EEOC FORM
U.S. Equal Employment Opportunity Commission

FEDERAL AGENCY ANNUAL EEO PROGRAM STATUS REPORT

FY 2020 MD-715
Parts A Through E

Part A - Department or Agency Identifying Information

Agency	Second Level Component	Address	City	State	Zip Code (xxxxx)	Agency Code (xxxx)	FIPS Code (xxxx)
USDA	Food, Nutrition Service	1320 Braddock Pl.	Alexandria	VA	22314	AG30	4986

Part B - Total Employment

Total Employment	Permanent Workforce	Temporary Workforce	Total Workforce
Number of Employees	1407	37	1444

Part C.1 - Head of Agency and Head of Agency Designee

Agency Leadership	Name	Title
Head of Agency	Sonny Perdue	Secretary of Agriculture
Head of Agency Designee	Pam Miller	Administrator

Part C.2 - Agency Official(s) Responsible for Oversight of EEO Program(s)

EEO Program Staff	Name	Title	Occupational Series (xxxx)	Pay Plan and Grade (xx-xx)	Phone Number (xxx-xxx-xxxx)	Email Address
Principal EEO Director/Official	Roberto Contreras	Director, Civil Rights Division	0360	GS-15	703-305-2195	Roberto.contreras@usda.gov
Affirmative Employment Program Manager	Paul Neubelt	Branch Chief, EEO/ADR Branch	0260	GS-14	703-305-2215	Paul.neubelt@usda.gov
Complaint Processing Program Manager	Paul Neubelt	Branch Chief, EEO/ADR Branch	0260	GS-14	703-305-2215	Paul.neubelt@usda.gov
Diversity & Inclusion Officer	Frederick Cheng	Diversity and Inclusion Program Manager	0301	GS-13	703-305-1494	Frederick.cheng@usda.gov

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EEO Program Staff	Name	Title	Occupational Series (xxxx)	Pay Plan and Grade (xx-xx)	Phone Number (xxx-xxx-xxxx)	Email Address
Hispanic Program Manager (SEPM)	Aracelis Lopez	Lead Program Specialist	0301	GS-13	787-766-5586, ext. 2	Aracelis.lopez@usda.gov
Women's Program Manager (SEPM)	Jody Overturf	HR Management Analyst	0343	GS-13	214-290-9924	Jody.overturf@usda.gov
Disability Program Manager (SEPM)	Frederick Cheng	Diversity and Inclusion Program Manager	0301	GS-13	703-305-1494	Frederick.cheng@usda.gov
Special Placement Program Coordinator (Individuals with Disabilities)	Joanie Dilone	Agency Recruiter	0210	GS-12	703-305-0802	Joanie.dilone@usda.gov
Reasonable Accommodation Program Manager	Sheila Kopczynski	HR Specialist (ER/LR)	0201	GS-13	208-202-2811	Sheila.kopcynski@usda.gov
Anti-Harassment Program Manager	Allen Hatcher	Human Resources Director	0201	GS-15	703-457-7760	Allen.hatcher@usda.gov
ADR Program Manager	Paul Neubelt	Branch Chief, EEO/ADR Branch	0260	GS-14	703-305-2215	Paul.neubelt@usda.gov
Compliance Manager	Paul Neubelt	Branch Chief, EEO/ADR Branch	0260	GS-14	703-305-2215	Paul.neubelt@usda.gov
Principal MD-715 Preparer	Sheila McKie	EEO Specialist	0260	GS-13	703-457-6780	Sheila.mckie@usda.gov
Other EEO Staff	Edna Gomez Velez	EO Specialist	0360	GS-09	703-305-2704	Edna.gomez-velez@usda.gov
Other EEO Staff	Keishla Acevedo-Nazario	EO Specialist	0360	GS-09	703-756-0229	Keishla.Acevedo-Nazario@usda.gov

Part D.1 – List of Subordinate Components Covered in this Report

Please identify the subordinate components within the agency (e.g., bureaus, regions, etc.).

☐ If the agency does not have any subordinate components, please check the box.

Subordinate Component	City	State	Country (Optional)	Agency Code (xxxx)	FIPS Codes (xxxxx)
USDA Food and Nutrition Service, National Office	Alexandria	VA	USA	AG30	
USDA Food and Nutrition Service, Midwest Regional Office	Chicago	IL	USA	AG30	
USDA Food and Nutrition Service, Northeast Regional Office	Boston	MA	USA	AG30	
USDA Food and Nutrition Service, Mid Atlantic Regional Office	Robbinsville	NJ	USA	AG30	
USDA Food and Nutrition Service, Mountain Plains Regional Office	Denver	CO	USA	AG30	
USDA Food and Nutrition Service, Southeast Regional Office	Atlanta	GA	USA	AG30	
USDA Food and Nutrition Service, Western Regional Office	San Francisco	CA	USA	AG30	
USDA Food and Nutrition Service, Southwest Regional Office	Dallas	TX	USA	AG30	

Part D.2 – Mandatory and Optional Documents for this Report

In the table below, the agency must submit these documents with its MD-715 report.

Did the agency submit the following mandatory documents?	Please respond Yes or No	Comments
Organizational Chart	Yes	
EEO Policy Statement	Yes	
Strategic Plan	Yes	
Anti-Harassment Policy and Procedures	Yes	
Reasonable Accommodation Procedures	Yes	
Personal Assistance Services Procedures	Yes	
Alternative Dispute Resolution Procedures	Yes	

In the table below, the agency may decide whether to submit these documents with its MD-715 report.

Did the agency submit the following optional documents?	Please respond Yes or No	Comments
Federal Equal Opportunity Recruitment Program (FEORP) Report	No	
Disabled Veterans Affirmative Action Program (DVAAP) Report	No	
Operational Plan for Increasing Employment of Individuals with Disabilities under Executive Order 13548	No	
Diversity and Inclusion Plan under Executive Order 13583	No	
Diversity Policy Statement	No	
Human Capital Strategic Plan	No	
EEO Strategic Plan	No	
Results from most recent Federal Employee Viewpoint Survey or Annual Employee Survey	No	

Part E – Executive Summary

All agencies must complete Part E.1; however, only agencies with 199 or fewer employees in permanent FT/PT appointments are required to complete Part E.2 to E.5. Agencies with 200 or more employees in permanent FT/PT appointments have the option to complete Part E.2 to E.5.

Part E.1 - Executive Summary: Mission

Food and Nutrition Service
Period Covering October 1, 2019 – September 30, 2020

The Food and Nutrition Service (FNS) mission is to increase food security and reduce hunger by providing children and low-income people access to food, a healthful diet and nutrition education in a way that supports American agriculture and inspires public confidence.

The Civil Rights Division (CRD) of FNS is the designated office responsible for implementing the Agency's overall continuing affirmative employment program, which promotes equal employment opportunity (EEO) and identifies and eliminates discriminatory practices and policies. It fosters workplace equality by ensuring FNS follows EEO principles throughout the Agency and is committed to furthering the Agency's efforts to fulfill its obligations to operate a model EEO program.

Part E.2 - Executive Summary: Essential Element A - F

A. Demonstrated Commitment from Agency Leadership: Agency leadership continues to support equal employment opportunity. In keeping with the USDA's policy of OneUSDA, FNS accepted USDA's policies on Civil Rights which includes EEO policies and practices and Anti-Harassment, policy. The Civil Rights policy statement and Anti-Harassment policy were issued on May 22, 2020. The Reasonable Accommodations policy continues to be reviewed in order to ensure compliance with the

EEOC recently; however, it is expected to be issued by the first quarter, FY 2021 to all FNS employees. Each of the policies can be found on the public website.

B. Integration of EEO into the Agency's Strategic Mission: FNS' Civil Rights Director continues to report directly to the Administrator and attends leadership meetings to ensure that EEO is a strategic part of the Agency's mission and priorities. He continues to be responsible for all aspects of the EEO program, from personnel and budget to investigations, workforce changes, training, and EEO reporting.

The FNS CRD Director met with National Office and Regional senior leadership to discuss the re-formation of the Diversity and Inclusion (D&I) Program to include the Special Emphasis Program in the second quarter of FY 2020. After careful coordination with senior leadership, the D&I Program was re-instituted in March 2020 and became a part of the CRD with oversight from the CRD Director. FNS' D&I priorities, designed to leverage diversity and foster inclusion, include workforce diversity, inclusion, and sustainability. With the development of the D&I Program, the Special Emphasis Program Manager (SEPM) position has been restored. The SEPM will assist the Agency in addressing under-representation through data analysis, training, outreach, and mentoring. Senior Leadership have been provided the opportunity to volunteer their staff as SEPMs and diversity council participants. They also are a major part of the annual special observances, providing time and resources to the success of each event.

C. Management and Program Accountability: FNS began seeing some fruits of having its hiring delegated authority restored. There was an increase in individuals with disabilities category. The delegated authority allowed FNS to consider under-represented areas and strategically plan its recruitment efforts.

The Reasonable Accommodations policy and procedures is going through the review stage and is tentatively scheduled to be issued to all FNS employees in the beginning of the new fiscal year. However, FNS hosted reasonable accommodations overview training led by the USDA Office of General Counsel (OGC) and the new Reasonable Accommodations coordinator for the employees. The Reasonable Accommodations coordinator also provided overview training to some of the FNS management officials.

FNS has an Anti-Harassment policy and program. Harassment training for managers and staff was facilitated by the USDA OGC and covered topics of such as harassment, workplace violence, and hostile environment claims. EEOC, recently, approved FNS's Standard Operating Procedures and there are plans to train all employees on the process FY 2021.

Leadership Development Opportunities (Leadership Institute, Managerial Excellence Program, Federal Executive Institute): All of these programs are an open application process for eligible employees. The Talent Development Branch uses a variety of communication avenues to reach Non-Bargaining Unit and Bargaining Unit employees. Outreach targeting under-represented groups will be implemented in FY 2021. The pool of applicants for the Leadership Institute is presented to Agency Leadership for review and discussion. Agency Leadership will be made aware of under-represented groups before reviewing the pool of applicants.

The Human Resources Division (HRD) has increased its use of other authorities while hiring several USDA Pathways, Hispanic Association of Colleges and Universities and 1890 Historically Black College and Universities student interns. HRD trained managers on recruitment and retention strategies via the new supervisor training, while also providing guidance to numerous organizational management teams via regular and recurring monthly meetings. HRD created a document which outlines hiring flexibilities and authorities which are available for managers as part of the recruitment process.

This year the HRD and the CRD began to collaborate more on joint issues.

D. Proactive Prevention of Unlawful Discrimination: With the re-institution of the exit survey, FNS hopes to be able to get insight into areas of potential discrimination and make plans to prevent it.

E. Efficiency: FNS developed a plan which will be implemented in FY 2021 to expand participation in alternative dispute resolution.

F. Responsiveness and Legal Compliance: FNS continues to respond proactively and timely to requests from EEOC, OPM, and USDA.

Part E.3 - Executive Summary: Workforce Analyses

FNS TOTAL WORKFORCE SUMMARY

	CLF 2010	FY 20 Total	FY 20 %	FY 19 Total	FY 19 %	FY 18 Total	FY 18 %
Total Males	53.2%	483	33.45%	464	33.10	477	32.81
Total Females	46.8%	961	66.55%	938	66.90%	977	67.19
Hispanic Males	6.2%	38	2.63%	37	2.64%	40	2.74%
Hispanic Females	4.5%	55	3.81%	56	3.99%	64	4.38%
White Males	39.00%	294	20.36%	277	19.76%	284	19.44%
White Females	33.7%	536	37.12%	516	36.80%	540	36.96%
Black Males	4.8%	106	7.34%	107	7.63%	110	7.53%
Black Females	5.7%	280	19.39%	283	20.19%	297	20.33%
Asian Males	1.9%	37	2.56%	35	2.50%	37	2.53%
Asian Females	1.7%	60	4.16%	56	3.99%	57	3.90%
American Indian/Alaska Native Males	0.1%	1	0.07%	2	0.14%	2	0.14%
American Indian/Alaska Native Females	0.1%	8	0.55%	6	0.43%	5	0.34%
Native Hawaiian or Other Pacific Islander Males	0.3%	0	0.00%	0	0%	0	0%
Native Hawaiian or Other Pacific Islander Females	0.3%	2	0.14%	1	0.07%	2	0.14%
Two or More Races Males	0.8%	7	0.48%	6	0.43%	6	0.41%
Two or More Races Females	0.8%	20	1.39%	20	1.43%	17	1.16%
Disability	12.00%	176	12.19%	167	11.91%	180	12.32%
Targeted Disability	2.00%	53	3.67%	53	3.78%	59	4.04%

According to the EEOC, the Civilian Labor Force (CLF) is the general benchmark used in many of the tables to identify triggers or irregularities in the total workforce, occupational categories, etc. Participation rates for the following categories exceeded the Civilian Labor Force (CLF): Total Females, White Females, Black/African American Males, Black/African American Females, Asian Males, Asian Females, Native Hawaiian or Other Pacific Islander Female, Two or More Races Male, and Two or More Races Female.

These categories continue to have less than expected participation rates: Total Males, Hispanic Male and female, White Male, Native Hawaii or Other Pacific Islander Male, and American Indian/Alaska Native Male. It should be noted that although the Total Males category remains below the CLF, this fiscal year it saw an increase of 20 and a net change of 4.32%. The Agency plans to conduct a process to determine the root cause(s) of the low participation rates in the aforementioned categories.

Comparison of Total and Permanent Workforce Participation Rates to the CLF					
Category	Participation Rate in Total Workforce		CLF	Participation Rate in Permanent Workforce	
	FY 2020	FY 2019		FY 2020	FY 2019
Males	33.45%	31.10%	53.2%	33.38%	33.21%
Females	66.45%	66.90%	46.8%	66.62%	66.79%
Hispanic Males	2.63%	2.64%	6.2%	2.70%	2.71%
Hispanic Females	3.81%	3.99%	4.5%	3.76%	3.90%
White Males	20.29%	19.76%	39.00%	20.10%	19.65%
White Females	37.12%	36.80%	33.7%	36.79%	36.22%
Black or African American Males	7.41%	7.63%	4.8%	7.53%	7.77%
Black or African American Females	19.39%	20.19%	5.7%	19.74%	20.67%
Asian Males	2.56%	2.50%	1.9%	2.56%	2.49%
Asian Females	4.16%	3.00%	1.7%	4.26%	4.03%
Native Hawaiian or Other Pacific Islander Males	0.00%	0.00%	0.1%	0.00%	0.00%
Native Hawaiian or Other Pacific Islander Females	0.14%	0.07%	0.1%	0.14%	0.07%
American Indian or Alaska Native Males	0.07%	0.14%	0.3%	0.07%	0.15%
American Indian or Alaska Native Females	0.55%	043%	0.3%	0.57%	0.44%
Two or More Races Males	0.48%	0.43%	0.8%	0.43%	0.44%
Two or More Races Females	1.39%	1.43%	0.8%	1.35%	1.39%
Disabilities	12.19%	11.91%	12.00%	12.44%	12.10%
Targeted Disabilities	3.67%	3.78%	2.00%	3.77%	3.81%

This chart is a snapshot of the current and past fiscal years participation rates in relation to the CLF. It easily identifies the increases and decreases in the different categories.

Net Change in FNS Workforce							
	Total Workforce	Permanent Workforce	Temporary Workforce	Total Disabilities	Total Targeted Disabilities	Total Disabilities - Permanent Workforce	Total Targeted Disabilities – Permanent Workforce
FY 2020	1,444	1,407	37	176	53	175	53
FY 2019	1,396	1,358	38	167	53	165	52
FY 2018	1,454	1,445	9	183	59	180	58
FY 2020 Difference	48	49	-1	9	0	10	1

FY 2020 Net Change	3.44	3.61	-2.63%	5.39%	0.00%	6.00%	0.00%

FNS's total and permanent workforce increased creating a positive net change. Total Disabilities increased also causing a positive net change; however, Total Targeted Disabilities remained the same. In the Permanent Workforce, there was an increase in the Total Disability and the Total Targeted Disability categories. Neither category saw a net change.

FNS Temporary Workforce Participation Rates						
Categories	FY 2020		FY 2019		Benchmark	
					CLF	
Males	13	36.11%	11	28.95%	53.2%	
Females	23	63.89%	27	71.05%	46.8%	
Hispanic Males	0	0.00%	0	0.00%	6.2%	
Hispanic Females	2	5.56%	2	5.25%	4.5%	
White Males	10	27.78%	9	23.68%	39.00	
White Females	18	50.00%	22	57.89%	33.70%	
Black or African American Males	1	2.78%	1	2.63%	4.8%	
Black or African American Females	2	5.56%	1	2.63%	5.7%	
Asian Males	1	2.78%	1	2.63%	1.9%	
Asian Females	0	0.00%	1	2.63%	1.7%	
Native Hawaiian or Other Pacific Islander Males	0	0.00%	0	0.00%	0.1%	
Native Hawaiian or Other Pacific Islander Females	0	0.00%	0	0.00%	0.1%	
American Indian or Alaska Native Males	0	0.00%	0	0.00%	0.3%	
American Indian or Alaska Native Females	0	0.00%	0	0.00%	0.3%	
Two or More Races Males	1	2.78%	0	0.00%	0.8%	
Two or More Races Females	1	2.78%	1	2.63%	0.8%	
Disabilities	1	2.70	2	5.26%	12%	
Targeted Disabilities	0	0.00	1	2.63%	2%	

The participation rates for the Temporary Workforce declined for the following categories: Total Females, White Females, Asian Females, Disabilities, and Targeted Disabilities. It increased for these categories: Total Males, Hispanic Females, White Males, Black or African American Males, Black or African American Females, Asian Males, and Two or More Races Males.

Occupational Categories

The Occupational Categories consist of Executives, Managers, Supervisors, Professionals, Technicians, Sales Works, Administrative Support Works, Craft Workers, Operatives, Laborers and Helpers, and Service Workers. The benchmark used to determine triggers is the Permanent Workforce. Using this benchmark, the following EEO groups are under-represented:

- Executives: Hispanic Females, White Males, Black or African American Females, Asian Males, Asian Females, Native Hawaiian or Other Pacific Islander Males and Females, American Indian or Alaska Native Males, and Persons with Disabilities and Targeted Disabilities.

- Managers: Hispanic Males, Hispanic Females, White Females, Black or African American Males and Females, Asian Males and Females, Native Hawaiian or Other Pacific Islander Males and Females, American Indian or Alaska Native Males and Females, Disability, and Targeted Disability.

- Supervisors: Hispanic Males and Females, Black or African American Females, Asian Males, Native Hawaiian or Other Pacific Islander Males and Females, American Indian or Other Pacific Islander Males and Females, Persons with Disabilities and Targeted Disabilities.

- Professionals: Hispanic Males, White Males, White Females, Black or African American Males, Native Hawaiian or Other Pacific Islander Males, and American Indian or Alaska Native Females.

- Administrative Support Workers: Hispanic Males and Females, White Males, Black or African American Males, Asian Males and Females, Native Hawaiian or Other Pacific Islander Males and Females, and American Indian or Alaska Native Males.

- Service Workers: White Females, Black or African American Females, Asian Females, Native Hawaiian or Other Pacific Islander Males and Females, American Indian or Alaska Native Males and Females, Persons with Disabilities and Targeted Disabilities.

Grades

General Schedule (GS) Grade 13s represent the largest pay group at FNS. Of those individuals, the following EEO groups are under-represented: Hispanic Males, White Males, Black or African American Males and Females, Native Hawaiian Males and Females, American Indian or Alaska Native Males and Females, and Persons with Disabilities.

Part E.4 - Executive Summary: Accomplishments

1. As FNS received its delegated authority and began implementing and finalizing its recruitment and hiring strategies in FY 2019, this delegated authority enabled FNS to target recruitment to appropriate applicant pools which resulted in the hiring of over 300 employees in FY 2020. During the recruitment process, HRD and the hiring manager held a strategic recruitment conversation to discuss the recruitment strategy. This conversation included a discussion about the appropriate area of consideration which provided a wide and diverse applicant pool, as well as the use of various targeted noncompetitive hiring flexibilities which allowed the hiring of diverse candidates who meet the criteria for these authorities. By having our delegated authority, we were able to increase the individuals with disabilities category.

2. Diversity and Inclusion and the Special Emphasis Program – In March 2020, the Civil Rights Division became the overseer of the Diversity and Inclusion Program which includes the Special Emphasis Program (SEP). The Diversity and Inclusion Program Manager convenes monthly meeting with the Special Emphasis Program Managers (SEPM) and hosts two monthly Lunch and Learn sessions. A strategic plan has been developed and includes strategies such as SEPMS conducting outreach programs for the Agency. The SEPMS continue to hold the annual special observances and most of them are well attended. Diversity and Inclusion developed an Intranet site and a Microsoft Teams site to offer employees access to evolving issues and trainings in the diversity and inclusion field.

3. The HRD and the CRD initiated a monthly leadership meeting to discuss joint issues and the MD-715.

4. The EEO/ADR Branch of the CRD offered 13 supplemental non-mandatory EEO training sessions to FNS employees, surpassing the Departmental goal of one annual training. Of special note, this was the first year that the EEO/ADR Branch collaborated with another Departmental Agency (FBI) to host a well-attended training. Also, the Branch held two MD-715 Barrier Analysis overview trainings with the Office of the Assistant Secretary for Civil Rights and HRD.

Part E.5 - Executive Summary: Planned Activities

1. HRD will train CRD and the MD-715 Working Group on non-competitive hiring of qualified Persons with Disabilities and Targeted Disabilities.
2. Learn more about Applicant Flow Data and how to use it to decrease under-representation in Hispanic EEO group.
3. Continue to build the HRD/CRD relationship by hosting several trainings and events.
4. Invite SEPMS to participate in career fairs as ambassadors for FNS.
5. Begin to hold discussions on Career Development as it relates to the upward mobility benchmark.

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MD-715 - PART G
Agency Self-Assessment Checklist

The Part G Self-Assessment Checklist is a series of questions designed to provide federal agencies with an effective means for conducting the annual self-assessment required in Part F of MD-715. This self-assessment permits EEO Directors to recognize, and to highlight for their senior staff, deficiencies in their EEO program that the agency must address to comply with MD-715's requirements. Nothing in Part G prevents agencies from establishing additional practices that exceed the requirements set forth in this checklist.

All agencies will be required to submit Part G to EEOC. Although agencies need not submit documentation to support their Part G responses, they must maintain such documentation on file and make it available to EEOC upon request.

The Part G checklist is organized to track the MD-715 essential elements. As a result, a single substantive matter may appear in several different sections, but in different contexts. For example, questions about establishing an anti-harassment policy fall within Element C (Management and Program Accountability), while questions about providing training under the anti-harassment policy are found in Element A (Demonstrated Commitment from Agency Leadership).

For each MD-715 essential element, the Part G checklist provides a series of "compliance indicators." Each compliance indicator, in turn, contains a series of “yes/no” questions, called “measures.” To the right of the measures, there are two columns, one for the agency to answer the measure with "Yes", "No", or "NA;" and the second column for the agency to provide “comments”, if necessary. Agencies should briefly explain any “N/A” answer in the comments. For example, many of the sub-component agencies are not responsible for issuing final agency decisions (FADs) in the EEO complaint process, so it may answer questions about FAD timeliness with "NA" and explain in the comments column that the parent agency drafts all FADs.

A "No" response to any measure in Part G is a program deficiency. For each such "No" response, an agency will be required in Part H to identify a plan for correcting the identified deficiency. If one or more sub-components answer “No” to a particular question, the agency-wide/parent agency’s report should also include that “No” response.

