health of the employee.
 - b. First aid and safety personnel, when appropriate, if the employee receiving PAS might require emergency treatment or special arrangements in emergency situations such as building evacuations.
 - c. Government officials, when the information is necessary to investigate compliance with the Rehabilitation Act.
 - d. In certain circumstances, to workers' compensation offices or insurance carriers.



e. Department legal counsel in connection with providing legal advice to agency officials.

9. **GRANTING PERSONAL ASSISTANCE SERVICES.** The Deciding Official should communicate to the Requester the decision to provide PAS, as soon as possible after it is made. If PAS cannot be provided immediately, the Deciding Official must inform the Requester of the projected time frame for providing the services. A Deciding Official or supervisor may take temporary action, such as approving a temporary PAS provider (i.e., an employee can request to bring their own PAS provider to work as a reasonable accommodation) to perform the assistance requested, or authorizing temporary telework. Where the Deciding Official decides to provide temporary services, the written decision should explain both the reasons why temporary services are being provided and when the Official believes a PAS provider will be assigned.

Note: The Agency will not assume financial responsibility when temporary use of a family member or personal PAS provider is granted as a reasonable accommodation.

- a. **Time Frames for Processing Request.** The time necessary to process a request will depend on the nature of the PAS requested. At a minimum, however, requests shall be processed as follows:
- 1) **Requests Not Involving Extenuating Circumstances.** If the request does not require obtaining supporting medical information, a security clearance and/or background investigation, the request shall be processed and, if granted, PAS provided as soon as possible but not more than 30 business days from the date the request was initially made.
 - 2) **Requests Involving Extenuating Circumstances.** When extenuating circumstances are present, the time for processing a request for PAS will be extended as deemed necessary. However, such extensions should be rare. All bureau officials are expected to act as quickly as reasonably possible in processing requests and providing PAS. The following are examples of extenuating circumstances:
 - (a) The PAS provider will have access to classified information and will require a specific type of background investigation.
 - (b) The request requires supporting medical documentation.
 - 3) Where extenuating circumstances are present, the Deciding Official must notify the employee requesting PAS, in writing, of the reason for the delay, and the approximate date on which a decision, or provision of the PAS, is expected. Any further developments or changes should also be communicated promptly to the employee.



- 4) If there is a delay in providing an approved PAS, the Deciding Official must decide whether temporary measures can be taken to assist the employee. This could include providing the requested services on a temporary basis.
- 5) If a delay is attributable to the need to obtain or evaluate medical documentation and the bureau has not yet determined the employee is entitled to receive PAS, the bureau may also provide services on a temporary basis. In such a case, the Deciding Official will notify the employee in writing that the assistance services are being provided on a temporary basis pending a decision on the PAS request.
- 6) Bureau Deciding Officials who approve such temporary measures are responsible for ensuring they do not take the place of permanent assistance services and that all necessary steps to secure permanent assistance services are taken.

10. **DENIAL OF PERSONAL ASSISTANCE SERVICE.** When a Deciding Official decides to deny a PAS request, he/she must issue a written decision to the Requester and a copy to the bureau EEO Office. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. When evaluating budgetary or administrative concerns to determine if undue hardship exists, the bureau will follow the standards outlined in the regulations and in the "Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act". Explanation(s) may include the following:

- a. Individual requiring PAS is not an employee;
- b. Employee does not meet the definition of an individual with a targeted disability, as defined in OPM SF-256, or the targeted disability does not create a need for PAS;
- c. Employee is not able to perform the essential functions of the job, even with PAS and any reasonable accommodations;
- d. Employee would create a direct threat to safety on the job, even with PAS and any reasonable accommodation; or,
- e. Providing PAS would result in undue hardship. A determination of undue hardship means the bureau finds that providing PAS would result in significant difficulty or expense, or would fundamentally alter the nature of the bureau's operations.

11. **DISPUTE RESOLUTION PROCESS.**

- a. If an individual wishes reconsideration, he/she should first ask the Deciding Official to reconsider the decision, within 10 business days of receiving the written denial. The

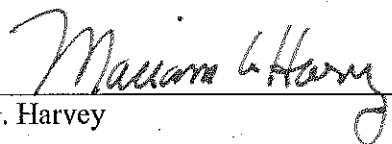


individual may present additional information in support of his/her request. The Deciding Official will respond to the request for reconsideration, within 5 business days. Any request for reconsideration received after 10 business days of the denial will be treated as a new request for PAS.

- b. If the Deciding Official does not reverse the decision, the individual may appeal the decision, within 10 business days of receiving the Deciding Official's denial of the request for reconsideration. The appeal shall be decided by the next level manager or any other more senior official in the Deciding Official's chain of command. A response to the appeal will be issued to the individual, within 10 business days.

12. **INFORMATION TRACKING AND EVALUATION.** The bureau's EEO Officer will annually evaluate the bureau's Personal Assistance Services Program. An effective PAS Program is part of a model EEO program, and results must be included in Part J (Special Program Plan for the Recruitment, Hiring, and Advancement of Individuals with Targeted Disabilities) of the bureau's Management Directive (MD) - 715. Bureaus must describe in Part J of MD-715 (Section V.D.), the effectiveness of the policies, procedures, or practice to implement the PAS requirement, which includes the following:

- a. Timeliness of processing requests for PAS.
- b. Timeliness of providing approved PAS.
- c. Training for managers and supervisors on providing PAS.
- d. Monitoring requests for trends.



Mariam G. Harvey
Director
Office of Civil Rights and Diversity

APPENDIX A-1: SAMPLE PERSONAL ASSISTANCE SERVICES REQUEST FORM

Written Request For Personal Assistance Service	
Employee Name	Date of Request
Name of Employing Office	
Occupational Series and Grade (e.g., GS-301-11)	Office Telephone Number
Employee's work email address	
Identify the targeted disability requiring Personal Assistance Services.	
Are you requesting services from a specific PAS provider (e.g., family member)? <input type="checkbox"/> Yes <input type="checkbox"/> No	If so, provide the Name and Telephone No. of the PAS provider. _____ Name _____ Telephone Number
Briefly describe the specific service(s) being requested.	
If the requested services are time sensitive, please explain in detail. (If additional space is needed, attach a separate sheet.)	

Requester's Signature: _____

Note: In reviewing this request, it may be determined that medical documentation is needed to support this request. If that is the case, the employee will be requested to provide limited medical information sufficient to support this request for PAS.