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MD-715 - PART G
Agency Self-Assessment Checklist

Essential Element A: DEMONSTRATED COMMITMENT FROM AGENCY LEADERSHIP This element requires the agency head to communicate a commitment to equal employment opportunity and a discrimination-free workplace.				
Compliance Indicator / Measures	**A.1 – The agency issues an effective, up-to-date EEO policy statement.**	**Measure Met? (Yes/No/NA)**	**Comments**	**Current Part G Questions**
A.1.a	Does the agency annually issue a signed and dated EEO policy statement on agency letterhead that clearly communicates the agency's commitment to EEO for all employees and applicants? If "yes", please provide the annual issuance date in the comments column. [see MD-715, II(A)]	N/A	FNS adopted the USDA CR/EEO Policy statement dated May 22, 2020. Food and Nutrition Services (FNS) did not issue a separate policy from USDA. USDA's Civil Rights policy statement was issued June 18, 2020.	A.1.a.2
A.1.b	Does the EEO policy statement address all protected bases (age, color, disability, sex (including pregnancy, sexual orientation and gender identity), genetic information, national origin, race, religion, and reprisal) contained in the laws EEOC enforces? [see 29 CFR § 1614.101(a)]	N/A	FNS adopted the USDA CR/EEO Policy statement dated May 22, 2020. Food and Nutrition Services (FNS) did not issue a separate policy from USDA. USDA's Civil Rights policy statement was issued June 18, 2020.	New
Compliance Indicator / Measures	**A.2 – The agency has communicated EEO policies and procedures to all employees.**	**Measure Met? (Yes/No/NA)**	**Comments**	
A.2.a	Does the agency disseminate the following policies and procedures to all employees:			
A.2.a.1	Anti-harassment policy? [see MD 715, II(A)]	Yes		New
A.2.a.2	Reasonable accommodation procedures? [see 29 C.F.R § 1614.203(d)(3)]	Yes		New
A.2.b	Does the agency prominently post the following information throughout the workplace and on its public website:	Yes		
A.2.b.1	The business contact information for its EEO Counselors, EEO Officers, Special Emphasis Program Managers, and EEO Director? [see 29 C.F.R § 1614.102(b)(7)]	Yes		New
A.2.b.2	Written materials concerning the EEO program, laws, policy statements, and the operation of the	Yes		A.2.c

	EEO complaint process? [see 29 C.F.R § 1614.102(b)(5)]			
A.2.b.3	Reasonable accommodation procedures? [see 29 C.F.R. § 1614.203(d)(3)(i)] If so, please provide the internet address in the comments column. : https://www.ocio.usda.gov/sites/default/files/docs/2012/DR4300-008%5B2%5D.pdf	Yes	https://fns-prod.azureedge.net/sites/default/files/resource-files/Reasonable%20Accommodation%20Procedures.pdf	A.3.c
A.2.c	Does the agency inform its employees about the following topics:			
A.2.c.1	EEO complaint process? [see 29 CFR §§ 1614.102(a)(12) and 1614.102(b)(5)] If "yes", please provide how often.	Yes	Annually	A.2.a
A.2.c.2	ADR process? [see MD-110, Ch. 3(II)(C)] If "yes", please provide how often.	Yes	Annually	New
A.2.c.3	Reasonable accommodation program? [see 29 CFR § 1614.203(d)(7)(ii)(C)] If "yes", please provide how often.	Yes	Annually	New
A.2.c.4	Anti-harassment program? [see EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (1999), § V.C.1] If "yes", please provide how often.	Yes	Annually	New
A.2.c.5	Behaviors that are inappropriate in the workplace and could result in disciplinary action? [5 CFR § 2635.101(b)] If "yes", please provide how often.	Yes	Annually	A.3.b
Compliance Indicator **Measures**	**A.3 – The agency assesses and ensures EEO principles are part of its culture.**	**Measure Met? (Yes/No/NA)**	**Comments** **New Compliance Indicator**	
A.3.a	Does the agency provide recognition to employees, supervisors, managers, and units demonstrating superior accomplishment in equal employment opportunity? [see 29 CFR § 1614.102(a) (9)] If "yes", provide one or two examples in the comments section.	Yes	Each employee's Performance Work Plan includes an EEO and Diversity and Inclusion Element. Employees receive awards in recognition of outstanding efforts throughout any given year as a part of their Performance Work Plan which include EEO and Diversity and Inclusion.	New
A.3.b	Does the agency utilize the Federal Employee Viewpoint Survey or other climate assessment tools to monitor the perception of EEO principles within the workforce? [see 5 CFR Part 250]	Yes		New

Essential Element B: INTEGRATION OF EEO INTO THE AGENCY'S STRATEGIC MISSION **This element requires that the agency's EEO programs are structured to maintain a workplace that is free from discrimination and support the agency's strategic mission.**				
Compliance Indicator **Measures**	**B.1 - The reporting structure for the EEO program provides the principal EEO official with appropriate authority and resources to effectively carry out a successful EEO program.**	**Measure Met? (Yes/No/NA)**	**Comments**	
B.1.a	Is the agency head the immediate supervisor of the person ("EEO Director") who has day-to-day control over the EEO office? [see 29 CFR §1614.102(b)(4)]	Yes		B.1.a
B.1.a.1	If the EEO Director does not report to the agency head, does the EEO Director report to the same agency head designee as the mission-related programmatic offices? If "yes," please provide the title of the agency head designee in the comments.	N/A	The EEO Director reports to the Administrator.	New
B.1.a.2	Does the agency's organizational chart clearly define the reporting structure for the EEO office? [see 29 CFR §1614.102(b)(4)]	Yes		B.1.d
B.1.b	Does the EEO Director have a regular and effective means of advising the agency head and other senior management officials of the effectiveness, efficiency and legal compliance of the agency's EEO program? [see 29 CFR §1614.102(c)(1); MD-715 Instructions, Sec. I]	Yes		B.2.a
B.1.c	During this reporting period, did the EEO Director present to the head of the agency, and other senior management officials, the "State of the agency" briefing covering the six essential elements of the model EEO program and the status of the barrier analysis process? [see MD-715 Instructions, Sec. I)] If "yes", please provide the date of the briefing in the comments column.	Yes	July 20, 2020	B.2.b
B.1.d	Does the EEO Director regularly participate in senior-level staff meetings concerning personnel, budget, technology, and other workforce issues? [see MD-715, II(B)]	Yes		New
Compliance Indicator **Measures**	**B.2 – The EEO Director controls all aspects of the EEO program.**	**Measure Met? (Yes/No/NA)**	**Comments New Compliance Indicator**	
B.2.a	Is the EEO Director responsible for the implementation of a continuing affirmative employment program to promote EEO and to identify and eliminate discriminatory policies, procedures, and practices? [see MD-110, Ch. 1(III)(A); 29 CFR §1614.102(c)]	Yes		B.3.a
B.2.b	Is the EEO Director responsible for overseeing the completion of EEO counseling [see 29 CFR §1614.102(c)(4)]	Yes		New

B.2.c	Is the EEO Director responsible for overseeing the fair and thorough investigation of EEO complaints? [see 29 CFR §1614.102(c)(5)] [This question may not be applicable for certain subordinate level components.]	N/A	The Office of the Assistant Secretary for Civil Rights (OASCR) is responsible for overseeing investigations. This is not an FNCS function.	New
B.2.d	Is the EEO Director responsible for overseeing the timely issuance of final agency decisions? [see 29 CFR §1614.102(c)(5)] [This question may not be applicable for certain subordinate level components.]	N/A	The Office of the Assistant Secretary for Civil Rights (OASCR) is responsible for Issuance of final agency decisions. This is not an FNCS function.	New
B.2.e	Is the EEO Director responsible for ensuring compliance with EEOC orders? [see 29 CFR §§ 1614.102(e); 1614.502]	Yes		F.3.b
B.2.f	Is the EEO Director responsible for periodically evaluating the entire EEO program and providing recommendations for improvement to the agency head? [see 29 CFR §1614.102(c)(2)]	Yes		New
B.2.g	If the agency has subordinate level components, does the EEO Director provide effective guidance and coordination for the components? [see 29 CFR §§ 1614.102(c)(2) and (c)(3)]	Yes		New
Compliance Indicator **Measures**	**B.3 - The EEO Director and other EEO professional staff are involved in, and consulted on, management/personnel actions.**	**Measure Met? (Yes/No/NA)**	**Comments**	
B.3.a	Do EEO program officials participate in agency meetings regarding workforce changes that might impact EEO issues, including strategic planning, recruitment strategies, vacancy projections, succession planning, and selections for training/career development opportunities? [see MD-715, II(B)]	Yes		B.2.c & B.2.d
B.3.b	Does the agency's current strategic plan reference EEO / diversity and inclusion principles? [see MD-715, II(B)] If "yes", please identify the EEO principles in the strategic plan in the comments column.	Yes	***Agency Priority 3: Increase Organizational Effectiveness and Efficiency by Improving Performance, Customer Service and Accountability:*** Goal 3.2: Maintain excellence in Civil Rights training and closure of Civil Rights complaints. Objective 3.2c: Complete onsite EEOC compliance reviews and trainings in three regions. Goal 3.4: Improve the effectiveness, efficiency and	New

			customer experience of mission support activities. ***Agency Priority 4: Increase Organizational Effectiveness Performance, Customer Service and Accountability*** Obj 4.2b: By September 15, 2021, exceed Departmental requirement of providing one Agency-wide training by offering 9 training opportunities to all FNS employees and managers so they are informed of their EEO rights and responsibilities. Obj 4.2c: By September 15, 2021, ensure compliance with EEO requirements within FNS as well as ensure staff are aware of their EEO rights and responsibilities. Obj 4.2d: By September 15, 2021, ensure staff have the opportunity to participate in Diversity and Inclusion activities.	
Compliance Indicator **Measures**	**B.4 - The agency has sufficient budget and staffing to support the success of its EEO program.**	**Measure Met? (Yes/No/NA)**	**Comments**	
B.4.a	Pursuant to 29 CFR §1614.102(a)(1), has the agency allocated sufficient funding and qualified staffing to successfully implement the EEO program, for the following areas:			
B.4.a.1	to conduct a self-assessment of the agency for possible program deficiencies? [see MD-715, II(D)]	Yes		B.3.b
B.4.a.2	to enable the agency to conduct a thorough barrier analysis of its workforce? [see MD-715, II(B)]	Yes		B.4.a
B.4.a.3	to timely, thoroughly, and fairly process EEO complaints, including EEO counseling, investigations, final agency decisions, and legal sufficiency reviews? [see 29 CFR § 1614.102(c)(5) & 1614.105(b) – (f); MD-110, Ch. 1(IV)(D) & 5(IV); MD-715, II(E)]	Yes		E.5.b

B.4.a.4	to provide all supervisors and employees with training on the EEO program, including but not limited to retaliation, harassment, religious accommodations, disability accommodations, the EEO complaint process, and ADR? [see MD-715, II(B) and III(C)] If not, please identify the type(s) of training with insufficient funding in the comments column.	Yes		B.4.f & B.4.g
B.4.a.5	to conduct thorough, accurate, and effective field audits of the EEO programs in components and the field offices, if applicable? [see 29 CFR §1614.102(c)(2)]	Yes		E.1.c
B.4.a.6	to publish and distribute EEO materials (e.g. harassment policies, EEO posters, reasonable accommodations procedures)? [see MD-715, II(B)]	Yes		B.4.c
B.4.a.7	to maintain accurate data collection and tracking systems for the following types of data: complaint tracking, workforce demographics, and applicant flow data? [see MD-715, II(E)]. If not, please identify the systems with insufficient funding in the comments section.	Yes		New
B.4.a.8	to effectively administer its special emphasis programs (such as, Federal Women's Program, Hispanic Employment Program, and People with Disabilities Program Manager)? [5 USC § 7201; 38 USC § 4214; 5 CFR § 720.204; 5 CFR § 213.3102(t) and (u); 5 CFR § 315.709]	Yes		B.3.c, B.3.c.1, B.3.c.2, & B.3.c.3
B.4.a.9	to effectively manage its anti-harassment program? [see MD-715 Instructions, Sec. I); EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (1999), § V.C.1]	Yes		New
B.4.a.10	to effectively manage its reasonable accommodation program? [see 29 CFR § 1614.203(d)(4)(ii)]	Yes		B.4.d
B.4.a.11	to ensure timely and complete compliance with EEOC orders? [see MD-715, II(E)]	Yes		New
B.4.b	Does the EEO office have a budget that is separate from other offices within the agency? [see 29 CFR § 1614.102(a)(1)]	Yes		New
B.4.c	Are the duties and responsibilities of EEO officials clearly defined? [see MD-110, Ch. 1(III)(A), 2(III), & 6(III)]	Yes		B.1.b
B.4.d	Does the agency ensure that all new counselors and investigators, including contractors and collateral duty employees, receive the required 32 hours of training, pursuant to Ch. 2(II)(A) of MD-110?	Yes		E.2.d
B.4.e	Does the agency ensure that all experienced counselors and investigators, including contractors and collateral duty employees, receive the required 8 hours of annual refresher training, pursuant to Ch. 2(II)(C) of MD-110?	Yes		E.2.e

Compliance Indicator / Measures	B.5 – The agency recruits, hires, develops, and retains supervisors and managers who have effective managerial, communications, and interpersonal skills.	Measure Met? (Yes/No/NA)	Comments / New Indicator	
B.5.a	Pursuant to 29 CFR § 1614.102(a)(5), have all managers and supervisors received training on their responsibilities under the following areas under the agency EEO program:			
B.5.a.1	EEO Complaint Process? [see MD-715(II)(B)]	Yes		New
B.5.a.2	Reasonable Accommodation Procedures? [see 29 C.F.R. § 1614.102(d)(3)]	Yes		A.3.d
B.5.a.3	Anti-Harassment Policy? [see MD-715(II)(B)]	Yes		New
B.5.a.4	Supervisory, managerial, communication, and interpersonal skills in order to supervise most effectively in a workplace with diverse employees and avoid disputes arising from ineffective communications? [see MD-715, II(B)]	Yes		New
B.5.a.5	ADR, with emphasis on the federal government's interest in encouraging mutual resolution of disputes and the benefits associated with utilizing ADR? [see MD-715(II)(E)]	Yes		E.4.b
Compliance Indicator / Measures	**B.6 – The agency involves managers in the implementation of its EEO program.**	**Measure Met? (Yes/No/NA)**	**Comments / New Indicator**	
B.6.a	Are senior managers involved in the implementation of Special Emphasis Programs? [see MD-715 Instructions, Sec. I]	Yes		New
B.6.b	Do senior managers participate in the barrier analysis process? [see MD-715 Instructions, Sec. I]	Yes		D.1.a
B.6.c	When barriers are identified, do senior managers assist in developing agency EEO action plans (Part I, Part J, or the Executive Summary)? [see MD-715 Instructions, Sec. I]	Yes		D.1.b
B.6.d	Do senior managers successfully implement EEO Action Plans and incorporate the EEO Action Plan Objectives into agency strategic plans? [29 CFR § 1614.102(a)(5)]	Yes		D.1.c
Essential Element C: MANAGEMENT AND PROGRAM ACCOUNTABILITY **This element requires the agency head to hold all managers, supervisors, and EEO officials responsible for the effective implementation of the agency's EEO Program and Plan.**				
Compliance Indicator / Measures	**C.1 – The agency conducts regular internal audits of its component and field offices.**	**Measure Met? (Yes/No/NA)**	**Comments**	

C.1.a	Does the agency regularly assess its component and field offices for possible EEO program deficiencies? [see 29 CFR §1614.102(c)(2)] If "yes", please provide the schedule for conducting audits in the comments section.	Yes	MARO 3/17/2020 SWRO 5/6/2020 MWRO 8/26/2020	New
C.1.b	Does the agency regularly assess its component and field offices on their efforts to remove barriers from the workplace? [see 29 CFR §1614.102(c)(2)] If "yes", please provide the schedule for conducting audits in the comments section.	Yes	MARO 3/17/2020 SWRO 5/6/2020 MWRO 8/26/2020	New
C.1.c	Do the component and field offices make reasonable efforts to comply with the recommendations of the field audit? [see MD-715, II(C)]	Yes		New
Compliance Indicator **Measures**	**C.2 – The agency has established procedures to prevent all forms of EEO discrimination.**	**Measure Met? (Yes/No/NA)**	**Comments** **New Indicator**	
C.2.a	Has the agency established comprehensive anti-harassment policy and procedures that comply with EEOC's enforcement guidance? [see MD-715, II(C); Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (Enforcement Guidance), EEOC No. 915.002, § V.C.1 (June 18, 1999)]	Yes	EEOC approved Agency procedures on October 27, 2020, and will be implemented in FY 2021.	New
C.2.a.1	Does the anti-harassment policy require corrective action to prevent or eliminate conduct before it rises to the level of unlawful harassment? [see EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (1999), § V.C.1]	Yes		New
C.2.a.2	Has the agency established a firewall between the Anti-Harassment Coordinator and the EEO Director? [see EEOC Report, Model EEO Program Must Have an Effective Anti-Harassment Program (2006]	Yes		New
C.2.a.3	Does the agency have a separate procedure (outside the EEO complaint process) to address harassment allegations? [see Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (Enforcement Guidance), EEOC No. 915.002, § V.C.1 (June 18, 1999)]	Yes		New
C.2.a.4	Does the agency ensure that the EEO office informs the anti-harassment program of all EEO counseling activity alleging harassment? [see Enforcement Guidance, V.C.]	Yes		New
C.2.a.5	Does the agency conduct a prompt inquiry (beginning within 10 days of notification) of all harassment allegations, including those initially raised in the EEO complaint process? [see Complainant v. Dep't of Veterans Affairs,	Yes		New

	EEOC Appeal No. 0120123232 (May 21, 2015); Complainant v. Dep't of Defense (Defense Commissary Agency), EEOC Appeal No. 0120130331 (May 29, 2015)] If "no", please provide the percentage of timely-processed inquiries in the comments column.			
C.2.a.6	Do the agency's training materials on its anti-harassment policy include examples of disability-based harassment? [see 29 CFR 1614.203(d)(2)]	Yes		New
C.2.b	Has the agency established disability reasonable accommodation procedures that comply with EEOC's regulations and guidance? [see 29 CFR 1614.203(d)(3)]	Yes		New
C.2.b.1	Is there a designated agency official or other mechanism in place to coordinate or assist with processing requests for disability accommodations throughout the agency? [see 29 CFR 1614.203(d)(3)(D)]	Yes		E.1.d
C.2.b.2	Has the agency established a firewall between the Reasonable Accommodation Program Manager and the EEO Director? [see MD-110, Ch. 1(IV)(A)]	Yes		New
C.2.b.3	Does the agency ensure that job applicants can request and receive reasonable accommodations during the application and placement processes? [see 29 CFR 1614.203(d)(1)(ii)(B)]	Yes		New
C.2.b.4	Do the reasonable accommodation procedures clearly state that the agency should process the request within a maximum amount of time (e.g., 20 business days), as established by the agency in its affirmative action plan? [see 29 CFR 1614.203(d)(3)(i)(M)]	Yes		New
C.2.b.5	Does the agency process all accommodation requests within the time frame set forth in its reasonable accommodation procedures? [see MD-715, II(C)] If "no", please provide the percentage of timely-processed requests in the comments column.	Yes		E.1.e
C.2.c	Has the agency established procedures for processing requests for personal assistance services that comply with EEOC's regulations, enforcement guidance, and other applicable executive orders, guidance, and standards? [see 29 CFR 1614.203(d)(6)]	Yes		New
C.2.c.1	Does the agency post its procedures for processing requests for Personal Assistance Services on its public website? [see 29 CFR § 1614.203(d)(5)(v)] If "yes", please provide the internet address in the comments column.	Yes	https://www.ocio.usda.gov/sites/default/files/docs/2012/DR4300-008%5B2%5D.pdf	New

Compliance Indicator / Measures	C.3 - The agency evaluates managers and supervisors on their efforts to ensure equal employment opportunity.	Measure Met? (Yes/No/NA)	Comments New Indicator	
C.3.a	Pursuant to 29 CFR §1614.102(a)(5), do all managers and supervisors have an element in their performance appraisal that evaluates their commitment to agency EEO policies and principles and their participation in the EEO program?	Yes		New
C.3.b	Does the agency require rating officials to evaluate the performance of managers and supervisors based on the following activities:			
C.3.b.1	Resolve EEO problems/disagreements/conflicts, including the participation in ADR proceedings? [see MD-110, Ch. 3.I]	Yes		A.3.a.1
C.3.b.2	Ensure full cooperation of employees under his/her supervision with EEO officials, such as counselors and investigators? [see 29 CFR §1614.102(b)(6)]	Yes		A.3.a.4
C.3.b.3	Ensure a workplace that is free from all forms of discrimination, including harassment and retaliation? [see MD-715, II(C)]	Yes		A.3.a.5
C.3.b.4	Ensure that subordinate supervisors have effective managerial, communication, and interpersonal skills to supervise in a workplace with diverse employees? [see MD-715 Instructions, Sec. I]	Yes		A.3.a.6
C.3.b.5	Provide religious accommodations when such accommodations do not cause an undue hardship? [see 29 CFR §1614.102(a)(7)]	Yes		A.3.a.7
C.3.b.6	Provide disability accommodations when such accommodations do not cause an undue hardship? [see 29 CFR §1614.102(a)(8)]	Yes		A.3.a.8
C.3.b.7	Support the EEO program in identifying and removing barriers to equal opportunity. [see MD-715, II(C)]	Yes		New
C.3.b.8	Support the anti-harassment program in investigating and correcting harassing conduct. [see Enforcement Guidance, V.C.2]	Yes		A.3.a.2
C.3.b.9	Comply with settlement agreements and orders issued by the agency, EEOC, and EEO-related cases from the Merit Systems Protection Board, labor arbitrators, and the Federal Labor Relations Authority? [see MD-715, II(C)]	Yes		New
C.3.c	Does the EEO Director recommend to the agency head improvements or corrections, including remedial or disciplinary actions, for managers and supervisors who have failed in their EEO responsibilities? [see 29 CFR §1614.102(c)(2)]	Yes		New
C.3.d	When the EEO Director recommends remedial or disciplinary actions, are the recommendations	Yes		New

	regularly implemented by the agency? [see 29 CFR §1614.102(c)(2)]			
Compliance Indicator / Measures	**C.4 – The agency ensures effective coordination between its EEO programs and Human Resources (HR) program.**	**Measure Met? (Yes/No/NA)**	**Comments**	
C.4.a	Do the HR Director and the EEO Director meet regularly to assess whether personnel programs, policies, and procedures conform to EEOC laws, instructions, and management directives? [see 29 CFR §1614.102(a)(2)]	Yes		New
C.4.b	Has the agency established timetables/schedules to review at regular intervals its merit promotion program, employee recognition awards program, employee development/training programs, and management/personnel policies, procedures, and practices for systemic barriers that may be impeding full participation in the program by all EEO groups? [see MD-715 Instructions, Sec. I]	Yes		C.2.a, C.2.b, & C.2.c
C.4.c	Does the EEO office have timely access to accurate and complete data (e.g., demographic data for workforce, applicants, training programs, etc.) required to prepare the MD-715 workforce data tables? [see 29 CFR §1614.601(a)]	Yes		New
C.4.d	Does the HR office timely provide the EEO office with access to other data (e.g., exit interview data, climate assessment surveys, and grievance data), upon request? [see MD-715, II(C)]	Yes		New
C.4.e	Pursuant to Section II(C) of MD-715, does the EEO office collaborate with the HR office to:			
C.4.e.1	Implement the Affirmative Action Plan for Individuals with Disabilities? [see 29 CFR §1614.203(d); MD-715, II(C)]	No	Action plans to correct the Program deficiency are included in Part H.	New
C.4.e.2	Develop and/or conduct outreach and recruiting initiatives? [see MD-715, II(C)]	Yes		New
C.4.e.3	Develop and/or provide training for managers and employees? [see MD-715, II(C)]	Yes		New
C.4.e.4	Identify and remove barriers to equal opportunity in the workplace? [see MD-715, II(C)]	No		New
C.4.e.5	Assist in preparing the MD-715 report? [see MD-715, II(C)]	Yes		New
Compliance Indicator / Measures	**C.5 – Following a finding of discrimination, the agency explores whether it should take a disciplinary action.**	**Measure Met? (Yes/No/NA)**	**Comments**	
C.5.a	Does the agency have a disciplinary policy and/or table of penalties that covers	Yes		C.3.a.

	discriminatory conduct? [see 29 CFR § 1614.102(a)(6); see also Douglas v. Veterans Administration, 5 MSPR 280 (1981)]			
C.5.b	When appropriate, does the agency discipline or sanction managers and employees for discriminatory conduct? [see 29 CFR §1614.102(a)(6)] If "yes", please state the number of disciplined/sanctioned individuals during this reporting period in the comments.	Yes	1 Manager disciplined	C.3.c
C.5.c	If the agency has a finding of discrimination (or settles cases in which a finding was likely), does the agency inform managers and supervisors about the discriminatory conduct? [see MD-715, II(C)]	Yes		New
Compliance Indicator / Measures	**C.6 – The EEO office advises managers/supervisors on EEO matters.**	**Measure Met? (Yes/No/NA)**	**Comments**	
C.6.a	Does the EEO office provide management/supervisory officials with regular EEO updates on at least an annual basis, including EEO complaints, workforce demographics and data summaries, legal updates, barrier analysis plans, and special emphasis updates? [see MD-715 Instructions, Sec. I] If "yes", please identify the frequency of the EEO updates in the comments column.	Yes	EEO updates are provided monthly.	C.1.a
C.6.b	Are EEO officials readily available to answer managers' and supervisors' questions or concerns? [see MD-715 Instructions, Sec. I]	Yes		New
Essential Element D: PROACTIVE PREVENTION **This element requires that the agency head make early efforts to prevent discrimination and to identify and eliminate barriers to equal employment opportunity.**				
Compliance Indicator / Measures	**D.1 – The agency conducts a reasonable assessment to monitor progress towards achieving equal employment opportunity throughout the year.**	**Measure Met? (Yes/No/NA)**	**Comments**	
D.1.a	Does the agency have a process for identifying triggers in the workplace? [see MD-715 Instructions, Sec. I]	Yes		New
D.1.b	Does the agency regularly use the following sources of information for trigger identification: workforce data; complaint/grievance data; exit surveys; employee climate surveys; focus groups; affinity groups; union; program evaluations; special emphasis programs; reasonable accommodation program; anti-harassment program; and/or external special	Yes		New

	interest groups? [see MD-715 Instructions, Sec. I]			
D.1.c	Does the agency conduct exit interviews or surveys that include questions on how the agency could improve the recruitment, hiring, inclusion, retention and advancement of individuals with disabilities? [see 29 CFR 1614.203(d)(1)(iii)(C)]	No	Action plans to correct the program deficiency are included in Part H.	New
Compliance Indicator ↓ **Measures**	**D.2 – The agency identifies areas where barriers may exclude EEO groups (reasonable basis to act.)**	**Measure Met? (Yes/No/NA)**	**Comments New Indicator**	
D.2.a	Does the agency have a process for analyzing the identified triggers to find possible barriers? [see MD-715, (II)(B)]	Yes		New
D.2.b	Does the agency regularly examine the impact of management/personnel policies, procedures, and practices by race, national origin, sex, and disability? [see 29 CFR §1614.102(a)(3)]	Yes		B.2.c.2
D.2.c	Does the agency consider whether any group of employees or applicants might be negatively impacted prior to making human resource decisions, such as re-organizations and realignments? [see 29 CFR §1614.102(a)(3)]	Yes		B.2.c.1
D.2.d	Does the agency regularly review the following sources of information to find barriers: complaint/grievance data, exit surveys, employee climate surveys, focus groups, affinity groups, union, program evaluations, anti-harassment program, special emphasis programs, reasonable accommodation program; anti-harassment program; and/or external special interest groups? [see MD-715 Instructions, Sec. I] If "yes", please identify the data sources in the comments column.	Yes	Complaints/grievance data	New
Compliance Indicator ↓ **Measures**	**D.3 – The agency establishes appropriate action plans to remove identified barriers.**	**Measure Met? (Yes/No/NA)**	**Comments New Indicator**	
D.3.a.	Does the agency effectively tailor action plans to address the identified barriers, in particular policies, procedures, or practices? [see 29 CFR §1614.102(a)(3)]	No	Action plans to correct the program deficiency are included in Part H.	New
D.3.b	If the agency identified one or more barriers during the reporting period, did the agency implement a plan in Part I, including meeting the target dates for the planned activities? [see MD-715, II(D)]	No	Action plans to correct the program deficiency are included in Part H.	New

D.3.c	Does the agency periodically review the effectiveness of the plans? [see MD-715, II(D)]	No	Action plans to correct the program deficiency are included in Part H.	New
Compliance Indicator / Measures	**D.4 – The agency has an affirmative action plan for people with disabilities, including those with targeted disabilities.**	**Measure Met? (Yes/No/NA)**	**Comments New Indicator**	
D.4.a	Does the agency post its affirmative action plan on its public website? [see 29 CFR 1614.203(d)(4)] Please provide the internet address in the comments.	Yes	https://www.ascr.usda.gov/sites/default/files/ AffirmativeActionPlan.	New
D.4.b	Does the agency take specific steps to ensure qualified people with disabilities are aware of and encouraged to apply for job vacancies? [see 29 CFR 1614.203(d)(1)(i)]	Yes		New
D.4.c	Does the agency ensure that disability-related questions from members of the public are answered promptly and correctly? [see 29 CFR 1614.203(d)(1)(ii)(A)]	Yes		New
D.4.d	Has the agency taken specific steps that are reasonably designed to increase the number of persons with disabilities or targeted disabilities employed at the agency until it meets the goals? [see 29 CFR 1614.203(d)(7)(ii)]	Yes		New
Essential Element E: EFFICIENCY **This element requires the agency head to ensure that there are effective systems for evaluating the impact and effectiveness of the agency's EEO programs and an efficient and fair dispute resolution process.**				
Compliance Indicator / Measures	**E.1 - The agency maintains an efficient, fair, and impartial complaint resolution process.**	**Measure Met? (Yes/No/NA)**	**Comments**	
E.1.a	Does the agency timely provide EEO counseling, pursuant to 29 CFR §1614.105?	Yes		E.3.a.1
E.1.b	Does the agency provide written notification of rights and responsibilities in the EEO process during the initial counseling session, pursuant to 29 CFR §1614.105(b)(1)?	Yes		E.3.a.2
E.1.c	Does the agency issue acknowledgment letters immediately upon receipt of a formal complaint, pursuant to MD-110, Ch. 5(I)?	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	New
E.1.d	Does the agency issue acceptance letters/dismissal decisions within a reasonable time (e.g., 60 days) after receipt of the written EEO Counselor report, pursuant to MD-110, Ch. 5(I)? If so, please provide the average processing time in the comments.	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	New
E.1.e	Does the agency ensure all employees fully cooperate with EEO counselors and EEO	Yes		New

	personnel in the EEO process, including granting routine access to personnel records related to an investigation, pursuant to 29 CFR §1614.102(b)(6)?			
E.1.f	Does the agency timely complete investigations, pursuant to 29 CFR §1614.108?	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.3.a.3
E.1.g	If the agency does not timely complete investigations, does the agency notify complainants of the date by which the investigation will be completed and of their right to request a hearing or file a lawsuit, pursuant to 29 CFR §1614.108(g)?	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	New
E.1.h	When the complainant does not request a hearing, does the agency timely issue the final agency decision, pursuant to 29 CFR §1614.110(b)?	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.3.a.4
E.1.i	Does the agency timely issue final actions following receipt of the hearing file and the administrative judge's decision, pursuant to 29 CFR §1614.110(a)?	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.3.a.7
E.1.j	If the agency uses contractors to implement any stage of the EEO complaint process, does the agency hold them accountable for poor work product and/or delays? [See MD-110, Ch. 5(V)(A)] If "yes", please describe how in the comments column.	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.2.c
E.1.k	If the agency uses employees to implement any stage of the EEO complaint process, does the agency hold them accountable for poor work product and/or delays during performance review? [See MD-110, Ch. 5(V)(A)]	Yes		New
E.1.l	Does the agency submit complaint files and other documents in the proper format to EEOC through the Federal Sector EEO Portal (FedSEP)? [See 29 CFR § 1614.403(g)]	Yes		New
Compliance Indicator ⬇ **Measures**	**E.2 – The agency has a neutral EEO process.**	**Measure Met? (Yes/No/NA)**	**Comments Revised Indicator**	
E.2.a	Has the agency established a clear separation between its EEO complaint program and its defensive function? [see MD-110, Ch. 1(IV)(D)]	Yes	The defense structure is a function of the USDA Office of the General Counsel.	New
E.2.b	When seeking legal sufficiency reviews, does the EEO office have access to sufficient legal resources separate from the agency representative? [see MD-110, Ch. 1(IV)(D)] If "yes", please identify the source/location of the attorney who conducts the legal sufficiency review in the comments column.	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.6.a

E.2.c	If the EEO office relies on the agency's defensive function to conduct the legal sufficiency review, is there a firewall between the reviewing attorney and the agency representative? [see MD-110, Ch. 1(IV)(D)]	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	New
E.2.d	Does the agency ensure that its agency representative does not intrude upon EEO counseling, investigations, and final agency decisions? [see MD-110, Ch. 1(IV)(D)]	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.6.b
E.2.e	If applicable, are processing time frames incorporated for the legal counsel's sufficiency review for timely processing of complaints? [see EEOC Report, *Attaining a Model Agency Program: Efficiency* (Dec. 1, 2004)]	N/A	This is an Office of the Assistant Secretary for Civil Rights function. This is not an FNCS function.	E.6.c
Compliance Indicator / **Measures**	**E.3 - The agency has established and encouraged the widespread use of a fair alternative dispute resolution (ADR) program.**	**Measure Met? (Yes/No/NA)**	**Comments**	
E.3.a	Has the agency established an ADR program for use during both the pre-complaint and formal complaint stages of the EEO process? [see 29 CFR §1614.102(b)(2)]	Yes		E.4.a
E.3.b	Does the agency require managers and supervisors to participate in ADR once it has been offered? [see MD-715, II(A)(1)]	Yes		E.4.c
E.3.c	Does the agency encourage all employees to use ADR, where ADR is appropriate? [see MD-110, Ch. 3(IV)(C)]	Yes		D.2.a
E.3.d	Does the agency ensure a management official with settlement authority is accessible during the dispute resolution process? [see MD-110, Ch. 3(III)(A)(9)]	Yes		New
E.3.e	Does the agency prohibit the responsible management official named in the dispute from having settlement authority? [see MD-110, Ch. 3(I)]	Yes		E.4.d
E.3.f	Does the agency annually evaluate the effectiveness of its ADR program? [see MD-110, Ch. 3(II)(D)]	Yes		New
Compliance Indicator / **Measures**	**E.4 – The agency has effective and accurate data collection systems in place to evaluate its EEO program.**	**Measure Met? (Yes/No/NA)**	**Comments**	
E.4.a	Does the agency have systems in place to accurately collect, monitor, and analyze the following data:			
E.4.a.1	Complaint activity, including the issues and bases of the complaints, the aggrieved individuals/complainants, and the involved management official? [see MD-715, II(E)]	Yes		E.5.a

E.4.a.2	The race, national origin, sex, and disability status of agency employees? [see 29 CFR §1614.601(a)]	Yes		E.5.c
E.4.a.3	Recruitment activities? [see MD-715, II(E)]	Yes		E.5.f
E.4.a.4	External and internal applicant flow data concerning the applicants' race, national origin, sex, and disability status? [see MD-715, II(E)]	Yes		New
E.4.a.5	The processing of requests for reasonable accommodation? [29 CFR § 1614.203(d)(4)]	Yes		New
E.4.a.6	The processing of complaints for the anti-harassment program? [see EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (1999), § V.C.2]	Yes		New
E.4.b	Does the agency have a system in place to re-survey the workforce on a regular basis? [MD-715 Instructions, Sec. I]	Yes		New
Compliance Indicator / **Measures**	**E.5 – The agency identifies and disseminates significant trends and best practices in its EEO program.**	**Measure Met? (Yes/No/NA)**	**Comments**	
E.5.a	Does the agency monitor trends in its EEO program to determine whether the agency is meeting its obligations under the statutes EEOC enforces? [see MD-715, II(E)] If "yes", provide an example in the comments.	Yes	On a monthly basis, the EEO office develops a report capturing the status of all complaints. This includes a report tracking all bases which allows us to view trends. With this report, we determined Harassment was a main basis and offered harassment training in FY 2020.	E.5.e
E.5.b	Does the agency review other agencies' best practices and adopt them, where appropriate, to improve the effectiveness of its EEO program? [see MD-715, II(E)] If "yes", provide an example in the comments.	Yes	In FY 2020, FNCS sought best practices in ADR from Agencies with high resolution rates. In FY 2021, Lunch and Learn Sessions will be provided to the FNCS staff on the benefits of choosing ADR.	E.5.g
E.5.c	Does the agency compare its performance in the EEO process to other federal agencies of similar size? [see MD-715, II(E)]	Yes		E.3.a
Essential Element F: RESPONSIVENESS AND LEGAL COMPLIANCE **This element requires federal agencies to comply with EEO statutes and EEOC regulations, policy guidance, and other written instructions.**				
Compliance Indicator / **Measures**	**F.1 – The agency has processes in place to ensure timely and full compliance with EEOC Orders and settlement agreements.**	**Measure Met? (Yes/No/NA)**	**Comments**	

F.1.a	Does the agency have a system of management controls to ensure that its officials timely comply with EEOC orders/directives and final agency actions? [see 29 CFR §1614.102(e); MD-715, II(F)]	Yes		F.1.a
F.1.b	Does the agency have a system of management controls to ensure the timely, accurate, and complete compliance with resolutions/settlement agreements? [see MD-715, II(F)]	Yes		E.3.a.6
F.1.c	Are there procedures in place to ensure the timely and predictable processing of ordered monetary relief? [see MD-715, II(F)]	Yes		F.2.a.1
F.1.d	Are procedures in place to process other forms of ordered relief promptly? [see MD-715, II(F)]	Yes		F.2.a.2
F.1.e	When EEOC issues an order requiring compliance by the agency, does the agency hold its compliance officer(s) accountable for poor work product and/or delays during performance review? [see MD-110, Ch. 9(IX)(H)]	Yes		F.3.a.
Compliance Indicator ⬇ **Measures**	**F.2 – The agency complies with the law, including EEOC regulations, management directives, orders, and other written instructions.**	**Measure Met? (Yes/No/NA)**	**Comments** **Indicator moved from E-III Revised**	
F.2.a	Does the agency timely respond and fully comply with EEOC orders? [see 29 CFR §1614.502; MD-715, II(E)]	Yes		C.3.d
F.2.a.1	When a complainant requests a hearing, does the agency timely forward the investigative file to the appropriate EEOC hearing office? [see 29 CFR §1614.108(g)]	Yes		E.3.a.5
F.2.a.2	When there is a finding of discrimination that is not the subject of an appeal by the agency, does the agency ensure timely compliance with the orders of relief? [see 29 CFR §1614.501]	Yes		E.3.a.7
F.2.a.3	When a complainant files an appeal, does the agency timely forward the investigative file to EEOC's Office of Federal Operations? [see 29 CFR §1614.403(e)]	Yes		New
F.2.a.4	Pursuant to 29 CFR §1614.502, does the agency promptly provide EEOC with the required documentation for completing compliance?	Yes		F.3.d (1 to 9)
Compliance Indicator ⬇ **Measures**	**F.3 - The agency reports to EEOC its program efforts and accomplishments.**	**Measure Met? (Yes/No/NA)**	**Comments**	
F.3.a	Does the agency timely submit to EEOC an accurate and complete No FEAR Act report? [Public Law 107-174 (May 15, 2002), §203(a)]	N/A	This is a function of Office of the Assistant Secretary for Civil Rights.	New

F.3.b	Does the agency timely post on its public webpage its quarterly No FEAR Act data? [see 29 CFR §1614.703(d)]	N/A	This is a function of Office of the Assistant Secretary for Civil Rights. https://www.usda.gov/nofear	New

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FEDERAL AGENCY ANNUAL EEO PROGRAM STATUS REPORT

MD-715 – Part H-1
Agency EEO Plan to Attain the Essential Elements of a Model EEO Program

Please describe the status of each plan that the agency has implemented to correct deficiencies in the EEO program.

☐ If the agency did not address any deficiencies during the reporting period, please check the box.

Statement of Model Program Essential Element Deficiency

Type of Program Deficiency	Brief Description of Program Deficiency
C.4.3.1	Implement the Affirmative Action Plan for Individuals with Disabilities? [see 29 CFR §1614.203(d); MD-715, II(C)]

Objective(s) and Dates for EEO Plan

Date Initiated (mm/dd/yyyy)	Objective	Target Date (mm/dd/yyyy)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)
10/01/2019	The Agency EEO and HR offices will work together to implement the Affirmative Action Plan for Individuals with Disabilities.	09/30/2020	09/30/2021	

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)
Human Resources Director	Allen Hatcher	Yes
Civil Rights Director	Roberto Contreras	Yes

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Meet to discuss authorities for non-competitive hiring of qualified Persons with Disabilities and targeted disabilities.	Yes	07/31/2021	

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Coordinate Barrier Analysis training.	Yes		03/2020
09/30/2020	Explore strategies to increase the rate by which applicants provide demographic data for hiring and advancement opportunities within FNS.	Yes	09/30/2021	
09/30/2020	Conduct Barrier Analysis utilizing Applicant Flow Data.	Yes	09/30/2021	

Report of Accomplishments

Fiscal Year	Accomplishments
FY 2020	The FNCS Civil Rights Division coordinated Barrier Analysis training facilitated by the USDA Office of the Assistant Secretary for Civil Rights.
FY 2020	The Civil Rights Division and the Human Resources Division began to meet on a monthly basis to discuss strategies to implement the Affirmative Action Plan for Individuals with Disabilities and to plan out the results of the FY 2020 MD-715.

MD-715 – Part H-2
Agency EEO Plan to Attain the Essential Elements of a Model EEO Program

Please describe the status of each plan that the agency has implemented to correct deficiencies in the EEO program.

☐ If the agency did not address any deficiencies during the reporting period, please check the box.

Statement of Model Program Essential Element Deficiency

Type of Program Deficiency	Brief Description of Program Deficiency
D.3.a.	Does the agency effectively tailor action plans to address the identified barriers, in particular policies, procedures, or practices? [see 29 CFR §1614.102(a)(3)]

Objective(s) and Dates for EEO Plan

Date Initiated (mm/dd/yyyy)	Objective	Target Date (mm/dd/yyyy)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)
10/01/2019	The Agency does not currently analyze employment data, identify barriers or tailor action plans to particular policies, procedures, or practices.	09/30/2020	09/30/2021	

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)
Human Resources Director	Allen Hatcher	Yes
Civil Rights Division	Roberto Contreras	Yes

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Report analysis on an annual basis to the Agency Administrator.	Yes	07/31/2021	
09/30/2020	Establish a work group to include Human Resources (HR), Civil Rights and the Special Emphasis Program, to conduct a barrier analysis.	Yes		09/01/2020

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Coordinate a barrier analysis training for the workgroup.	Yes		03/2020

Report of Accomplishments

Fiscal Year	Accomplishments
FY 2020	Convened and conducted a Barrier Analysis training in March 2020. Fifteen people were in attendance.
FY 2020	Convened and conducted a MD-715 overview September 2020 for FNCS MD-715 Working Group.

MD-715 – Part H-3
Agency EEO Plan to Attain the Essential Elements of a Model EEO Program

Please describe the status of each plan that the agency has implemented to correct deficiencies in the EEO program.

☐ If the agency did not address any deficiencies during the reporting period, please check the box.

Statement of Model Program Essential Element Deficiency

Type of Program Deficiency	Brief Description of Program Deficiency
D.3.c.	Does the agency periodically review the effectiveness of the plans? [see MD-715, II(D)]

Objective(s) and Dates for EEO Plan

Date Initiated (mm/dd/yyyy)	Objective	Target Date (mm/dd/yyyy)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)
10/01/2019	The Agency did not identify barriers during the reporting period and therefore did not implement a plan in Part I. The Agency has not established a process of periodically reviewing the effectiveness of the plans.	09/30/2020	09/30/2021	

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)
Civil Rights Director	Roberto Contreras	Yes
Human Resources Director	Allen Hatcher	Yes

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Establish a work group to include Human Resources (HR), Civil Rights and the Special Emphasis Program, to conduct a barrier analysis.	Yes		09/01/2020

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Report analysis on an annual basis to the Agency Administrator.	Yes	07/31/2020	
09/30/2020	Coordinate a barrier analysis training to the workgroup.			03/2020
09/30/2020	Work group will review and revise action plan as necessary on a bi-annual basis.		04/01/2021	

Report of Accomplishments

Fiscal Year	Accomplishments
FY 2020	The FNCS Md-715 Working Group was convened in FY 2020 and have participated in two trainings and two meetings. Representatives include Human Resources, Management, Technology, and Finance, Civil Rights, and Special Emphasis Program Managers.

MD-715 – Part H-4
Agency EEO Plan to Attain the Essential Elements of a Model EEO Program

Please describe the status of each plan that the agency has implemented to correct deficiencies in the EEO program.

☐ If the agency did not address any deficiencies during the reporting period, please check the box.

Statement of Model Program Essential Element Deficiency

Type of Program Deficiency	Brief Description of Program Deficiency
D.3.b.	If the agency identified one or more barriers during the reporting period, did the agency implement a plan in Part I, including meeting the target dates for the planned activities? [see MD-715, II(D)] The Agency did not identify barriers during the reporting period and therefore did not implement a plan in Part I.

Objective(s) and Dates for EEO Plan

Date Initiated (mm/dd/yyyy)	Objective	Target Date (mm/dd/yyyy)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)
10/01/2019	The Agency will analyze employment data, identify barriers and implement corrective action plans.	09/30/2020	04/01/2021	

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)
Civil Rights Director	Roberto Contreras	Yes
Human Resources Director	Allen Hatcher	Yes

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Work group will review and revise action plan as necessary on a bi-annual basis.	Yes	04/01/2021	
09/30/2020	Coordinate a barrier analysis training to the workgroup.	Yes		03/2020

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Establish a work group to include Human Resources (HR), Civil Rights and the Special Emphasis Program, to conduct a barrier analysis.	Yes		09/01/2020
09/30/2020	Report analysis on an annual basis to the Agency Administrator.	Yes		07/20/2020

Report of Accomplishments

Fiscal Year	Accomplishments
FY 2020	The FNCS Md-715 Working Group was convened in FY 2020 and have participated in two trainings and two meetings. Representatives include Human Resources, Management, Technology, and Finance, Civil Rights, and Special Emphasis Program Managers.

MD-715 – Part H-5
Agency EEO Plan to Attain the Essential Elements of a Model EEO Program

Please describe the status of each plan that the agency has implemented to correct deficiencies in the EEO program.

☐ If the agency did not address any deficiencies during the reporting period, please check the box.

Statement of Model Program Essential Element Deficiency

Type of Program Deficiency	Brief Description of Program Deficiency
D.1.c.	Does the agency conduct exit interviews or surveys that include questions on how the agency could improve the recruitment, hiring, inclusion, retention and advancement of individuals with disabilities? [see 29 CFR §1614.203(d)(1)(iii)(C)] The Agency does not collect demographic information from respondents and does not allow for responses to specify how the agency can improve the recruitment, hiring, inclusion and retention, and advancement for individuals with disabilities.

Objective(s) and Dates for EEO Plan

Date Initiated (mm/dd/yyyy)	Objective	Target Date (mm/dd/yyyy)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)
10/01/2019	The Agency will update the existing survey that allows for respondent feedback on the recruitment, hiring, inclusion and retention, and advancement of individuals with disabilities.	09/30/2020	01/30/2021	

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)
Human Resources Director	Allen Hatcher	Yes

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Revise the current exit survey to incorporate demographic information and allow respondents the ability to self-identify if they are an individual with a disability.	Yes	01/30/2021	

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2020	Begin distributing the updated exit survey as a common practice to all employees leaving the Agency.	Yes	01/30/2021	
09/30/2020	Discuss the importance of the exit survey process with supervisors during new supervisor and supervisor refresher trainings.	Yes	01/30/2021	

Report of Accomplishments

Fiscal Year	Accomplishments

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MD-715 – Part H-6
Agency EEO Plan to Attain the Essential Elements of a Model EEO Program

Please describe the status of each plan that the agency has implemented to correct deficiencies in the EEO program.

☐ If the agency did not address any deficiencies during the reporting period, please check the box.

Statement of Model Program Essential Element Deficiency

Type of Program Deficiency	Brief Description of Program Deficiency
C.4.e.1	Identify and remove barriers to equal opportunity in the workplace? [see MD-715, II(C)]

Objective(s) and Dates for EEO Plan

Date Initiated (mm/dd/yyyy)	Objective	Target Date (mm/dd/yyyy)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)
	Identify and remove barriers.	09/30/2021		

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)
Human Resources Director	Allen Hatcher	Yes
Civil Rights Director	Roberto Contreras	Yes

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)
09/30/2021	Conduct a barrier analysis	Yes		

Report of Accomplishments

Fiscal Year	Accomplishments

MD-715 – Part I
Agency EEO Plan to Eliminate Identified Barrier

Please describe the status of each plan that the agency implemented to identify possible barriers in policies, procedures, or practices for employees and applicants by race, ethnicity, and gender.

XX If the agency did not conduct barrier analysis during the reporting period, please check the box.

Statement of Condition That Was a Trigger for a Potential Barrier:

Source of the Trigger	Specific Workforce Data Table	Narrative Description of Trigger
Workforce Data Tables	Table A4 Table A1	1. Low participation rate (0%) of Hispanic Females, Black or African American Males and Females, Asian Males and Females, Native Hawaiian or Other Pacific Islander Males and Females, American Indian or Alaska Native Males in the SES grades. 2. Low hiring rate of Hispanic Males/Females in permanent workforce. 3. Low hiring rate of Males in Total and Permanent workforce. 4. High separation rate of White Women, Black or African American Males and Females in the Total and Permanent workforce.

EEO Group(s) Affected by Trigger

EEO Group
All Men – Low participation rates; low higher rates; High separation rates total and permanent workforce
All Women – High separation rate total and permanent workforce
Hispanic or Latino Males – Low participation rate total and permanent workforce; low hiring rate total and permanent workforce
Hispanic or Latino Females - Low participation rate total and permanent workforce; low hiring rate total and permanent workforce; Low participation rate (0%) in SES grade level
White Males – Low participation rate total and permanent workforce; Low hiring rate total and permanent workforce
White Females – High separation rates total and permanent workforce
Black or African American Males Low participation rate in SES grades; High separation rates total and permanent workforce
Black or African American Females Low participation rate in SES grades; High separation rates total and permanent workforce
Asian Males – High separation rate total and permanent workforce; low participation rate in SES grades
Asian Females – High separation rate total workforce; low participation rate in SES grades

EEO Group
Native Hawaiian or Other Pacific Islander Males No participation in total or permanent workforce
Native Hawaiian or Other Pacific Islander Females Low participation rates in SES grades
American Indian or Alaska Native Males - Low participation rate in total and permanent workforce; high separation rate in total and permanent separation rate; low participation rate in SES grades
American Indian or Alaska Native Females – Low participation rate in SES grades

Barrier Analysis Process

Sources of Data	Source Reviewed? (Yes or No)	Identify Information Collected
Workforce Data Tables		
Complaint Data (Trends)		
Grievance Data (Trends)		
Findings from Decisions (e.g., EEO, Grievance, MSPB, Anti-Harassment Processes)		
Climate Assessment Survey (e.g., FEVS)		
Exit Interview Data		
Focus Groups		
Interviews		
Reports (e.g., Congress, EEOC, MSPB, GAO, OPM)		
Other (Please Describe)		

Status of Barrier Analysis Process

Barrier Analysis Process Completed? (Yes or No)	Barrier(s) Identified? (Yes or No)

Statement of Identified Barrier(s)

Description of Policy, Procedure, or Practice

Objective(s) and Dates for EEO Plan

Objective	Date Initiated (mm/dd/yyyy)	Target Date (mm/dd/yyyy)	Sufficient Funding & Staffing? (Yes or No)	Modified Date (mm/dd/yyyy)	Date Completed (mm/dd/yyyy)

Responsible Official(s)

Title	Name	Performance Standards Address the Plan? (Yes or No)

Planned Activities Toward Completion of Objective

Target Date (mm/dd/yyyy)	Planned Activities	Modified Date (mm/dd/yyyy)	Completion Date (mm/dd/yyyy)

Report of Accomplishments

Fiscal Year	Accomplishments

MD-715 – Part J

Special Program Plan for the Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities

To capture agencies' affirmative action plan for persons with disabilities (PWD) and persons with targeted disabilities (PWTD), EEOC regulations (29 C.F.R. § 1614.203(e)) and MD-715 require agencies to describe how their plan will improve the recruitment, hiring, advancement, and retention of applicants and employees with disabilities. All agencies, regardless of size, must complete this Part of the MD-715 report.

Section I: Efforts to Reach Regulatory Goals

EEOC regulations (29 C.F.R. § 1614.203(d)(7)) require agencies to establish specific numerical goals for increasing the participation of persons with reportable and targeted disabilities in the federal government.

1. Using the goal of 12% as the benchmark, does your agency have a trigger involving PWD by grade level cluster in the permanent workforce? If "yes", describe the trigger(s) in the text box.
    a. Cluster GS-1 to GS-10 (PWD) Answer No
    b. Cluster GS-11 to SES (PWD) Answer No

2. Using the goal of 2% as the benchmark, does your agency have a trigger involving PWTD by grade level cluster in the permanent workforce? If "yes", describe the trigger(s) in the text box.
    a. Cluster GS-1 to GS-10 (PWTD) Answer No
    b. Cluster GS-11 to SES (PWTD) Answer No

3. Describe how the agency has communicated the numerical goals to the hiring managers and/or recruiters.

FNS manages an internal workforce demographics dashboard and a recruitment actions tracker, which is updated each Pay Period, and uploaded to an internal SharePoint site for the hiring process. Senior leadership is briefed on recruitment efforts, status of vacancies, and other pertinent recruitment information on a quarterly basis. The Human Resources Division (HRD) holds regular interactions and sends regular communications to HRD Liaisons who are responsible for updating and communicating hiring requirements to managers, hiring managers who are responsible for working with HRD to develop appropriate recruitment strategies to reach targeted populations.

Section II: Model Disability Program

Pursuant to 29 C.F.R. §1614.203(d)(1), agencies must ensure sufficient staff, training and resources to recruit and hire persons with disabilities and persons with targeted disabilities, administer the reasonable accommodation program and special emphasis program, and oversee any other disability hiring and advancement program the agency has in place.

A. Plan to Provide Sufficient & Competent Staffing for the Disability Program

1. Has the agency designated sufficient qualified personnel to implement its disability program during the reporting period? If "no", describe the agency's plan to improve the staffing for the upcoming year.

Answer Yes

FNS has a full time dedicated Reasonable Accommodation Program Manager. This position works closely with the HRD staffing team to administer the reasonable accommodation program, partnering on the hiring of PWD and overseeing the advancement program currently in place at FNS.

2. Identify all staff responsible for implementing the agency's disability employment program by the office, staff employment status, and responsible official.

Disability Program Task	# of FTE Staff by Employment Status			Responsible Official (Name, Title, Office, Email)
	Full Time	Part Time	Collateral Duty	
Processing applications from PWD and PWTD	1	0	0	Allen Hatcher Director, Human Resources Division Allen.Hatcher@usda.gov
Answering questions from the public about hiring authorities that take disability into account	3	0	0	Allen Hatcher Director, Human Resources Division Allen.Hatcher@usda.gov
Processing reasonable accommodation requests from applicants and employees	3	0	0	Allen Hatcher Director, Human Resources Division Allen.Hatcher@usda.gov
Section 508 Compliance	1	0	0	Allen Hatcher Director, Human Resources Division Allen.Hatcher@usda.gov
Architectural Barriers Act Compliance	1	0	0	Jose Avila Director, Operations and Facilities Division Jose.Avila@usda.gov
Special Emphasis Program for PWD and PWTD	3	0	0	Roberto Contreras Director, Civil Rights Division Roberto.Contreras@usda.gov

3. Has the agency provided disability program staff with sufficient training to carry out their responsibilities during the reporting period? If "yes", describe the training that disability program staff have received. If "no", describe the training planned for the upcoming year.

Answer Yes

Staff working in these programs attend classroom and webinar training, as well as attend conferences related to recruitment, hiring and reasonable accommodation. Staff utilize information and knowledge gained from these experiences to further educate the FNS workforce.

B. Plan to Ensure Sufficient Funding for the Disability Program

Has the agency provided sufficient funding and other resources to successfully implement the disability program during the reporting period? If "no", describe the agency's plan to ensure all aspects of the disability program have sufficient funding and other resources.

Answer Yes

FNS has partnered with the USDA Technology & Accessible Resources Give Employment Today (TARGET) Center for material and software programs. In addition, FNS has funds available for Personal Assistance Services and interpreters.

Section III: Plan to Recruit and Hire Individuals with Disabilities

Pursuant to 29 C.F.R. § 1614.203(d)(1)(i) and (ii), agencies must establish a plan to increase the recruitment and hiring of individuals with disabilities. The questions below are designed to identify outcomes of the agency's recruitment program plan for PWD and PWTD.

1. Plan to Identify Job Applicants with Disabilities

1. Describe the programs and resources the agency uses to identify job applicants with disabilities, including individuals with targeted disabilities.

FNS has a multifaceted recruitment program. HR Liaisons and Recruitment Liaisons functionally report to program owners at the National level and are responsible for managing the plan to recruit and hire individuals with disabilities in accordance with 29 CFR 1614.203(d)(1)(i) and (ii). In FY 2020, FNS executed for the first time its delegated authority for multiple Human Resources (HR) disciplines, to include hiring. FNS maintains Delegated Examining and Merit Promotion procedures and has developed resources for hiring managers to utilize targeted recruitment strategies. FNS developed a Hiring Authorities resource guide that details various competitive, non-competitive and other special hiring authorities. As part of the hiring process, HRD and the hiring manager conduct a strategic recruitment conversation which provides an opportunity for HRD to educate managers on special hiring authorities, including those for PWD. HRD personnel are responsible for operating procedures and assisting management in focusing on program deficiencies to ensure the Agency maintains required benchmarks.

2. Pursuant to 29 C.F.R. § 1614.203(a)(3), describe the agency's use of hiring authorities that take disability into account (e.g., Schedule A) to recruit PWD and PWTD for positions in the permanent workforce.

FNS utilizes multiple pathways to recruit for PWD and PWTD, including Schedule A and 30 Percent or More Disabled Veterans. These allow the Agency to fill critical vacancies with quality candidates, in a timely manner. HRD provides resources and education to hiring managers on the benefits of utilizing these flexibilities to hire diverse candidates to include PWD and PWTD.

3. When individuals apply for a position under a hiring authority that takes disability into account (e.g., Schedule A), explain how the agency (1) determines if the individual is eligible for appointment under such authority and (2) forwards the individual's application to the relevant hiring officials with an explanation of how and when the individual may be appointed.

In order to be eligible for employment through noncompetitive appointment for PWD, job seekers must provide documentation of their disability. Such documentation is used to verify that the individual being hired is indeed a person with a disability. This documentation must be attached with the applicant's resume. Documentation of eligibility for employment under Schedule A can be obtained from a licensed medical professional (e.g., a physician or other medical professional certified to practice medicine by a state, the District of Columbia, or a U.S. territory; a licensed vocational rehabilitation specialist; or any Federal, State or agency of the District of Columbia or a U.S. territory that issues or provides disability benefits). Once the applicant is found eligible, the HRD staffing team will share the application with the hiring manager who submitted a vacancy for posting. Below is a snapshot of the steps taken when reviewing and placing the applicant: Hiring Manager/AO/HRD Liaison will provide HRD with the hiring package. A complete hiring package must include: 1) Recruit 52 Form 2) Schedule A candidate's application and 3) Position Description (PD) and cover sheet for each grade. HRD will determine the candidate's qualifications, and if the candidate qualifies for the position, proceed with the hiring action.

4. Has the agency provided training to all hiring managers on the use of hiring authorities that take disability into account (e.g., Schedule A)? If "yes", describe the type(s) of training and frequency. If "no", describe the agency's plan to provide this training.

Answer Yes

The Agency has provided several sessions in FY 2020 for hiring managers about the recruitment and hiring process, to include competitive and noncompetitive hiring authorities. This was also provided twice in FY 2020 to new FNS supervisors as part of their training requirements. Additionally, an FNS Hiring Authorities resource guide was developed.

2. Plan to Establish Contacts with Disability Employment Organizations

Describe the agency's efforts to establish and maintain contacts with organizations that assist PWD, including PWTD, in securing and maintaining employment.

The Agency has established a partnership with various networks to assist in identifying and hiring PWD and PWTD over the past several years. The effectiveness of these relationships is improving within the shared service Relationship. Since FNS retained its delegated hiring authority in FY 2019, FNS has built an internal staffing and recruiting team. The Agency plans to do more focused and targeted outreach to organizations and networks for PWD and PWTD.

3. PROGRESSION TOWARDS GOALS (RECRUITMENT AND HIRING)

1. Using the goals of 12% for PWD and 2% for PWTD as the benchmarks, do triggers exist for PWD and/or PWTD among the new hires in the permanent workforce? If "yes", please describe the triggers below.
   a. New Hires for Permanent Workforce (PWD) Answer No
   b. New Hires for Permanent Workforce (PWTD) Answer No

2. Using the qualified applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among the new hires for any of the mission-critical occupations (MCO)? If "yes", please describe the triggers below.
   a. New Hires for MCO (PWD) Answer N/A
   b. New Hires for MCO (PWTD) Answer N/A

FNS pulls and reviews available applicant flow data from USA Staffing. Applicants are not required to complete applicant flow data to apply for Federal positions. FNS has observed an extremely low applicant response rate for demographic and disability data. While the small subset of data can provide some insights, the sample size does not appear to be sufficiently statistically significant to draw conclusive conclusions from the analysis requisite to identifying barriers.

Based upon the limited population completing and submitting the applicant flow data in USA Staffing during FY 2021, FNS had the following demographic breakdown:

- 34% Male – 38% Female
- 13.1% White Male – 14.5% White Female
- 12.7% Black or African American Male – 15.4% Black or African American Female
- 4.0% Hispanic or Latino Male – 4.0% Hispanic or Latino Female
- 3.2% Asian Male – 1,8% Asian-Female
- 0.3% American Indian Alaska Native Male – 0.8% American Indian Alaska Native Female
- 0.4% Two or More Races Male – 0.1% Two or More Races Female
- 0.1% Native Hawaiian Pacific Islander Male – 0% Native Hawaiian Pacific Islander Female

Of the 10,296 applicants for FNS positions in FY 2021, 58 voluntarily chose to identify as a person with a disability, of which 22 were found to be qualified and referred to hiring managers for consideration. We have no data on the 99.4% of the applicants who chose not to submit their applicant flow data.

3. Using the relevant applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among the qualified *internal* applicants for any of the mission-critical occupations (MCO)? If "yes", please describe the triggers below.

   a. Qualified Applicants for MCO (PWD) Answer N/A
   b. Qualified Applicants for MCO (PWTD) Answer N/A

Applicant flow data available to FNS was insufficient to identify triggers for PWD and/or PWTD among the qualified internal applicants for our mission-critical occupations.

4. Using the qualified applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among employees promoted to any of the mission-critical occupations (MCO)? If "yes", please describe the triggers below.

   a. Promotions for MCO (PWD) Answer N/A
   b. Promotions for MCO (PWTD) Answer N/A

Applicant flow data available to FNS was insufficient to identify triggers for PWD and/or PWTD among the employees promoted to any of our mission-critical occupations.

Section IV: Plan to Ensure Advancement Opportunities for Employees with Disabilities

Pursuant to 29 C.F.R §1614.203(d)(1)(iii), agencies are required to provide sufficient advancement opportunities for employees with disabilities. Such activities might include specialized training and mentoring programs, career development opportunities, awards programs, promotions, and similar programs that address advancement. In this section, agencies should identify, and provide data on programs designed to ensure advancement opportunities for employees with disabilities.

A. Advancement Program Plan

Describe the agency's plan to ensure PWD, including PWTD, have sufficient opportunities for advancement.

All employees, regardless of disability status may participate in the Employee Development Program/National Training Program, which is designed to satisfy the occupationally specific, task-oriented training required of an employee to be successful in their job and be competitive for advancement to the higher grades.

B. Career Development Opportunities

1. Please describe the career development opportunities that the agency provides to its employees.

FNS provides employees in grades GS-5 through GS-15 with leadership development training, professional skills development, and rotational/detail opportunities on an ongoing basis. SES personnel development is managed by the USDA Office of Human Resources Management.

Applicants for any of the FNS career development programs are not requested to disclose if they have a disability.

Federal Executive Institute (FEI) programs are designed to help executives perform effectively as the top leaders of the American Civil Service. As leaders with responsibility for running the agencies that defend, protect, regulate, and support our nation and its citizens, and for working effectively with each Presidential Administration and its political appointees, Federal executives are unique among managers. Performance is not measured by "bottom line" numbers or market indicators. Stewardship of the public trust requires a clear understanding of the basic values that support the democratic process and literacy in the fundamental documents that express those belief systems. ·

The Managerial Excellence Program (MEP), is a unique learning experience for professional and personal growth, serves to develop FNS leadership by providing high-quality training to current managers who want to lead the organization in meeting its future challenges. ·

The Leadership Institute (LI) curriculum is designed to gain knowledge and skill in applying Leadership of Self, Leadership of Others and Leadership of Systems.

Finally, the Career Coaching Program (CCP) is aligned with the FNS Career Pathing Guides (CPG's), which provide competency/skill requirements by occupational series and grade within the Agency. The career coaching program is designed to foster an appreciation of the requirements for each grade level, and for the employees to self-evaluate their strengths and weaknesses against these established metrics.

2. In the table below, please provide the data for career development opportunities that require competition and/or supervisory recommendation/approval to participate.

Career Development Opportunities	Total Participants		PWD		PWTD	
	Applicants (#)	Selectees (#)	Applicants (%)	Selectees (%)	Applicants (%)	Selectees (%)
Internship Programs	N/A	N/A	N/A	N/A	N/A	N/A
Fellowship Programs	N/A	N/A	N/A	N/A	N/A	N/A
Mentoring Programs	N/A	N/A	N/A	N/A	N/A	N/A
Coaching Programs	N/A	N/A	N/A	N/A	N/A	N/A
Training Programs	N/A	N/A	N/A	N/A	N/A	N/A
Detail Programs	N/A	N/A	N/A	N/A	N/A	N/A
Other Career Development Programs	N/A	N/A	N/A	N/A	N/A	N/A

3. Do triggers exist for PWD among the applicants and/or selectees for any of the career development programs? (The appropriate benchmarks are the relevant applicant pool for the applicants and the applicant pool for selectees.) If "yes", describe the trigger(s) in the text box.
   a. Applicants (PWD) Answer No
   b. Selections (PWD) Answer No

Data available to FNS was insufficient to identify triggers for PWD among the applicants and/or selectees of our career development programs.

4. Do triggers exist for PWTD among the applicants and/or selectees for any of the career development programs identified? (The appropriate benchmarks are the relevant applicant pool for applicants and the applicant pool for selectees.) If "yes", describe the trigger(s) in the text box.
   a. Applicants (PWTD) Answer No
   b. Selections (PWTD) Answer No

Data available to FNS was insufficient to identify triggers for PWTD among the applicants and/or selectees of our career development programs.

C. Awards

1. Using the inclusion rate as the benchmark, does your agency have a trigger involving PWD and/or PWTD for any level of the time-off awards, bonuses, or other incentives? If "yes", please describe the trigger(s) in the text box.
   a. Awards, Bonuses, & Incentives (PWD) Answer Yes
   b. Awards, Bonuses, & Incentives (PWTD) Answer Yes

The inclusion rate of permanent employees that received a Time Off Award of 11-20 hours for individuals with targeted disabilities (15.09%) was lower than the inclusion rate of persons with no disabilities (17.52%). The inclusion rates of permanent employees that received a Time Off Award of 31-40 hours for individuals with disabilities (0.57%) and with targeted disabilities (1.89%) were lower than the inclusion rate of persons with no disabilities (4.16%).The inclusion rate of permanent employees that received a Cash Award of less than $500 for individuals with targeted disabilities (13.21%) was lower than the inclusion rate of persons with no disabilities (18.91%). The inclusion rates of permanent employees that received a Cash Award of $501-999 for individuals with disabilities (24.57%) and with targeted disabilities (26.42%) were lower than the inclusion rate of persons with no disabilities (28.19%). The inclusion rates of permanent employees that received a Cash Award of $1000-1999 for individuals with disabilities (2.29%) and with targeted disabilities (1.89%) were lower than the inclusion

rate of persons with no disabilities (5.03%). The inclusion rates of permanent employees that received a Cash Award of $2000-$2999 for individuals with disabilities (0%) and with targeted disabilities (0%) were lower than the inclusion rate of persons with no disabilities (0.43%).

2. Using the inclusion rate as the benchmark, does your agency have a trigger involving PWD and/or PWTD for quality step increases or performance-based pay increases? If "yes", please describe the trigger(s) in the text box.
   a. Pay Increases (PWD) Answer Yes
   b. Pay Increases (PWTD) Answer Yes

The inclusion rate of permanent employees that received a QSI for individuals with disabilities (0.57%) and with targeted disabilities (0%) were lower than the inclusion rate of persons with no disabilities (1.13%).

3. If the agency has other types of employee recognition programs, are PWD and/or PWTD recognized disproportionately less than employees without disabilities? (The appropriate benchmark is the inclusion rate.) If "yes", describe the employee recognition program and relevant data in the text box.
   a. Other Types of Recognition (PWD) Answer N/A
   b. Other Types of Recognition (PWTD) Answer N/A

The agency does not have any other types of employee recognition programs.

D. Promotions

1. Does your agency have a trigger involving PWD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) For non-GS pay plans, please use the approximate senior grade levels. If "yes", describe the trigger(s) in the text box.
   a. SES
      i. Qualified Internal Applicants (PWD) Answer N/A
      ii. Internal Selections (PWD) Answer N/A
   b. Grade GS-15
      i. Qualified Internal Applicants (PWD) Answer N/A
      ii. Internal Selections (PWD) Answer N/A
   c. Grade GS-14
      i. Qualified Internal Applicants (PWD) Answer N/A
      ii. Internal Selections (PWD) Answer N/A
   d. Grade GS-13
      i. Qualified Internal Applicants (PWD) Answer N/A
      ii. Internal Selections (PWD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels. .

2. Does your agency have a trigger involving PWTD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) For non-GS pay plans, please use the approximate senior grade levels. If "yes", describe the trigger(s) in the text box.
    a. SES
        i. Qualified Internal Applicants (PWTD) Answer N/A
        ii. Internal Selections (PWTD) Answer N/A
    b. Grade GS-15
        i. Qualified Internal Applicants (PWTD) Answer N/A
        ii. Internal Selections (PWTD) Answer N/A
    c. Grade GS-14
        i. Qualified Internal Applicants (PWTD) Answer N/A
        ii. Internal Selections (PWTD) Answer N/A
    d. Grade GS-13
        i. Qualified Internal Applicants (PWTD) Answer N/A
        ii. Internal Selections (PWTD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWTD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels.

3. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWD among the new hires to the senior grade levels? For non-GS pay plans, please use the approximate senior grade levels. If "yes", describe the trigger(s) in the text box.
    a. New Hires to SES (PWD) Answer N/A
    b. New Hires to GS-15 (PWD) Answer N/A
    c. New Hires to GS-14 (PWD) Answer N/A
    d. New Hires to GS-13 (PWD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels.

4. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWTD among the new hires to the senior grade levels? For non-GS pay plans, please use the approximate senior grade levels. If "yes", describe the trigger(s) in the text box.
    a. New Hires to SES (PWTD) Answer N/A
    b. New Hires to GS-15 (PWTD) Answer N/A
    c. New Hires to GS-14(PWTD) Answer N/A
    d. New Hires to GS-13 (PWTD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWTD among the new hires to the senior grade levels.

5. Does your agency have a trigger involving PWD among the qualified *internal* applicants and/or selectees for promotions to supervisory positions? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.). If "yes", describe the trigger(s) in the text box.

a. Executives
   i. Qualified Internal Applicants (PWD) Answer N/A
   ii. Internal Selections (PWD) Answer N/A

b. Managers
   i. Qualified Internal Applicants (PWD) Answer N/A
   ii. Internal Selections (PWD) Answer N/A

c. Supervisors
   i. Qualified Internal Applicants (PWD) Answer N/A
   ii. Internal Selections (PWD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWD among qualified internal applicants and/or selectees for promotions to supervisory positions.

6. Does your agency have a trigger involving PWTD among the qualified *internal* applicants and/or selectees for promotions to supervisory positions? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.). If "yes", describe the trigger(s) in the text box.
   a. Executives
      i. Qualified Internal Applicants (PWTD) Answer N/A
      ii. Internal Selections (PWTD) Answer N/A

   b. Managers
      i. Qualified Internal Applicants (PWTD) Answer N/A
      ii. Internal Selections (PWTD) Answer N/A

   c. Supervisors
      i. Qualified Internal Applicants (PWTD) Answer N/A
      ii. Internal Selections (PWTD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWTD among the qualified *internal* applicants and/or selectees for promotions to supervisory positions.

7. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWD among the selectees for new hires to supervisory positions? If "yes", describe the trigger(s) in the text box.
   a. New Hires for Executives (PWD) Answer N/A
   b. New Hires for Managers (PWD) Answer N/A
   c. New Hires for Supervisors (PWD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWD among the selectees for new hires to supervisory positions.

8. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWTD among the selectees for new hires to supervisory positions? If "yes", describe the trigger(s) in the text box.
    a. New Hires for Executives (PWTD) Answer N/A
    b. New Hires for Managers (PWTD) Answer N/A
    c. New Hires for Supervisors (PWTD) Answer N/A

Data available to FNS was insufficient to identify triggers involving PWTD among the selectees for new hires to supervisory positions.

Section V: Plan to Improve Retention of Persons with Disabilities

To be a model employer for persons with disabilities, agencies must have policies and programs in place to retain employees with disabilities. In this section, agencies should: (1) analyze workforce separation data to identify barriers retaining employees with disabilities; (2) describe efforts to ensure accessibility of technology and facilities; and (3) provide information on the reasonable accommodation program and workplace personal assistance services.

A. Voluntary and Involuntary Separations

1. In this reporting period, did the agency convert all eligible Schedule A employees with a disability into the competitive service after two years of satisfactory service (5 C.F.R. § 213.3102(u)(6)(i))? If "no", please explain why the agency did not convert all eligible Schedule A employees.

Answer Yes

2. Using the inclusion rate as the benchmark, did the percentage of PWD among voluntary and involuntary separations exceed that of persons without disabilities? If "yes", describe the trigger below.

    a. Voluntary Separations (PWD) Answer Yes
    b. Involuntary Separations (PWD) Answer Yes

The inclusion rate of voluntary separations in the FNS workforce for FY 2020 for individuals with disabilities (6.25%) was higher than the inclusion rate of persons with no disabilities (4.99%). The inclusion rate of involuntary separations in the FNS workforce for FY 2020 for individuals with disabilities (5.11%) was higher than the inclusion rate of persons with no disabilities (3.38%).

3. Using the inclusion rate as the benchmark, did the percentage of PWTD among voluntary and involuntary separations exceed that of persons without targeted disabilities? If "yes", describe the trigger below.

    a. Voluntary Separations (PWTD) Answer Yes
    b. Involuntary Separations (PWTD) Answer Yes

The inclusion rate of voluntary separations in the FNS workforce for FY 2020 for individuals with targeted disabilities (5.66%) was higher than the inclusion rate of persons with no disabilities (4.99%). The inclusion rate of involuntary separations in the FNS workforce for FY 2020 for individuals with targeted disabilities (7.55%) was higher than the inclusion rate of persons with no disabilities (3.38%).

4. If a trigger exists involving the separation rate of PWD and/or PWTD, please explain why they left the agency using exit interview results and other data sources.

FNS will make updates to the exit survey in FY 2021 to include demographic information, to ensure that demographic information is available in FY 2021 to conduct the appropriate barrier analysis.

B. Accessibility of Technology and Facilities

Pursuant to 29 C.F.R. § 1614.203(d)(4), federal agencies are required to inform applicants and employees of their rights under Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794(b), concerning the accessibility of agency technology, and the Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157), concerning the accessibility of agency facilities. In addition, agencies are required to inform individuals where to file complaints if other agencies are responsible for a violation.

1. Please provide the internet address on the agency's public website for its notice explaining employees' and applicants' rights under Section 508 of the Rehabilitation Act, including a description of how to file a complaint.

https://www.usda.gov/accessibility-statement

2. Please provide the internet address on the agency's public website for its notice explaining employees' and applicants' rights under the Architectural Barriers Act, including a description of how to file a complaint.

https://www.usda.gov/accessibility-statement

3. Describe any programs, policies, or practices that the agency has undertaken, or plans on undertaking over the next fiscal year, designed to improve accessibility of agency facilities and/or technology.

Electronic – OCIO has a team that explores how to make the websites, the meeting platforms, etc., accessible to employees working from home.

FNS continues to maximize workplace and work schedule flexibilities due to COVID-19 in all locations. For those who do require access to FNS facilities, we provide employees with masks, anti-bacterial lotion, social distancing, etc.

C. Reasonable Accommodation Program

Pursuant to 29 C.F.R. § 1614.203(d)(3), agencies must adopt, post on their public website, and make available to all job applicants and employees, reasonable accommodation procedures.

1. Please provide the average time frame for processing initial requests for reasonable accommodations during the reporting period. (Please do not include previously approved requests with repetitive accommodations, such as interpreting services.)

In FY 2020, the average time frame for processing initial requests for reasonable accommodations was 40 days. The reason processing time exceeds the 30-day requirement is due to the following:
1. Employees are unable to get the necessary medical documentation due to COVID-19 medical access restrictions. FNS offered them 30 days to gain the necessary medical documentation in light of the limited access to their medical professionals.
2. Employees working from home on extended telework believing that they do not need to comply with the process until after they are directed to return to work.

The RA office and the supervisor receive and begin information gathering, which includes the interactive session with the employee within 5 working days.

2. Describe the effectiveness of the policies, procedures, or practices to implement the agency's reasonable accommodation program. Some examples of an effective program include timely processing requests, timely providing approved accommodations, conducting training for managers and supervisors, and monitoring accommodation requests for trends.

FNS timely processes RA requests upon receipt, provides training for supervisors, managers, and employees. FNS also collaborates with the USDA Target Center to obtain assistance with technology and ergonomic needs and provides timely notifications to the staff of their approval status or denial of the request. All reasonable accommodations requests are tracked via the internal tracker. Each week the reasonable accommodations program manager (RAPM) briefs the Branch Chief on the status of new requests, ongoing cases and cases that are closed. The interactive process is used at all phases of the RA process. RAPM conducts annual training for new supervisors. Additionally, FNS worked with USDA OHRM to implement a new electronic tracking system for RA requests effective in FY 2020.

D. Personal Assistance Services Allowing Employees to Participate in the Workplace

Pursuant to 29 C.F.R. § 1614.203(d)(5), federal agencies, as an aspect of affirmative action, are required to provide personal assistance services (PAS) to employees who need them because of a targeted disability, unless doing so would impose an undue hardship on the agency.

Describe the effectiveness of the policies, procedures, or practices to implement the PAS requirement. Some examples of an effective program include timely processing requests for PAS, timely providing approved services, conducting training for managers and supervisors, and monitoring PAS requests for trends.

In FY 2020, FNS did not have a PAS request from its employees and the effectiveness of the USDA policy for PAS is not measurable. However, PAS requests are processed through the HRD-RA office using the established Reasonable Accommodation USDA and FNS internal process. Additional supervisory and employee trainings are scheduled for FY 2021 that will expand the availability and understanding of PAS.

Section VI: EEO Complaint and Findings Data

A. EEO Complaint data involving Harassment

1. During the last fiscal year, did a higher percentage of PWD file a formal EEO complaint alleging harassment, as compared to the government-wide average?

Answer No

2. During the last fiscal year, did any complaints alleging harassment based on disability status result in a finding of discrimination or a settlement agreement?

Answer Yes

3. If the agency had one or more findings of discrimination alleging harassment based on disability status during the last fiscal year, please describe the corrective measures taken by the agency.

The Notice of the Finding of Discrimination went out to employees and training and disciplinary action was taken.

B. EEO Complaint Data involving Reasonable Accommodation

1. During the last fiscal year, did a higher percentage of PWD file a formal EEO complaint alleging failure to provide a reasonable accommodation, as compared to the government-wide average?

   Answer Yes

2. During the last fiscal year, did any complaints alleging failure to provide reasonable accommodation result in a finding of discrimination or a settlement agreement?

   Answer Yes

3. If the agency had one or more findings of discrimination involving the failure to provide a reasonable accommodation during the last fiscal year, please describe the corrective measures taken by the agency.

N/A

Section VII: Identification and Removal of Barriers

Element D of MD-715 requires agencies to conduct a barrier analysis when a trigger suggests that a policy, procedure, or practice may be impeding the employment opportunities of a protected EEO group.

1. Has the agency identified any barriers (policies, procedures, and/or practices) that affect employment opportunities for PWD and/or PWTD?

   Answer NO

2. Has the agency established a plan to correct the barrier(s) involving PWD and/or PWTD?

   Answer NO

3. Identify each trigger and plan to remove the barrier(s), including the identified barrier(s), objective(s), responsible official(s), planned activities, and, where applicable, accomplishments.

Trigger 1	No factors have been identified.	
Barrier(s)		
Objective(s)		
Responsible Official(s)		**Performance Standards Address the Plan? (Yes or No)**
Barrier Analysis Process Completed? (Yes or No)		**Barrier(s) Identified? (Yes or No)**
Sources of Data	**Sources Reviewed? (Yes or No)**	**Identify Information Collected**
Workforce Data Tables		
Complaint Data (Trends)		
Grievance Data (Trends)		

Findings from Decisions (e.g., EEO, Grievance, MSPB, Anti-Harassment Processes)		
Climate Assessment Survey (e.g., FEVS)		
Exit Interview Data		
Focus Groups		
Interviews		
Reports (e.g., Congress, EEOC, MSPB, GAO, OPM)		
Other (Please Describe)		

Target Date (mm/dd/yyyy)	**Planned Activities**	**Sufficient Staffing & Funding (Yes or No)**	**Modified Date (mm/dd/yyyy)**	**Completion Date (mm/dd/yyyy)**

Fiscal Year	**Accomplishments**

4. Please explain the factor(s) that prevented the agency from timely completing any of the planned activities.

No factors exist at present.

5. For the planned activities that were completed, please describe the actual impact of those activities toward eliminating the barrier(s).

N/A

6. If the planned activities did not correct the trigger(s) and/or barrier(s), please describe how the agency intends to improve the plan for the next fiscal year.

N/A

Part D.2 – Mandatory and Optional Documents for this Report

EEOC FORM
U.S. Equal Employment Opportunity Commission

FEDERAL AGENCY ANNUAL EEO PROGRAM STATUS REPORT

U.S. DEPARTMENT OF
AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION	NUMBER: DR 4300-008
SUBJECT: Reasonable Accommodations and Personal Assistance Services for Employees and Applicants with Disabilities	DATE: October 27, 2020
OPI: Office of the Assistant Secretary for Civil Rights	EXPIRATION DATE: October 27, 2025

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1. PURPOSE

   a. This Departmental Regulation (DR) establishes the United States Department of Agriculture's (USDA or the Department) policy for providing a reasonable accommodation (RA) to qualified employees and applicants with disabilities. This DR also establishes the policy for providing personal assistance services (PAS) to employees with targeted disabilities.

   b. This DR is implemented to help provide qualified people with disabilities an equal opportunity to obtain and successfully perform a job to the same extent as employees without disabilities, and enjoy the benefits and privileges of employment.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

   a. This DR supersedes DR 4300-008, *Reasonable Accommodations for Employees and Applicants with Disabilities*, dated March 9, 2000.

   b. All Mission Areas, agencies, and staff offices will adopt the policies set forth in this DR, including the use of Departmental forms.

   c. This directive is effective upon publication and remains in effect until it is superseded or expires.

   d. Mission Areas, agencies, and staff offices must align their RA and PAS policies with this DR within 90 calendar days of this DR's publication date.

   e. Mission Areas, agencies, and staff offices may not supplement this DR without prior review and approval from the Office of the Assistant Secretary for Civil Rights (OASCR).

3. BACKGROUND

   a. Under Title I of the *Americans with Disabilities Act* (ADA), as amended, (Federal Executive branch agencies follow Section 501 of the *Rehabilitation Act*, which corresponds with Title I of the ADA), an RA is a change or adjustment to the standard hiring process or work environment.

   b. The Equal Employment Opportunity Commission (EEOC)'s final rule, 82 Federal Register (FR) 654, *Affirmative Action for Individuals with Disabilities in Federal Employment*, amended Section 501 of the *Rehabilitation Act of 1973*, 29 Code of Federal Regulations (CFR) 1614.203, and requires Federal Agencies to take steps to gradually increase the number of employees in Federal service with disabilities and targeted disabilities, and provide PAS to Federal employees who require such services because of their targeted disabilities.

c. Bargaining unit employees must follow their collective bargaining agreements' provisions for RA to the extent they vary with this DR.

d. The ADA requires RAs as they relate to three aspects of employment:

(1) Ensuring equal opportunity in the application process;

(2) Enabling a qualified individual with a disability to perform the essential functions of a job; and

(3) Making it possible for a disabled person to enjoy equal benefits and privileges of employment.

4. SCOPE

This DR applies to:

a. All USDA Mission Area, agencies, and staff offices responsible for implementing and managing RA and PAS through their servicing Human Resources or Civil Rights Office (CRO);

b. Qualified employees and applicants with disabilities who request RAs; and

c. Qualified employees with targeted disabilities who request PAS.

5. POLICY

a. Decisions regarding requests for an RA and PAS will be made consistent with this DR, and Section 501 of the *Rehabilitation Act*, which adopted the standards of the *Americans with Disabilities Act Amendments Act of 2008* (ADAAA). The ADAAA construes the definition of "disability" broadly, and emphasizes the determination of whether a person has a disability generally should not require extensive analysis.

b. An employee with a disability who needs an RA or PAS must inform their manager or supervisor in the employee's chain of command or the Mission Area, agency, or staff office Reasonable Accommodation Coordinator (RAC) of a need for an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to their disability.

c. Mission Areas, agencies, and staff offices are prohibited from discriminating against or taking adverse actions against job applicants or employees based on their need, or perceived need, for an RA or PAS.

d. Requests for RA or PAS may be made orally or in writing at any time.

e. Only qualified applicants and employees are eligible to receive an RA.

f. USDA will provide an RA to employees and applicants with disabilities that are known to the Mission Area, agency, or staff office and request an RA, unless doing so would cause undue hardship to the organization.

g. USDA will provide PAS to employees who have targeted disabilities and request PAS, unless doing so would cause undue hardship to the organization.

h. Processing an RA or PAS request may not be refused or delayed, absent extenuating circumstances, and may not be denied based on an opinion or perception that the request should have been made at an earlier time.

i. An applicant or candidate with a disability who needs an RA must inform the Human Resources Specialist or contact noted in the job announcement.

j. Employees, supervisors, and managers must participate in the interactive process.

k. If an approved RA or PAS will be needed intermittently, the employee does not have to re-submit the request for an RA or PAS.

l. If an employee has an ongoing RA or PAS and requests a modification due to a change in their medical condition or treatment, the employee must promptly notify their supervisor, manager, or RAC. The modification request will be processed using the guidelines outlined in this DR.

m. The Mission Area, agency, or staff office may not require a qualified person with a disability to accept an accommodation. However, if the person needs an RA to perform an essential job function or to eliminate a direct threat, and refuses to accept an effective RA, they may not be qualified to remain in their current job.

6. REASONABLE ACCOMMODATION POLICY

a. Absent a direct threat or undue hardship, Mission Areas, agencies, and staff offices must provide an effective RA to a qualified employee or applicant who requests an RA and has:

(1) A physical or mental impairment that is known, or made known, to the Mission Area, agency, or staff office, and substantially limits one or more major life activities; or

(2) A record of a substantially limiting impairment and needs an accommodation related to the past disability if the disability continues to impact the employee's job performance.

b. Mission Areas, agencies, or staff offices must not deny employment opportunities to a qualified employee or applicant with a disability based on the need to provide an RA.

(1) A person with a disability who is qualified to perform the essential functions of the position is not entitled to an accommodation of choice, but rather to an effective RA. A job function is considered essential for any of several reasons, including, but not limited to:

(a) The reason the job exists is to perform that function;

(b) There are a limited number of employees who can perform the job; and

(c) The job function is highly specialized, and the incumbent is hired for their expertise or ability to perform the job function.

(2) Evidence of whether a job function is essential includes, but is not limited to:

(a) The supervisor's judgment as to which functions are essential;

(b) Written job descriptions;

(c) The amount of time spent on the job performing the function;

(d) The consequences of not requiring the incumbent to perform the function;

(e) The terms of a collective bargaining agreement;

(f) The work experience of past incumbents in the job; or

(g) The current work experience of incumbents in similar jobs.

c. An RA will not change conduct, performance, or production standards of the employee's job. This includes conduct standards that prohibit the use of illegal drugs or drinking alcohol while on official duty.

d. An RA may be reevaluated under certain circumstances such as:

(1) Responsibilities or essential job functions change;

(2) Staffing levels change;

(3) The employee's medical condition improves or declines; or

(4) The RA is no longer effective.

e. Reevaluation of an RA should not be based solely on a change of supervisor.

7. PERSONAL ASSISTANCE SERVICES POLICY

a. Mission Areas, agencies, and staff offices are required to provide PAS to employees who need them because of targeted disabilities.

b. PAS assists employees with performing activities of daily living such as:

(1) Removing and putting on clothing;

(2) Eating;

(3) Using the restroom;

(4) Getting in and out of a vehicle at the worksite; or

(5) Moving around the building.

c. PAS does not assist employees with performing the following activities:

(1) Performing medical procedures or monitoring, such as:

(a) Administering shots; or

(b) Monitoring blood pressure;

(2) Helping a person with a targeted disability perform job-related tasks.

d. PAS must be provided if:

(1) The person is an employee of the Mission Area, agency, or staff office;

(2) The employee has a targeted disability;

(3) The employee requires PAS because of a targeted disability;

(4) The employee requests PAS;

(5) The employee will be able to perform the essential functions of the job without posing a direct threat to safety once PAS and any necessary accommodations have been provided; and

(6) Providing PAS will not impose undue hardship on the organization.

e. PAS must be approved during the following:

(1) Work hours in the normal duty location;

(2) Telework hours in the approved telework location;

(3) Agency-sponsored events such as holiday parties; and

(4) Work-related travel.

f. PAS providers can be independent contractors or Federal employees.

g. Mission Areas, agencies, and staff offices must ensure all contract provisions are sufficient to provide PAS in a timely manner to any agency employee who is entitled to them.

h. Contracts for PAS may permit Mission Areas, agencies, and staff offices to require PAS providers to perform tasks unrelated to PAS, but only to the extent that doing so does not result in a failure to provide required PAS to the employee in a timely manner.

i. Mission Areas, agencies, and staff offices may not request or require employees or contractors who do not provide PAS as part of their job to provide an employee with PAS.

j. PAS providers may provide PAS to more than one employee.

k. The employee's first preference will be considered in the selection of PAS providers to the extent permitted by law, absent undue hardship.

l. A Mission Area, agency, or staff office may reimburse an employee for the cost of PAS, may hire the PAS provider through a Federal contractor, or may use a Federal employee whose job is to provide PAS.

m. A Mission Area, agency, or staff office may hire a family member of the employee as a Federal employee to be a PAS provider.

n. A Mission Area, agency, or staff office may hire a family member of the employee as PAS provider through a Federal contractor.

o. An employee may request permission to bring their own PAS provider to work as an RA if they do not request the agency to assume the cost of providing the services. However, if the employee wants the agency to assume the cost of providing the services, the agency can select a different provider.

p. If an employee has access to classified information, the Mission Area, agency, or staff office must obtain a PAS provider who has or who is able to get the appropriate security clearance.

(a) The PAS provider is responsible for obtaining the appropriate security clearance.

(b) Finding a PAS provider who has or is able to get the appropriate security clearance may constitute an undue hardship.

8. REQUESTING AND PROVIDING RA AND PAS

a. Requesting a Reasonable Accommodation or Personal Assistance Services.

(1) A request is any communication where an employee or applicant expresses a need for assistance or change, when applying or competing for a job, performing a job, or gaining equal access to a benefit of employment, due to their medical condition.

(2) Requests may be made orally or in writing. If in writing, the Agriculture Department (AD) 1163, *Request for or Confirmation of Reasonable Accommodation/Personal Assistance Services* may be used.

(3) Requests can be made at any time during the application process or while employed.

(4) Requests may be made to the employee's supervisor, manager, Mission Area, agency, or staff office RAC, HR servicing office, or the HR Specialist or contact identified in the vacancy announcement.

(5) A request does not have to include any special words, such as "RA," "disability," "PAS," or "Rehabilitation Act." A supervisor, manager, HR Specialist, or RAC should ask the person whether they are requesting an RA or PAS if the nature of the initial communication is unclear.

(6) The employee or applicant ordinarily makes requests, but a request may be made by a third party (e.g., a family member, medical doctor, or other representative) on behalf of the employee or applicant.

b. RA and PAS Processing Timeframes and Deadlines.

(1) Supervisors, managers, HR Specialists, and RACs must confirm receipt of a request in writing to an employee, applicant, or third party, within 5 business days of receiving the request. If not initially submitted, the Supervisor, manager, HR Specialist, or RAC shall also request the Form AD-1163 be completed by the requesting individual. Failure to complete the form shall not delay the processing of an individual's oral request.

(2) HR Specialists and supervisors must process RA requests of qualified applicants as soon as possible.

(3) If a person needs an RA during the application or hiring process, they should inform the HR Specialist or contact provided in the job announcement as soon as possible.

(4) The RAC will request any relevant and necessary medical documentation from the requestor or appropriate source within 10 business days of receiving the RA or PAS request.

(5) The supervisor must approve or deny requests for RA and PAS within 30 business days of the initial request, absent extenuating circumstances, such as a delay in returning requested medical information or an unscheduled office closure.

(6) When a disability and the need for accommodation is known or obvious, a supervisor may approve an RA or PAS sooner than the required timeframe, or if possible, provide the RA immediately.

(7) If there is a delay in processing a request, the supervisor or HR Specialist must notify the requestor orally or in writing, via e-mail, or memorandum of the reason for the delay, and any extenuating circumstances causing the delay.

(8) Any oral communication from the supervisor, manager, HR Specialist, RAC, or other deciding official to the employee or applicant regarding the status of the RA or PAS, must be followed-up in writing. A supervisor's, manager's, or HR Specialist's final determination of an RA request must be made in consultation or coordination with the RAC and communicated to the employee in writing, utilizing the appropriate USDA forms.

(9) When there is a delay in either processing a request or providing an RA or PAS within the 30-day timeframe, the supervisor, manager, HR Specialist, or other deciding official must consider whether an interim RA will allow the person to perform some or all of their essential job functions.

(10) Interim RAs will continue until the RA request is approved or denied and does not create an entitlement to a permanent RA.

c. Determining an Effective RA or PAS.

(1) Each RA and PAS is unique to the person and their medical condition and must be addressed on a case-by-case basis.

(2) Supervisors and managers are required to participate in the interactive process and should communicate with the requestor early and often throughout the process.

(3) Devising an effective RA or PAS may require an interactive process between the employee, the supervisor, and other relevant parties outlined in Section 14 of this DR.

(4) Considerations for determining whether to approve an RA include, but are not limited to:

(a) The type of limitations resulting from the person's disability;

(b) Whether the requested accommodation would allow the employee to perform essential job functions and requirements;

(c) The degree to which the requested accommodation would impact the employee's office or other facility, including its functions, workload, and customers' experience;

(d) The degree to which the requested accommodation would impact the capacity of one or more other employees in the office or other facility to carry out their functions; and

(e) Any upfront and ongoing expenses.

(5) Consideration will be given to the employee's preferred accommodation, but the agency retains the ultimate discretion to choose among effective accommodations and may choose the less expensive and less disruptive accommodation. An employee is not entitled to an accommodation of their choosing.

(6) If an employee chooses to provide their own accommodation (e.g., a motorized scooter), the agency is not relieved of the duty to provide an effective accommodation should the employee for any reason be unable or unwilling to continue to provide the accommodation.

(7) Existing RAs do not guarantee approval for other employees' RA requests, irrespective of the perceived similarities of the circumstances.

9. DISABILITY DETERMINATION

a. For the purposes of providing an RA or PAS, a person is considered to have a disability when they have a physical or mental impairment that substantially limits one or more major life activities, and when they have a record of such an impairment.

b. A person is considered to have a targeted disability if their disability is designated on the Office of Personnel Management (OPM) Standard Form (SF) 256, or one of the first 12 categories of disability listed in Part A of question 5 of the EEOC's *Demographic Information on Applicants* Form (29 CFR § 1614.203).

c. A physical or mental impairment is defined as:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems; or

(2) Any mental, emotional, or psychological disorder.

d. A person will be considered to have a record of a disability if the person has a history of an impairment that substantially limited one or more major life activities when compared to most people in the general population.

e. A person who has a record of a substantial limitation in a major life activity may be entitled to RA related to the past disability, absent undue hardship. For example, an employee with an impairment that previously limited, but no longer substantially limits, a major life activity may need leave or a schedule change to permit them to attend follow-up or monitoring appointments with a health care provider.

f. The term "substantially limits" should be construed broadly in favor of expansive coverage. An impairment need not prevent, or significantly or severely restrict, a person from performing a major life activity to be considered substantially limiting.

g. The threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis. The determination is normally made on a case-by-case basis that compares a person's performance of a major life activity to the performance of the same major life activity by most people in the general population (not a comparison to those similarly situated).

h. In determining whether a person has a disability for the purpose of an RA, the focus is on how a major life activity is substantially limited, and not on what outcomes a person can achieve.

i. Major life activities include, but are not limited to:

(1) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and commuting to and from work; and

(2) The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

j. The determination of whether an impairment substantially limits a major life activity must be made without regard to the improvements caused by mitigating measures, such as medication, prosthetics, or hearing aids. The only exception is ordinary eyeglasses or contact lenses.

k. Current use of illegal drugs is excluded as a disability for the purposes of an RA. Agencies must comply with the USDA *Plan for a Drug Free Workplace* and DR 4430-792-2, *Drug-Free Workplace Program*.

l. Pregnancy is not considered a disability or impairment by itself, but some pregnancy-related impairments may qualify as a disability for which the person may be eligible for an RA.

(1) The person may also be eligible for an RA due to limitations resulting from the interaction of the pregnancy with an underlying impairment. Both categories may require the agency to provide an accommodation or adjust a current accommodation using the processes outlined in this DR.

(2) *The Pregnancy Discrimination Act of 1978*, 42 United States Code (U.S.C.) Section 2000e(k), does not require an RA, but does require that pregnant workers be treated the same as other workers who are similar in their ability or inability to work. This may mean providing measures that are similar to RAs, such as light duty, leave, or any job changes provided to another employee similar in ability or inability to work. These requests will follow RA procedures.

10. TYPES OF REASONABLE ACCOMMODATION

a. The three types of RAs are:

(1) Change to the Application Process: A change to the job application process that allows qualified applicants with disabilities to apply and be considered for jobs;

(2) Change to the Work Environment: A change to the work environment, or the way a job is customarily performed, that helps qualified employees with disabilities to perform the essential functions of a job; and

(3) Change to Allow Equal Access: A change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

b. Benefits and privileges of employment include, but are not limited to:

(1) Access to restrooms, credit unions, cafeterias, and services, (e.g., employee assistance programs);

(2) Recreational activities;

(3) Work sponsored social activities on- and off-site; and

(4) Training opportunities.

c. The following are examples of common RAs:

(1) Equipment.

A larger or specialized computer monitor for an employee with a visual impairment.

(2) Accessibility.

(a) Making existing facilities physically accessible;

(b) Providing screen magnification software; voice activation software; or readers to help people who are vision impaired or have learning disabilities that inhibit their ability to read printed text; open/closed captioning, providing a simpler explanation of workplace rules for employees with cognitive disabilities; or

(c) Providing sign language interpreters to assist the hearing impaired communicate with coworkers, or participate in work related activities (e.g., training).

(3) Workplace Changes.

(a) Lowering the paper towel dispenser in a workplace restroom; or

(b) Adjusting the lighting at a person's workstation.

(4) Job Restructuring.

(a) Job restructuring may involve shifting or redistributing non-essential job functions that an employee is unable to perform. Job restructuring may also involve changing when or how a task is performed.

(b) An employee who has non-essential job functions shifted to another employee will assume other non-essential functions, in accordance with classification guidelines.

(c) An RA does not include removing, shifting, or reassigning essential job functions.

(5) Telework as an RA.

(a) Telework (RA telework) may be an effective RA and should be considered as an RA for qualified employees with disabilities if the accommodation helps the employee and would not interfere with the essential functions of the employee's position.

(b) The employee must demonstrate how limitations from their disability prevent them performing their essential job functions at their duty station, and how the essential job functions can be performed from their home or another offsite location.

(c) A determination to allow RA telework will be made on a case-by-case basis, taking into consideration the nature of the disability, the portability of essential job functions, and whether the job functions can be performed from another location.

(d) RA telework is subject to different requirements than general telework requirements.

(e) RA telework may not be approved if the essential job functions are not portable, such as when sensitive materials cannot be accessed outside the primary work location, direct customer or coworker interaction is necessary to fulfill the job requirements, or the work requires immediate access to documents in the workplace that cannot be made available electronically.

(f) RA telework may not be effective for employees whose duties involve customer-facing work during specific hours or whose duties are dependent on teamwork.

(g) When considering RA telework, an employee may consult their immediate supervisor or manager, the Mission Area, agency, or staff office HR Specialist, or the RAC for guidance, as needed.

(6) Modified work schedules.

(a) Adjusting arrival and departure times, changing shift assignments, providing periodic breaks, or allowing a part-time schedule or flextime schedule may be an effective RA.

(b) This accommodation may be an effective RA for employees who work independently and whose duties can be performed separately from others on the same team.

(7) Leave.

(a) Employees with a disability may be permitted to use accrued leave. In appropriate circumstances, an employee may be approved for advanced leave or leave without pay as an accommodation. The Mission Area, agency, or staff office must consider providing unpaid leave to an employee with a disability as an RA if the employee requires it, so long as it does not cause an undue hardship for the agency.

(b) In some situations, a request for leave as an RA may present an undue hardship. In cases of highly specialized jobs or when an employee cannot provide a return date, it may be difficult or impossible to find a temporary replacement or to hold the job open indefinitely. In these cases, the supervisor will consult with their respective HR Specialist, RAC, or the Office of Human Resources Management (OHRM).

(c) Quantity and timeliness measures in performance standards must be prorated or adjusted for employees who are on extended approved leave to ensure the employee is not penalized for being ill or having a disability.

(8) Modifying supervisory methods.

While a Mission Area, agency, or staff office is not required to reassign an employee to a new supervisor as an RA, a supervisor may, in certain circumstances, be required to change their method of communication or process. Communicating in writing rather than orally, providing an agenda for meetings, or allowing teleconferencing rather than face-to face meetings may be effective accommodations.

(9) Job coach.

Coaching may be an appropriate temporary measure to help an employee learn essential and non-essential job functions.

(10) Travel.

Travel-related RAs may include a request for an airfare class upgrade, rental or transport of a wheelchair, a larger hotel room, or special conveyances. All travel requests must comply with the *Federal Travel Regulation*, Part 301-3, which allows for RAs, such as paying for additional travel expenses incurred.

(11) Emotional Support and Service Animals.

An employee or applicant may request the use of a service, comfort, or emotional support animal as an RA. The requestor is responsible for ensuring the animal is properly trained and cared for, behaves, and follows applicable guidelines determined by the Mission Area, agency, or staff office. If the animal is disruptive, poses a direct threat (e.g., a significant risk to health or safety), or is not properly cared for by the handler, the effect on others may demonstrate an undue hardship on the Department.

(12) Reassignment.

(a) Reassignment is the RA of last resort. Mission Areas, agencies and staff offices are required to search for and offer any vacant and funded position the employee is qualified.

(b) Reassignment will be considered only after it has been determined:

1 No RA will help the employee to perform the essential functions of their current position; or

2 All other RAs would impose either a direct threat or undue hardship.

(c) Reassignment must be to a vacant and funded position the employee is qualified for, with or without an accommodation:

1 The vacant position will generally be commensurate to the employee's current position at the same grade and pay;

2 The vacant position must not be at a higher grade or pay than the employee's original position;

3 The vacant job must not have non-competitive promotion potential beyond that which existed in the employee's original position;

4 The position must be vacant or anticipated to become vacant within a reasonable amount of time determined by totality of the circumstances; and

5 If there is no commensurate vacant position available within a reasonable amount of time, the employee may be accommodated through a reassignment to a lower-graded job, following merit promotion and pay regulations for such reassignment.

(d) When considering reassignment as an RA, supervisors, managers, and RACs must coordinate with the Mission Area, agency, or staff office HR servicing office in searching for available vacancies.

(e) If an employee is successfully reassigned, the Mission Area, agency, or staff office is not required to fund relocation expenses, but may do so at its discretion, if funding permits.

(f) Mission Areas, agencies, and staff offices do not have to create a position and are not required to remove another employee to provide an RA.

(g) Reassignment searches should begin within the Mission Area, agency, or staff office where the employee is currently employed and extend Department-wide, if necessary.

(h) An employee with a disability may not be reassigned to a position where they are unable to perform the essential job functions, with or without an RA.

11. LIMITATIONS TO PROVIDING REASONABLE ACCOMMODATION

Mission Areas, agencies, and staff offices are not required to:

a. Provide an accommodation that would cause an undue hardship;

b. Provide personal use items as RAs, but may be required to provide a personal use item that is intended to be used only on the job, such as a motorized scooter;

c. Provide an employee with equipment, an adjustment, or change that would assist the employee both on and off the job, such as eyeglasses or a permanent motorized scooter;

d. Remove or change a job's essential functions;

e. Lower production or performance standards;

f. Excuse violations of standards of conduct; or

g. Provide an accommodation that would cause a direct threat.

(1) The determination that a person poses a direct threat must be based on a personalized review of the person's present ability to safely perform essential job functions. This review must be based on a reasonable medical judgment that relies on the most current medical knowledge or the best objective evidence available.

(2) Supervisors must consult with their servicing Employee Relations Specialist and the RAC when determining whether a person would pose a direct threat to self or others.

(3) Factors considered in determining whether the employee would pose a direct threat to self or others include:

(a) The duration of the risk;

(b) The nature and severity of the potential harm;

(c) The likelihood that the potential harm will occur; and

(d) The imminence of the potential harm.

12. RA AND DISABILITY RETIREMENT

a. An employee may qualify for Federal disability retirement if the Mission Area, agency, or staff office certifies it is unable to accommodate the employee's disability in their present job and has considered the employee for other vacant jobs within the Department at the same grade or pay level, within the same commuting area, for which the employee is qualified for reassignment.

b. OPM, not the Department, makes decisions regarding disability retirement applications.

13. MEDICAL INFORMATION AND CONFIDENTIALITY

a. Requesting Medical Information.

(1) Only the agency RAC may determine whether medical information is needed to assess the RA or PAS request, and if so, may request the information from the employee and, with the employee's permission, the appropriate health professional.

(2) Before requesting medical documentation from an applicant or employee, the type of accommodation (e.g., schedule, leave, work from home, equipment, etc.) and how it will help a person perform the essential functions of the job should be considered. Medical information regarding the need for an RA or PAS may not be necessary if the information provided through the interactive process is sufficient to show an RA or PAS is needed.

(3) Medical information is not required when both the disability and need for accommodation or personal assistance are obvious, if the employee previously provided sufficient medical information with their RA request showing they had a disability and a need the requested RA or PAS, or if enough information is provided through the interactive process.

(4) If a person's disability and need for an RA or PAS are not obvious or already known, then the Mission Area, agency, or staff office RAC is authorized to ask for and receive medical information showing the person has a qualifying disability requiring an RA or PAS, and information about the nature or extent of the employee's medical limitations, if needed.

(5) It is the responsibility of the requester to provide appropriate medical information requested by the Mission Area, agency, or staff office RAC where the disability and

need for an RA or PAS are not obvious, already known, or where there is a need to change a current RA or PAS.

(6) The Mission Area, agency, or staff office RAC may request relevant, supplemental medical information if the information submitted by the requester in their initial request did not provide adequate information to assess the RA or PAS request, or if the medical information does not support a change of the accommodation.

(7) Medical information must be sufficient to explain:

(a) The nature and duration of the person's disability;

(b) The limitations, scope of limitations, and restrictions related to the disability;

(c) The need for RA or PAS; and

(d) How the requested RA will assist the person with applying for a job, performing the essential functions of a job, or enjoying the benefits and privileges of employment.

(8) The Mission Area, agency, or staff office may have the medical information reviewed by a medical expert of their choosing at the Mission Area, agency, or staff office's expense.

(9) Once a person has identified their disability with the Mission Area, agency, or staff office, new or updated medical information will only be requested in limited circumstances where the person:

(a) Requests a new RA or PAS;

(b) Is observed by the supervisor or manager having difficulties in performing essential job functions;

(c) Has a change in their disabling condition or functional limitations;

(d) Has a change to their essential job duties that are not addressed by the medical information previously provided; or

(e) Can no longer perform their essential job duties or enjoy the privileges of employment.

(10) If an employee's condition is expected to improve, an RA agreement may indicate the RA will be reevaluated.

b. Confidentiality Requirements.

(1) Requests for RA and PAS are considered medical information and must remain confidential.

(2) RACs may only request medical documentation directly related to the accommodation being requested, and are not entitled to the person's complete medical record.

(3) A person's RA or disability should not be described in their telework agreement, time and attendance record, or tour of duty work schedule.

(4) Any additional medical information obtained in connection with RA and PAS requests must also remain confidential and be maintained by the Mission Area, agency, or staff office RAC.

(5) RA and PAS files must remain separate from an employee's personnel file. This includes any RA or PAS requests, denials, medical information, and relevant communications.

(6) Any USDA employee who obtains or receives medical information related to an RA or PAS request is strictly bound by the confidentiality requirements in this DR.

(7) The RAC will only disclose information to the person's supervisor or other agency official(s) as necessary to process and implement an RA request. Under these circumstances, the RAC will inform the recipient of the requirement to maintain the confidentiality of the medical information.

(8) Any information disclosed must be no more than is necessary to process and implement the request.

(9) In addition to disclosures of information needed to process a request for an RA or PAS, other disclosures of medical information are permitted as follows:

(a) To provide an effective RA, supervisors and managers are entitled to relevant information that is necessary to understand the person's restrictions and limitations related to the essential job functions;

(b) First-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation;

(c) Government officials may be given information necessary to investigate USDA's compliance with the Rehabilitation Act;

(d) When a Mission Area or agency medical officer consults with the person requesting an RA regarding the interpretation of medical documents;

(e) In certain circumstances related to litigation, the worker's compensation or insurance carriers, in accordance with EEOC regulation; and

(f) When otherwise authorized by law.

14. INTERACTIVE PROCESS

a. The interactive process is a dialogue between the person with a disability and their direct supervisor or manager to determine an effective accommodation. The person with a disability should be consulted to determine the precise job-related limitations imposed by their disability, and how those limitations can be overcome with an RA.

b. The interactive process may also require key people to work together with the person with a disability to consider options available to help them perform the essential job functions, absent undue hardship to the organization.

c. Actively engaging in the interactive process will promote the timely and efficient processing of RA and PAS requests. In many instances, the person with the disability will be able to provide information regarding the type of accommodation needed.

d. If a person cannot participate in the interactive process, they may designate someone else to participate in the interactive process.

e. Below are a few examples of key people or entities that may be consulted to participate in the interactive process.

(1) Supervisors and managers;

(2) Hiring officials;

(3) Mission Area, agency, or staff office RAC;

(4) Medical care or mental health care professional of the individual;

(5) USDA Technology and Accessible Resources Give Employment Today (TARGET) Center;

(6) Mission Area, agency, or staff office HR Specialist, Employee, or Labor Relations staff;

(7) Rehabilitation counselor;

(8) A family member of the person;

(9) Department of Labor's Job Accommodation Network;

(10) Union Representative; and

(11) The personal representative of the person requesting the RA.

15. UNDUE HARDSHIP

a. The Department is not required to provide an RA if it would cause an undue hardship to an organization.

b. Factors to consider in determining if an RA would impose an undue hardship include, but are not limited to:

(1) The nature or net cost of the accommodation needed;

(2) The overall financial resources of the Department;

(3) The overall size, number, location, and number of employees of the Mission Area, agency, or staff office; and

(4) The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

c. A Mission Area, agency, or staff office cannot claim an undue hardship based on:

(1) Employee or customer fears or biases about a person's disability;

(2) Negative impact on the morale of other employees; or

(3) Changes needed to property owned by another entity other than the Department.

d. Generalized conclusions do not support a claim of undue hardship.

e. Determinations of undue hardship must be based on a personalized review of current circumstances that show a specific accommodation request would cause significant difficulty and expense to the Department.

f. If there is another accommodation that will avoid undue hardship to the Department, then the Mission Area, agency, or staff office must provide the other RA.

16. DENIED REQUESTS

a. A supervisor or hiring official must communicate a denial of an RA or PAS request in writing via e-mail, memorandum, or on Form AD-1165, *Reasonable Accommodation and Personal Assistance Services Employee Denial Form*, and must specify:

(1) The reason for the denial;

(2) The right to file an administrative grievance or, if permitted under the applicable collective bargaining agreement, negotiated grievance with the agency;

(3) The right to file an Equal Employment Opportunity (EEO) complaint with OASCR, or the Mission Area or agency EEO office; and

(4) Instructions on how to file an EEO complaint with OASCR, or the Mission Area or agency EEO office.

b. An accommodation denial does not prevent the requestor from making another RA request at a later time if circumstances change and they believe an accommodation is needed (e.g., a disability worsens, or the requestor is assigned new duties that require an additional or different RA).

c. If a person is denied an RA or PAS, they may request reconsideration.

d. Upon receipt of a written denial, a requester has 10 business days to request reconsideration from their second line supervisor. A request for reconsideration does not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

e. After receiving a request for reconsideration, the second line supervisor will render a decision and notify the requester in writing within 14 business days of receiving the request for consideration.

17. COMPLAINTS AND DISPUTE RESOLUTION

a. Employees and applicants may use informal or alternative dispute resolution processes to obtain prompt reconsideration of denied requests.

b. Employees and applicants may file complaints related to an RA.

(1) EEO Complaint Process. Employees and applicants must initiate contact with an EEO Counselor within 45 calendar days of the date of denial (as defined by the date the written denial is issued via e-mail, memorandum, or Form AD-1165 with an additional 5 calendar days when the written denial must be mailed to the employee or applicant).

(2) Employee Grievance Process. Employees may file an administrative grievance in accordance with the provisions of the DR 4070-771-001, *Administrative Grievance System*. Employees should contact their Mission Area, agency, or staff office Employee Relations Office for further information.

(3) Negotiated Grievance Procedure. Employees may contact their union representative to file a negotiated grievance, in accordance with collective bargaining agreement provisions.

(4) Appeal Process. Employees may initiate an appeal to the Merit Systems Protection Board within 30 calendar days of an appealable adverse action as defined in 5 CFR § 1201.3.

18. MAINTENANCE OF RECORDS AND FORMS

Mission Areas, agencies, and staff offices will maintain RA and PAS records in accordance with the Department's record retention policy, including aggregated, anonymized records that track the number of RAs and PASs currently in effect for the relevant agency, sub-agency, or office.

19. ROLES AND RESPONSIBILITIES

a. The Assistant Secretary for Civil Rights will:

(1) Monitor and evaluate the implementation of the RA and PAS process;

(2) Provide policy compliance oversight, technical assistance, and direction on issues that arise;

(3) Annually prepare and submit an affirmative action plan to the EEOC that includes a copy of USDA's RA and PAS DR and information on the Department's efforts to implement RA and PAS; and

(4) Review and revise this DR as needed.

b. The Director, OHRM, serving as the USDA Chief Human Capital Officer (CHCO), will:

(1) Establish and implement USDA's RA and PAS procedures in compliance with applicable law, regulations, OPM Guidance, this DR, and DM 4300-002, *Reasonable Accommodation Procedures*;

(2) Oversee the establishment and implementation of RA and PAS procedures for Mission Area, agency and staff offices;

(3) Ensure policies and procedures for requesting RA and PAS and applicable forms are published to the Department's public-facing and internal websites;

(4) Provide technical assistance to Mission Area, agency, and staff office RACs;

(5) Ensure Mission Areas, agencies, and staff offices actively support and adhere to RA and PAS procedures; and

(6) Review, direct, and approve Mission Area, agency, and staff office internal RA and PAS procedures.

c. Mission Areas and Agencies will:

(1) Designate one or more RACs (depending on workforce size) and ensure they are trained and qualified to manage, process, and provide technical assistance for RA and PAS requests to their respective organizations;

(2) Establish and maintain a secure, accessible, centralized RA and PAS tracking system to monitor compliance with the process and timeline requirements outlined in this DR;

(3) Ensure there are enough RACs to ensure timely and effective processing of RA and PAS requests.

(4) Implement RA and PAS procedures;

(5) Provide resources for program implementation to ensure efficient and timely processing of RA and PAS requests;

(6) Develop an affirmative action plan for the recruitment, hiring, advancement, and retention of persons with disabilities;

(7) Maintain sufficient funding to support the ongoing costs associated with providing RAs to applicants and employees with disabilities;

(8) Maintain sufficient funding to support the ongoing costs associated with providing PAS to employees who have targeted disabilities; and

(9) Ensure procedures for requesting RA and PAS and any associated forms are published on their public-facing and internal websites and made available to all applicants and employees.

d. USDA CHCO Council Members will:

(1) Ensure their RA and PAS policies and procedures comply with this DR;

(2) Ensure sufficient funding is maintained within their own Mission Area, agency, or staff office to support the ongoing costs associated with providing RA and PAS;

(3) Ensure all vacancy announcements include instructions on how to request an RA and include contact details of the HR Specialist noted in the job announcement;

(4) Ensure tentative and final job offer letters include RA and PAS procedures and contact details for the Mission Area, agency, or staff office RAC;

(5) Provide reassignments as an RA to a vacant and funded position at the same or lower grade level without competition, consistent with this DR;

(6) Provide staff support to identify current and anticipated vacancies to reassign a qualified employee seeking reassignment as an RA after attempts to accommodate the employee in their current job have been exhausted;

(7) Conduct an annual evaluation of Mission Areas, agencies, and staff offices to evaluate compliance with established policies and procedures, and determine the need for improvement, training, or guidance;

(8) Collaborate with OASCR and OHRM to timely provide the information necessary for submission of the annual EEO Management Directive (MD) 715 reports to the EEOC with a copy to OHRM; and

(9) Provide required reports and documentation of program activities to support USDA and OPM accountability program reviews and audits.

e. Reasonable Accommodation Coordinators will:

(1) Complete RA and PAS training within 30 business days after their initial appointment, and additional training as needed;

(2) Complete RA and PAS annual training;

(3) Adhere to this DR to ensure qualified employees and applicants with disabilities are provided RAs in an effective and efficient manner that meets the timelines set forth within this DR;

(4) Adhere to this DR to ensure qualified employees who have targeted disabilities are provided PAS in an effective and efficient manner that meets the timelines set forth within this DR;

(5) Participate in the interactive process with job applicants or candidates to assist in providing an RA during the application or hiring process;

(6) Maintain RA and PAS request records in accordance with applicable Federal regulations and this DR;

(7) Ensure medical records are kept confidential and maintained in secured files

(8) Maintain current, up-to-date inventories of granted and denied RAs or PASs request in the RA Coordinator's respective agency; and

(9) Submit quarterly reports to OHRM for monitoring and measuring USDA's compliance with the Rehabilitation Act.

f. Human Resources Specialists will:

(1) Complete RA and PAS annual training, and additional training as needed;

(2) Work with their respective RACs to evaluate requests for RA and PAS within the timeframe described in Section 8 of this DR;

(3) Actively participate in the interactive process to assist with finding an effective RA for employees and qualified applicants, when needed;

(4) Actively assist in the reassignment process, when necessary;

(5) Provide an effective RA for employees and qualified applicants, when needed; and

(6) Provide an effective PAS for employees with targeted disabilities, when necessary.

g. Mission Area, Agency, and Staff Office Managers and Supervisors will:

(1) Complete RA and PAS annual training, and additional training as needed;

(2) Work with their respective RAC to evaluate requests for RA and PAS within the timeframe described in Section 8 of this DR;

(3) Actively participate in the interactive process to assist with providing an effective RA for employees and qualified applicants, when needed;

(4) Provide an effective RA for employees and qualified applicants, when needed;

(5) Provide an effective PAS for employees with targeted disabilities;

(6) Evaluate the RA at the end of any timeframes communicated by the employee's healthcare provider;

(7) Evaluate the RA at the end of its established timeframe;

(8) Evaluate the RA if there is a change in staffing, job position, responsibilities of the job, or if the RA is no longer effective;

(9) Contact the Labor Relations Staff for guidance and assistance if an RA is requested by a bargaining unit employee; and

(10) Maintain RA and PAS records in a secure area, separate from the employee's personnel file, in accordance with applicable Federal regulations.

h. Employees and Applicants with Disabilities who need RA will:

(1) Initiate RA requests, as needed, in the manner outlined in Section 8 of this DR;

(2) Provide timely and relevant medical information that specifically connects the disability to the requested RA, if requested; and

(3) Actively participate in the interactive process.

i. Employees with Targeted Disabilities who need PAS will:

(1) Initiate a request for PAS, in the manner outlined in Section 8 of this DR;

(2) Provide timely, relevant medical information specifically relating the targeted disability to the requested PAS, if requested; and

(3) Actively participate in the interactive process.

20. COMPLIANCE

a. OASCR will audit Mission Areas, agencies and staff offices to ensure compliance with this DR.

b. USDA CHCO Council Members are responsible for ensuring their RA and PAS programs comply with the policies specified in this DR.

c. OHRM, on an as needed basis, will establish mandatory compliance reporting.

21. INQUIRIES

Questions and comments pertaining to this DR should be directed to the Office of the Assistant Secretary for Civil Rights at (202) 720-3808.

-END-

APPENDIX A

ACRONYMS AND ABBREVIATIONS

AD	Agriculture Department (for Departmental forms use only)
ADA	Americans with Disabilities Act
ADAAA	Americans with Disabilities Act Amendments Act
CFR	Code of Federal Regulations
CHCO	Chief Human Capital Officer
DM	Departmental Manual
DR	Departmental Regulation
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
HR	Human Resources
OASCR	Office of the Assistant Secretary for Civil Rights
OCIO	Office of the Chief Information Officer
OHRM	Office of Human Resources Management
OPF	Official Personnel File
OPM	Office of Personnel Management
PAS	Personal Assistance Services
RA	Reasonable Accommodation
RAC	Reasonable Accommodation Coordinator
SF	Standard Form
U.S.C.	United States Code
USDA	United States Department of Agriculture
TARGET	Technology and Accessible Resources Give Employment Today

APPENDIX B

DEFINITIONS

ADA. For purpose of this DR, ADA refers to Title I of the Americans with Disabilities Act of 1990, as amended, as it relates to employment standards. Title I of the ADA requires an employer to provide RA to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause an undue hardship. These standards are set forth in the EEOC's ADA regulations at 29 CFR part 1630. Section 501 of the Rehabilitation Act of 1973, as amended, comports with Title I of the ADA.

ADAAA. Americans with Disabilities Act Amendment Act of 2008.

Agency. Organizational units of the Department, other than staff offices as defined below, whose heads report to officials within the Office of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and Assistant to the Secretary.

Bargaining Unit Employee. An employee included in an exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition. (DG 0100-002, *USDA Departmental Directives Definitions Glossary,* September 26, 2018)

CHCO Council Member. The most senior Human Resources Officer in a Mission Area.

Deciding Official. A USDA supervisor, manager, RAC, HR Specialist, Employee Relations Specialist, or other USDA employee who has the authority to make a decision regarding an employee or applicant's RA or PAS.

Direct Threat. A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by RA. (29 CFR § 1630.2(r))

Disability. With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. (29 CFR § 1630.2(g))

Drug. A controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (29 CFR § 1630.3 and 21 U.S.C. § 812)

Effective Accommodation. An accommodation that removes a workplace barrier and allows an applicant to apply for a job, or allows an employee to perform the essential functions of the job.

Essential Functions. The fundamental duties of the job the individual with a disability holds or desires, and that the individual who holds the job must be able to perform unaided or with the assistance of RA. (29 CFR § 1630.2(n)(1) and Appendix to 29 CFR Part 1630)

Extenuating Circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or

unavoidable events prevent prompt processing and delivery of an accommodation. (e.g., identified software such as a screen reader is not compatible with existing equipment).

Illegal Use of Drugs. The use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act, as periodically updated by the Food and Drug Administration. This term does not include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law. (29 CFR § 1630.3)

Interim Accommodation. Any temporary or short-term measure put in place until an RA request is approved or denied, or until a granted accommodation is available. An interim accommodation can be put in place before there is a determination that the individual has a disability; before or after the interactive process; before there has been a decision re: an RA; or when more time is needed to put a granted RA in place.

Job Coach. Someone who assists in training or guiding the performance of a person with a disability.

Major Life Activities. Major life activities include activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive function. (29 CFR 1630.2(i))

Manager. A person in a management job who typically supervises one or more supervisors.

Mission Area. A group of agencies with related functions that report to the same Under or Assistant Secretary. Research, Education, and Economics (REE) is an example of a mission area.

Mitigating Measures. Include, but are not limited to: medication, medical supplies, equipment, or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or "auxiliary aids or services" (as defined by 42 U.S.C. 12103(1)); Learned behavioral or adaptive neurological changes; or Psychotherapy, behavioral therapy, or physical therapy. (29 CFR 1630.2 (j)(5))

Official Personnel File. The file containing records for a person's federal employment career.

Ordinary Eyeglasses or Contact Lenses. Lenses that are intended to fully correct visual acuity or eliminate refractive error (eyeglasses or contact lenses that are the wrong prescription, or an

outdated prescription, may nevertheless be ordinary eyeglasses or contact lenses, if a proper prescription would fully correct visual acuity or eliminate refractive error.)

Personal Assistance Services. Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a RA, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. (29 CFR § 1614.203)

Personal Assistance Provider. An employee or independent contractor whose primary job functions include provision of PAS. (29 CFR § 1614.203)

Personally Identifiable Information (PII). Any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. (DG 0100-002, *USDA Departmental Directives Definitions Glossary,* September 26, 2018)

Physical or Mental Impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities. (29 CFR § 1630.2(h))

Qualified. With respect to an individual with a disability, someone who satisfies the requisite skill, experience, education and other job-related requirements of the employment job such individual holds or desires and, with or without RA, can perform the essential functions of such job. (29 CFR § 1630.2(m))

Reasonable Accommodation. Change or adjustment to a job application process that helps a qualified applicant with a disability to be considered for the job such qualified applicant desires; or change or adjustment to the work environment, or to the manner or circumstances under which the job held or desired is customarily performed, that helps an individual with a disability who is qualified to perform the essential functions of that job; or change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. (29 CFR § 1630.2(o)(1))

Rehabilitation Program. In-patient and out-patient programs, as well as appropriate employee assistance programs, professionally recognized self-help programs, such as Narcotics Anonymous, or other programs that provide professional (not necessarily medical) assistance and counseling for individuals who illegally use drugs. (29 CFR Part 1630 Appendix)

Section 501 of the Rehabilitation Act, as Amended. Section 501 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federal employment, and requires agencies to provide RA to a qualified employee or job applicant with a disability, unless

doing so would be an undue hardship on the agency. Section 501 also requires the Federal Government to be a model employer of persons with disabilities. The standards for determining employment discrimination under the Section 501 of the Rehab Act are the same as those used in Title T of the ADA.

Staff Office. Departmental administrative offices whose heads report to officials within the Office of the Secretary.

Supervisor. An individual employed in USDA having authority, in the interest of an agency, to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline and remove employees; to adjust their grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. Except with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

Targeted Disability. A disability designated as a "targeted disability or health condition" on OPM SF-256 or a disability falling under one of the first 12 categories of disability listed in Part A of question 5 of the EEOC's Demographic Information on Applicants Form. (29 CFR § 1614.203)

Undue Hardship. Significant difficulty or expense in, or resulting from, the provision of the accommodation. (29 CFR § 1630.2(p))

APPENDIXC

AUTHORITIES AND REFERENCES

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Controlled Substances Act, 21 U.S.C. § 811, May 1, 1971

Demographic Information on Applicants, 0MB No. 3046-0046 , (Update pending)

EEOC, *Equal Employment Opportunity Management Directive 715,* October 1, 2003

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Establishment of Official Personnel Folder, 5 CFR § 293.302 , **January 24, 1985**

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

Federal Sector Equal Employment Opportunity, 29 CFR Part 1614, **December 2, 2009**

Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71, ***October 13, 1978***

Federal Travel Regulations, Part 301-13, 41 CFR 301, April 26, 2006

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OPM, SF-256, ***Self-Identification of Disability Form***, October 2016

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Pregnancy Discrimination Act of 1978, October 31, 1978

Privacy Act of 1974, 5 U.S.C. Section 552a, as amended, December 31, 1974

Privacy Procedures for Personnel Records, 5 CFR Part 297, January 26, 1988

Prohibited Personnel Practices, 5 U.S.C. Section 2302, October 31, 1998

Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act, 29 CFR Part 1630, July 26, 1991

Schedules of Controlled Substances, 21 U.S.C. §812, November 9, 1990

Section 508 of the ***Rehabilitation Act of 1973***, as amended in 1992 and 1998, 29 U.S.C. § 794 (d)

USDA, Form AD-1163, *Request for or Confirmation of Reasonable Accommodation/Personal Assistance Services*

USDA, Form AD-1164, *Reasonable Accommodation and Personal Assistance Services Employee Approval Form*

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USDA, *Plan for a Drug Free Workplace,* April 19, 2011

USDA, DG 0100-002, *USDA Departmental Directives Definitions Glossary,* September 26, 2018

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USDA, DR 4070-771-001, *Administrative Grievance System*, September 10, 2019

USDA, DR 4430-792-2, *Drug-Free Workplace Program*, April 14, 2011

USDA, DR 4080-811-002, *Telework Program*, January 4, 2018

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Signature & Date

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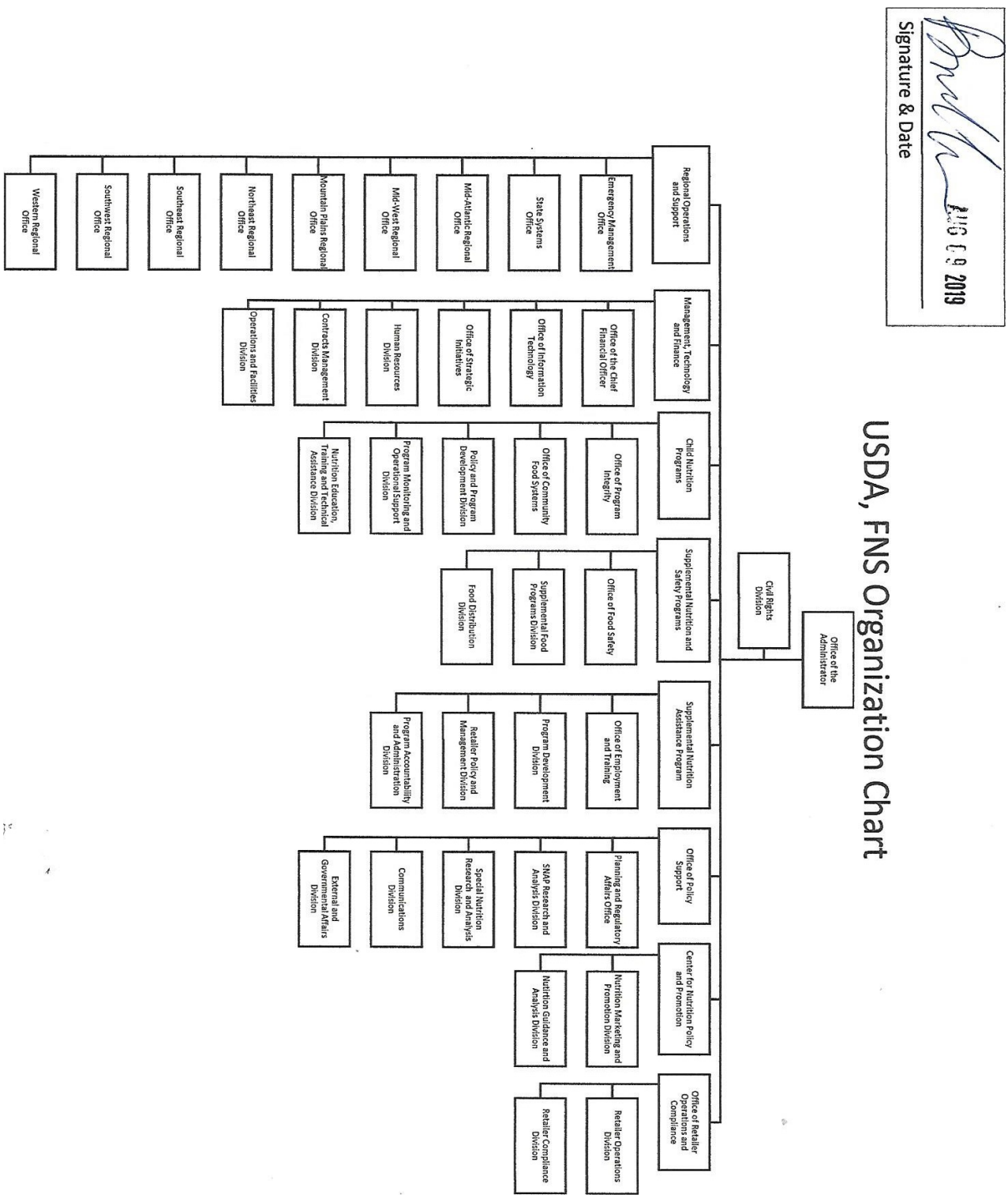

USDA、 FNS 0rganization Chart

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

May 22, 2020

USDA Civil Rights Policy Statement

The hallmark of my tenure as Secretary of the U.S. Department of Agriculture (USDA) is to do right and feed everyone and I don't intend for that to be just a hollow creed. This pledge is at the heart of our work, which includes our commitment to protecting the civil rights of all USDA employees and customers.

Doing right means treating all people equally, regardless of an individual's race, color, national origin, religion, sex (including pregnancy, gender identity and sexual orientation), disability, age, genetic information, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). We are part of the same human family, imbued with dignity and worthy of respect. I expect every USDA employee to foster a workplace free from discrimination, harassment, and retaliation so everyone can reach his or her full potential. Workplace harassment will not be tolerated, and managers and supervisors will correct the harassing conduct before it becomes severe or pervasive. Our workplace will be a model for proper enforcement of civil rights protections, not only because it's the law, but also because it's the right thing to do.

Equal employment opportunity covers all personnel/employment programs, management practices, and decisions, including, but not limited to, recruitment/hiring, merit promotion, transfer, reassignments, training and career development, benefits, and separation.

Feeding everyone means it doesn't matter what you look like or where you come from, USDA programs are for you. Hunger knows no color or creed. Whether we are responding to disasters with food aid, cultivating sustainable agriculture programs overseas, or improving school meals here at home, at USDA we know food has the power to unite.

When you start with a simple expression of integrity and equality, upholding civil rights and all the freedoms enshrined in our laws is not just compulsory, it becomes intrinsic. For that reason and working together, we will continue to return to our touchstone: Do right … by everyone … and feed everyone.

Sonny Perdue
Secretary

An Equal Opportunity Employer

USDA

FY 2020

FNS Annual Review

Planning & Performance 2020: A Year in Review

This report highlights accomplishments of USDA's Food and Nutrition Service (FNS) in support of the Fiscal Year 2020 Agency Priorities. These accomplishments were critical in ensuring FNS achieved its mission in a way that inspired public confidence and supported American agriculture.

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

May 22, 2020

USDA ANTI-HARASSMENT POLICY

The U.S. Department of Agriculture (USDA) is committed to creating and maintaining a talented, diverse, and inclusive workforce. USDA provides employment opportunities, programs, and services to the American public in a manner that demonstrates our commitment to fairness, integrity, and equality. In accordance with requirements established by the U.S. Supreme Court[1], this policy applies to USDA employees in their working relationship with Federal employees, non-Federal employees, and the public. It also applies to contractors and individuals employed under other formal agreements with USDA.

My expectation for all employees and contractors is simple: "Do right and feed everyone." In order to do right, we must prevent workplace harassment and take immediate and appropriate corrective action when it occurs.

Equal Employment Opportunity (EEO) based harassment is unwelcome conduct based on race, color, national origin, religion, sex, disability, age, genetic information, sexual orientation, marital status, familial and/or parental status, income derived from a public assistance program, political beliefs, or gender identity.

EEO based harassment becomes unlawful when tolerating the offensive conduct becomes a condition of continued employment, or the conduct is sufficiently severe or pervasive to create a work environment a reasonable person would consider intimidating, hostile, or abusive. The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee, such as a client or customer.

Non-EEO harassment (including bullying) is any form of unwelcome conduct, pervasive, persistent, and unsolicited verbal, non-verbal, written, or physical conduct that is objectively offensive and could alter the affected employee's terms and conditions of employment.

Harassing conduct, whether directed at an employee or non-employee, may include, but is not limited to, the following actions:

[1] In Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998), and Faragher v. City of Boca Raton, 524 U.S. 775 (1998),

- Engaging in sexual harassment, an egregious form of prohibited harassment and a form of sex discrimination. Sexual harassment includes unwelcome conduct such as sexual advances, requests for sexual favors or dates, remarks about an individual's appearance, discussions, remarks, or jokes of a sexual nature, and other verbal or physical harassment of a sexual nature.

- Using derogatory words, phrases, epithets, gestures, pictures, drawings, slurs, or cartoons not otherwise protected by the First Amendment's guarantee of the right to freedom of speech and the right to religious free exercise.

- Using electronic devices or forms of communication (computers, cellular telephones, tablets, internet, email, and/or other technological equipment) to intimidate, harass, demean, or degrade another (i.e., cyberbullying).

- Retaliation against any individual for reporting matters under this policy, or for an individual's involvement in an inquiry related to such a report.

USDA considers allegations of harassment to be very serious. Employees who witness harassment should immediately report it to their manager, supervisor, any management official in your office or agency, or your Civil Rights Office before the harassment becomes severe or pervasive in the workplace. Individuals who believe they have been subjected to or witnessed harassment in the workplace are encouraged to inform the alleged harasser directly the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation. Reports of harassment need not be in writing or conform to a format.

Allegations of EEO and non-EEO harassment will be addressed by a management inquiry. Allegations of EEO harassment may also be addressed as an EEO complaint.

1. A Management Inquiry

The management official receiving the allegation will:

- Immediately contact Human Resources and their Mission Area or Agency Civil Rights Director regarding all allegations of harassment. Reports of harassment must be investigated and addressed in a prompt, impartial, and, to the extent allowed by law, confidential manner.

- Promptly and impartially initiate a management inquiry of the allegation of harassment within 10 business days of the initial report. If the management official receiving the allegation is not in the alleged perpetrator’s chain of command, the management official will refer the allegation to the official within the chain of command. The

management official may need to undertake immediate measures before completing the inquiry to ensure that further harassment does not occur.

- Report allegations of sexual assault or sexual violence to law enforcement as required by Departmental Regulation 4200-001, Workplace Violence Prevention and Response Program.

2. An Equal Employment Opportunity (EEO) Complaint

Individuals who believe they have been subjected to EEO-based harassment, including sexual harassment, discrimination, or retaliation, may also file an EEO complaint by contacting their Mission Area, Agency or Staff Office EEO Counselor within 45 calendar days of the alleged incident. Failure to do so may result in dismissal of the EEO complaint for untimeliness. The expiration of the 45 calendar-day period does not preclude the individual from reporting the incident to a management official for a management inquiry.

Any individual who reports harassment, initiates a harassment complaint, or provides information related to a harassment complaint or inquiry, will not be subjected to retaliation before, during, or after the inquiry or complaint process. Moreover, any individual who fails to follow the procedures outlined in this policy will be subject to appropriate corrective and/or disciplinary actions.

For direction on filing a grievance related to harassment under the administrative grievance system, see Departmental Regulation, 4070-771, Administrative Grievance System. Additionally, bargaining unit employees may file grievances related to harassment under applicable negotiated procedures for their represented Mission Area or Staff Office.

Every effort will be made to provide all USDA employees with a copy of this policy and complaint procedure and redistribute it annually. USDA is dedicated to ensuring a workplace free of all forms of harassment and discrimination, a workplace where we all can personally and professionally thrive while serving the American public.

Sonny Perdue
Secretary

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION	NUMBER: DR 4300-008
SUBJECT: Reasonable Accommodations and Personal Assistance Services for Employees and Applicants with Disabilities	DATE: October 27, 2020
OPI: Office of the Assistant Secretary for Civil Rights	EXPIRATION DATE: October 27, 2025

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1. PURPOSE

   a. This Departmental Regulation (DR) establishes the United States Department of Agriculture's (USDA or the Department) policy for providing a reasonable accommodation (RA) to qualified employees and applicants with disabilities. This DR also establishes the policy for providing personal assistance services (PAS) to employees with targeted disabilities.

   b. This DR is implemented to help provide qualified people with disabilities an equal opportunity to obtain and successfully perform a job to the same extent as employees without disabilities, and enjoy the benefits and privileges of employment.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

   a. This DR supersedes DR 4300-008, *Reasonable Accommodations for Employees and Applicants with Disabilities*, dated March 9, 2000.

   b. All Mission Areas, agencies, and staff offices will adopt the policies set forth in this DR, including the use of Departmental forms.

   c. This directive is effective upon publication and remains in effect until it is superseded or expires.

   d. Mission Areas, agencies, and staff offices must align their RA and PAS policies with this DR within 90 calendar days of this DR's publication date.

   e. Mission Areas, agencies, and staff offices may not supplement this DR without prior review and approval from the Office of the Assistant Secretary for Civil Rights (OASCR).

3. BACKGROUND

   a. Under Title I of the *Americans with Disabilities Act* (ADA), as amended, (Federal Executive branch agencies follow Section 501 of the *Rehabilitation Act*, which corresponds with Title I of the ADA), an RA is a change or adjustment to the standard hiring process or work environment.

   b. The Equal Employment Opportunity Commission (EEOC)'s final rule, 82 Federal Register (FR) 654, *Affirmative Action for Individuals with Disabilities in Federal Employment*, amended Section 501 of the *Rehabilitation Act of 1973*, 29 Code of Federal Regulations (CFR) 1614.203, and requires Federal Agencies to take steps to gradually increase the number of employees in Federal service with disabilities and targeted disabilities, and provide PAS to Federal employees who require such services because of their targeted disabilities.

c. Bargaining unit employees must follow their collective bargaining agreements' provisions for RA to the extent they vary with this DR.

d. The ADA requires RAs as they relate to three aspects of employment:

(1) Ensuring equal opportunity in the application process;

(2) Enabling a qualified individual with a disability to perform the essential functions of a job; and

(3) Making it possible for a disabled person to enjoy equal benefits and privileges of employment.

4. SCOPE

This DR applies to:

a. All USDA Mission Area, agencies, and staff offices responsible for implementing and managing RA and PAS through their servicing Human Resources or Civil Rights Office (CRO);

b. Qualified employees and applicants with disabilities who request RAs; and

c. Qualified employees with targeted disabilities who request PAS.

5. POLICY

a. Decisions regarding requests for an RA and PAS will be made consistent with this DR, and Section 501 of the *Rehabilitation Act*, which adopted the standards of the *Americans with Disabilities Act Amendments Act of 2008* (ADAAA). The ADAAA construes the definition of "disability" broadly, and emphasizes the determination of whether a person has a disability generally should not require extensive analysis.

b. An employee with a disability who needs an RA or PAS must inform their manager or supervisor in the employee's chain of command or the Mission Area, agency, or staff office Reasonable Accommodation Coordinator (RAC) of a need for an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to their disability.

c. Mission Areas, agencies, and staff offices are prohibited from discriminating against or taking adverse actions against job applicants or employees based on their need, or perceived need, for an RA or PAS.

d. Requests for RA or PAS may be made orally or in writing at any time.

e. Only qualified applicants and employees are eligible to receive an RA.

f. USDA will provide an RA to employees and applicants with disabilities that are known to the Mission Area, agency, or staff office and request an RA, unless doing so would cause undue hardship to the organization.

g. USDA will provide PAS to employees who have targeted disabilities and request PAS, unless doing so would cause undue hardship to the organization.

h. Processing an RA or PAS request may not be refused or delayed, absent extenuating circumstances, and may not be denied based on an opinion or perception that the request should have been made at an earlier time.

i. An applicant or candidate with a disability who needs an RA must inform the Human Resources Specialist or contact noted in the job announcement.

j. Employees, supervisors, and managers must participate in the interactive process.

k. If an approved RA or PAS will be needed intermittently, the employee does not have to re-submit the request for an RA or PAS.

l. If an employee has an ongoing RA or PAS and requests a modification due to a change in their medical condition or treatment, the employee must promptly notify their supervisor, manager, or RAC. The modification request will be processed using the guidelines outlined in this DR.

m. The Mission Area, agency, or staff office may not require a qualified person with a disability to accept an accommodation. However, if the person needs an RA to perform an essential job function or to eliminate a direct threat, and refuses to accept an effective RA, they may not be qualified to remain in their current job.

6. REASONABLE ACCOMMODATION POLICY

a. Absent a direct threat or undue hardship, Mission Areas, agencies, and staff offices must provide an effective RA to a qualified employee or applicant who requests an RA and has:

(1) A physical or mental impairment that is known, or made known, to the Mission Area, agency, or staff office, and substantially limits one or more major life activities; or

(2) A record of a substantially limiting impairment and needs an accommodation related to the past disability if the disability continues to impact the employee's job performance.

b. Mission Areas, agencies, or staff offices must not deny employment opportunities to a qualified employee or applicant with a disability based on the need to provide an RA.

(1) A person with a disability who is qualified to perform the essential functions of the position is not entitled to an accommodation of choice, but rather to an effective RA. A job function is considered essential for any of several reasons, including, but not limited to:

(a) The reason the job exists is to perform that function;

(b) There are a limited number of employees who can perform the job; and

(c) The job function is highly specialized, and the incumbent is hired for their expertise or ability to perform the job function.

(2) Evidence of whether a job function is essential includes, but is not limited to:

(a) The supervisor's judgment as to which functions are essential;

(b) Written job descriptions;

(c) The amount of time spent on the job performing the function;

(d) The consequences of not requiring the incumbent to perform the function;

(e) The terms of a collective bargaining agreement;

(f) The work experience of past incumbents in the job; or

(g) The current work experience of incumbents in similar jobs.

c. An RA will not change conduct, performance, or production standards of the employee's job. This includes conduct standards that prohibit the use of illegal drugs or drinking alcohol while on official duty.

d. An RA may be reevaluated under certain circumstances such as:

(1) Responsibilities or essential job functions change;

(2) Staffing levels change;

(3) The employee's medical condition improves or declines; or

(4) The RA is no longer effective.

e. Reevaluation of an RA should not be based solely on a change of supervisor.

7. PERSONAL ASSISTANCE SERVICES POLICY

a. Mission Areas, agencies, and staff offices are required to provide PAS to employees who need them because of targeted disabilities.

b. PAS assists employees with performing activities of daily living such as:

(1) Removing and putting on clothing;

(2) Eating;

(3) Using the restroom;

(4) Getting in and out of a vehicle at the worksite; or

(5) Moving around the building.

c. PAS does not assist employees with performing the following activities:

(1) Performing medical procedures or monitoring, such as:

(a) Administering shots; or

(b) Monitoring blood pressure;

(2) Helping a person with a targeted disability perform job-related tasks.

d. PAS must be provided if:

(1) The person is an employee of the Mission Area, agency, or staff office;

(2) The employee has a targeted disability;

(3) The employee requires PAS because of a targeted disability;

(4) The employee requests PAS;

(5) The employee will be able to perform the essential functions of the job without posing a direct threat to safety once PAS and any necessary accommodations have been provided; and

(6) Providing PAS will not impose undue hardship on the organization.

e. PAS must be approved during the following:

(1) Work hours in the normal duty location;

(2) Telework hours in the approved telework location;

(3) Agency-sponsored events such as holiday parties; and

(4) Work-related travel.

f. PAS providers can be independent contractors or Federal employees.

g. Mission Areas, agencies, and staff offices must ensure all contract provisions are sufficient to provide PAS in a timely manner to any agency employee who is entitled to them.

h. Contracts for PAS may permit Mission Areas, agencies, and staff offices to require PAS providers to perform tasks unrelated to PAS, but only to the extent that doing so does not result in a failure to provide required PAS to the employee in a timely manner.

i. Mission Areas, agencies, and staff offices may not request or require employees or contractors who do not provide PAS as part of their job to provide an employee with PAS.

j. PAS providers may provide PAS to more than one employee.

k. The employee's first preference will be considered in the selection of PAS providers to the extent permitted by law, absent undue hardship.

l. A Mission Area, agency, or staff office may reimburse an employee for the cost of PAS, may hire the PAS provider through a Federal contractor, or may use a Federal employee whose job is to provide PAS.

m. A Mission Area, agency, or staff office may hire a family member of the employee as a Federal employee to be a PAS provider.

n. A Mission Area, agency, or staff office may hire a family member of the employee as PAS provider through a Federal contractor.

o. An employee may request permission to bring their own PAS provider to work as an RA if they do not request the agency to assume the cost of providing the services. However, if the employee wants the agency to assume the cost of providing the services, the agency can select a different provider.

p. If an employee has access to classified information, the Mission Area, agency, or staff office must obtain a PAS provider who has or who is able to get the appropriate security clearance.

(a) The PAS provider is responsible for obtaining the appropriate security clearance.

(b) Finding a PAS provider who has or is able to get the appropriate security clearance may constitute an undue hardship.

8. REQUESTING AND PROVIDING RA AND PAS

a. Requesting a Reasonable Accommodation or Personal Assistance Services.

(1) A request is any communication where an employee or applicant expresses a need for assistance or change, when applying or competing for a job, performing a job, or gaining equal access to a benefit of employment, due to their medical condition.

(2) Requests may be made orally or in writing. If in writing, the Agriculture Department (AD) 1163, *Request for or Confirmation of Reasonable Accommodation/Personal Assistance Services* may be used.

(3) Requests can be made at any time during the application process or while employed.

(4) Requests may be made to the employee's supervisor, manager, Mission Area, agency, or staff office RAC, HR servicing office, or the HR Specialist or contact identified in the vacancy announcement.

(5) A request does not have to include any special words, such as "RA," "disability," "PAS," or "Rehabilitation Act." A supervisor, manager, HR Specialist, or RAC should ask the person whether they are requesting an RA or PAS if the nature of the initial communication is unclear.

(6) The employee or applicant ordinarily makes requests, but a request may be made by a third party (e.g., a family member, medical doctor, or other representative) on behalf of the employee or applicant.

b. RA and PAS Processing Timeframes and Deadlines.

(1) Supervisors, managers, HR Specialists, and RACs must confirm receipt of a request in writing to an employee, applicant, or third party, within 5 business days of receiving the request. If not initially submitted, the Supervisor, manager, HR Specialist, or RAC shall also request the Form AD-1163 be completed by the requesting individual. Failure to complete the form shall not delay the processing of an individual's oral request.

(2) HR Specialists and supervisors must process RA requests of qualified applicants as soon as possible.

(3) If a person needs an RA during the application or hiring process, they should inform the HR Specialist or contact provided in the job announcement as soon as possible.

(4) The RAC will request any relevant and necessary medical documentation from the requestor or appropriate source within 10 business days of receiving the RA or PAS request.

(5) The supervisor must approve or deny requests for RA and PAS within 30 business days of the initial request, absent extenuating circumstances, such as a delay in returning requested medical information or an unscheduled office closure.

(6) When a disability and the need for accommodation is known or obvious, a supervisor may approve an RA or PAS sooner than the required timeframe, or if possible, provide the RA immediately.

(7) If there is a delay in processing a request, the supervisor or HR Specialist must notify the requestor orally or in writing, via e-mail, or memorandum of the reason for the delay, and any extenuating circumstances causing the delay.

(8) Any oral communication from the supervisor, manager, HR Specialist, RAC, or other deciding official to the employee or applicant regarding the status of the RA or PAS, must be followed-up in writing. A supervisor's, manager's, or HR Specialist's final determination of an RA request must be made in consultation or coordination with the RAC and communicated to the employee in writing, utilizing the appropriate USDA forms.

(9) When there is a delay in either processing a request or providing an RA or PAS within the 30-day timeframe, the supervisor, manager, HR Specialist, or other deciding official must consider whether an interim RA will allow the person to perform some or all of their essential job functions.

(10) Interim RAs will continue until the RA request is approved or denied and does not create an entitlement to a permanent RA.

c. Determining an Effective RA or PAS.

(1) Each RA and PAS is unique to the person and their medical condition and must be addressed on a case-by-case basis.

(2) Supervisors and managers are required to participate in the interactive process and should communicate with the requestor early and often throughout the process.

(3) Devising an effective RA or PAS may require an interactive process between the employee, the supervisor, and other relevant parties outlined in Section 14 of this DR.

(4) Considerations for determining whether to approve an RA include, but are not limited to:

(a) The type of limitations resulting from the person's disability;

(b) Whether the requested accommodation would allow the employee to perform essential job functions and requirements;

(c) The degree to which the requested accommodation would impact the employee's office or other facility, including its functions, workload, and customers' experience;

(d) The degree to which the requested accommodation would impact the capacity of one or more other employees in the office or other facility to carry out their functions; and

(e) Any upfront and ongoing expenses.

(5) Consideration will be given to the employee's preferred accommodation, but the agency retains the ultimate discretion to choose among effective accommodations and may choose the less expensive and less disruptive accommodation. An employee is not entitled to an accommodation of their choosing.

(6) If an employee chooses to provide their own accommodation (e.g., a motorized scooter), the agency is not relieved of the duty to provide an effective accommodation should the employee for any reason be unable or unwilling to continue to provide the accommodation.

(7) Existing RAs do not guarantee approval for other employees' RA requests, irrespective of the perceived similarities of the circumstances.

9. DISABILITY DETERMINATION

a. For the purposes of providing an RA or PAS, a person is considered to have a disability when they have a physical or mental impairment that substantially limits one or more major life activities, and when they have a record of such an impairment.

b. A person is considered to have a targeted disability if their disability is designated on the Office of Personnel Management (OPM) Standard Form (SF) 256, or one of the first 12 categories of disability listed in Part A of question 5 of the EEOC's Demographic *Information on Applicants* Form (29 CFR § 1614.203).

c. A physical or mental impairment is defined as:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems; or

(2) Any mental, emotional, or psychological disorder.

d. A person will be considered to have a record of a disability if the person has a history of an impairment that substantially limited one or more major life activities when compared to most people in the general population.

e. A person who has a record of a substantial limitation in a major life activity may be entitled to RA related to the past disability, absent undue hardship. For example, an employee with an impairment that previously limited, but no longer substantially limits, a major life activity may need leave or a schedule change to permit them to attend follow-up or monitoring appointments with a health care provider.

f. The term "substantially limits" should be construed broadly in favor of expansive coverage. An impairment need not prevent, or significantly or severely restrict, a person from performing a major life activity to be considered substantially limiting.

g. The threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis. The determination is normally made on a case-by-case basis that compares a person's performance of a major life activity to the performance of the same major life activity by most people in the general population (not a comparison to those similarly situated).

h. In determining whether a person has a disability for the purpose of an RA, the focus is on how a major life activity is substantially limited, and not on what outcomes a person can achieve.

i. Major life activities include, but are not limited to:

(1) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and commuting to and from work; and

(2) The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

j. The determination of whether an impairment substantially limits a major life activity must be made without regard to the improvements caused by mitigating measures, such as medication, prosthetics, or hearing aids. The only exception is ordinary eyeglasses or contact lenses.

k. Current use of illegal drugs is excluded as a disability for the purposes of an RA. Agencies must comply with the USDA *Plan for a Drug Free Workplace* and DR 4430-792-2, *Drug-Free Workplace Program*.

l. Pregnancy is not considered a disability or impairment by itself, but some pregnancy-related impairments may qualify as a disability for which the person may be eligible for an RA.

(1) The person may also be eligible for an RA due to limitations resulting from the interaction of the pregnancy with an underlying impairment. Both categories may require the agency to provide an accommodation or adjust a current accommodation using the processes outlined in this DR.

(2) *The Pregnancy Discrimination Act of 1978*, 42 United States Code (U.S.C.) Section 2000e(k), does not require an RA, but does require that pregnant workers be treated the same as other workers who are similar in their ability or inability to work. This may mean providing measures that are similar to RAs, such as light duty, leave, or any job changes provided to another employee similar in ability or inability to work. These requests will follow RA procedures.

10. TYPES OF REASONABLE ACCOMMODATION

a. The three types of RAs are:

(1) Change to the Application Process: A change to the job application process that allows qualified applicants with disabilities to apply and be considered for jobs;

(2) Change to the Work Environment: A change to the work environment, or the way a job is customarily performed, that helps qualified employees with disabilities to perform the essential functions of a job; and

(3) Change to Allow Equal Access: A change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

b. Benefits and privileges of employment include, but are not limited to:

(1) Access to restrooms, credit unions, cafeterias, and services, (e.g., employee assistance programs);

(2) Recreational activities;

(3) Work sponsored social activities on- and off-site; and

(4) Training opportunities.

c. The following are examples of common RAs:

(1) Equipment.

A larger or specialized computer monitor for an employee with a visual impairment.

(2) Accessibility.

(a) Making existing facilities physically accessible;

(b) Providing screen magnification software; voice activation software; or readers to help people who are vision impaired or have learning disabilities that inhibit their ability to read printed text; open/closed captioning, providing a simpler explanation of workplace rules for employees with cognitive disabilities; or

(c) Providing sign language interpreters to assist the hearing impaired communicate with coworkers, or participate in work related activities (e.g., training).

(3) Workplace Changes.

(a) Lowering the paper towel dispenser in a workplace restroom; or

(b) Adjusting the lighting at a person's workstation.

(4) Job Restructuring.

(a) Job restructuring may involve shifting or redistributing non-essential job functions that an employee is unable to perform. Job restructuring may also involve changing when or how a task is performed.

(b) An employee who has non-essential job functions shifted to another employee will assume other non-essential functions, in accordance with classification guidelines.

(c) An RA does not include removing, shifting, or reassigning essential job functions.

(5) Telework as an RA.

(a) Telework (RA telework) may be an effective RA and should be considered as an RA for qualified employees with disabilities if the accommodation helps the employee and would not interfere with the essential functions of the employee's position.

(b) The employee must demonstrate how limitations from their disability prevent them performing their essential job functions at their duty station, and how the essential job functions can be performed from their home or another offsite location.

(c) A determination to allow RA telework will be made on a case-by-case basis, taking into consideration the nature of the disability, the portability of essential job functions, and whether the job functions can be performed from another location.

(d) RA telework is subject to different requirements than general telework requirements.

(e) RA telework may not be approved if the essential job functions are not portable, such as when sensitive materials cannot be accessed outside the primary work location, direct customer or coworker interaction is necessary to fulfill the job requirements, or the work requires immediate access to documents in the workplace that cannot be made available electronically.

(f) RA telework may not be effective for employees whose duties involve customer-facing work during specific hours or whose duties are dependent on teamwork.

(g) When considering RA telework, an employee may consult their immediate supervisor or manager, the Mission Area, agency, or staff office HR Specialist, or the RAC for guidance, as needed.

(6) Modified work schedules.

(a) Adjusting arrival and departure times, changing shift assignments, providing periodic breaks, or allowing a part-time schedule or flextime schedule may be an effective RA.

(b) This accommodation may be an effective RA for employees who work independently and whose duties can be performed separately from others on the same team.

(7) Leave.

(a) Employees with a disability may be permitted to use accrued leave. In appropriate circumstances, an employee may be approved for advanced leave or leave without pay as an accommodation. The Mission Area, agency, or staff office must consider providing unpaid leave to an employee with a disability as an RA if the employee requires it, so long as it does not cause an undue hardship for the agency.

(b) In some situations, a request for leave as an RA may present an undue hardship. In cases of highly specialized jobs or when an employee cannot provide a return date, it may be difficult or impossible to find a temporary replacement or to hold the job open indefinitely. In these cases, the supervisor will consult with their respective HR Specialist, RAC, or the Office of Human Resources Management (OHRM).

(c) Quantity and timeliness measures in performance standards must be prorated or adjusted for employees who are on extended approved leave to ensure the employee is not penalized for being ill or having a disability.

(8) Modifying supervisory methods.

While a Mission Area, agency, or staff office is not required to reassign an employee to a new supervisor as an RA, a supervisor may, in certain circumstances, be required to change their method of communication or process. Communicating in writing rather than orally, providing an agenda for meetings, or allowing teleconferencing rather than face-to face meetings may be effective accommodations.

(9) Job coach.

Coaching may be an appropriate temporary measure to help an employee learn essential and non-essential job functions.

(10) Travel.

Travel-related RAs may include a request for an airfare class upgrade, rental or transport of a wheelchair, a larger hotel room, or special conveyances. All travel requests must comply with the *Federal Travel Regulation*, Part 301-3, which allows for RAs, such as paying for additional travel expenses incurred.

(11) Emotional Support and Service Animals.

An employee or applicant may request the use of a service, comfort, or emotional support animal as an RA. The requestor is responsible for ensuring the animal is properly trained and cared for, behaves, and follows applicable guidelines determined by the Mission Area, agency, or staff office. If the animal is disruptive, poses a direct threat (e.g., a significant risk to health or safety), or is not properly cared for by the handler, the effect on others may demonstrate an undue hardship on the Department.

(12) Reassignment.

(a) Reassignment is the RA of last resort. Mission Areas, agencies and staff offices are required to search for and offer any vacant and funded position the employee is qualified.

(b) Reassignment will be considered only after it has been determined:

1 No RA will help the employee to perform the essential functions of their current position; or

2 All other RAs would impose either a direct threat or undue hardship.

(c) Reassignment must be to a vacant and funded position the employee is qualified for, with or without an accommodation:

1 The vacant position will generally be commensurate to the employee's current position at the same grade and pay;

2 The vacant position must not be at a higher grade or pay than the employee's original position;

3 The vacant job must not have non-competitive promotion potential beyond that which existed in the employee's original position;

4 The position must be vacant or anticipated to become vacant within a reasonable amount of time determined by totality of the circumstances; and

5 If there is no commensurate vacant position available within a reasonable amount of time, the employee may be accommodated through a reassignment to a lower-graded job, following merit promotion and pay regulations for such reassignment.

(d) When considering reassignment as an RA, supervisors, managers, and RACs must coordinate with the Mission Area, agency, or staff office HR servicing office in searching for available vacancies.

(e) If an employee is successfully reassigned, the Mission Area, agency, or staff office is not required to fund relocation expenses, but may do so at its discretion, if funding permits.

(f) Mission Areas, agencies, and staff offices do not have to create a position and are not required to remove another employee to provide an RA.

(g) Reassignment searches should begin within the Mission Area, agency, or staff office where the employee is currently employed and extend Departmentwide, if necessary.

(h) An employee with a disability may not be reassigned to a position where they are unable to perform the essential job functions, with or without an RA.

11. LIMITATIONS TO PROVIDING REASONABLE ACCOMMODATION

Mission Areas, agencies, and staff offices are not required to:

a. Provide an accommodation that would cause an undue hardship;

b. Provide personal use items as RAs, but may be required to provide a personal use item that is intended to be used only on the job, such as a motorized scooter;

c. Provide an employee with equipment, an adjustment, or change that would assist the employee both on and off the job, such as eyeglasses or a permanent motorized scooter;

d. Remove or change a job's essential functions;

e. Lower production or performance standards;

f. Excuse violations of standards of conduct; or

g. Provide an accommodation that would cause a direct threat.

(1) The determination that a person poses a direct threat must be based on a personalized review of the person's present ability to safely perform essential job functions. This review must be based on a reasonable medical judgment that relies on the most current medical knowledge or the best objective evidence available.

(2) Supervisors must consult with their servicing Employee Relations Specialist and the RAC when determining whether a person would pose a direct threat to self or others.

(3) Factors considered in determining whether the employee would pose a direct threat to self or others include:

(a) The duration of the risk;

(b) The nature and severity of the potential harm;

(c) The likelihood that the potential harm will occur; and

(d) The imminence of the potential harm.

12. RA AND DISABILITY RETIREMENT

a. An employee may qualify for Federal disability retirement if the Mission Area, agency, or staff office certifies it is unable to accommodate the employee's disability in their present job and has considered the employee for other vacant jobs within the Department at the same grade or pay level, within the same commuting area, for which the employee is qualified for reassignment.

b. OPM, not the Department, makes decisions regarding disability retirement applications.

13. MEDICAL INFORMATION AND CONFIDENTIALITY

a. Requesting Medical Information.

(1) Only the agency RAC may determine whether medical information is needed to assess the RA or PAS request, and if so, may request the information from the employee and, with the employee's permission, the appropriate health professional.

(2) Before requesting medical documentation from an applicant or employee, the type of accommodation (e.g., schedule, leave, work from home, equipment, etc.) and how it will help a person perform the essential functions of the job should be considered. Medical information regarding the need for an RA or PAS may not be necessary if the information provided through the interactive process is sufficient to show an RA or PAS is needed.

(3) Medical information is not required when both the disability and need for accommodation or personal assistance are obvious, if the employee previously provided sufficient medical information with their RA request showing they had a disability and a need the requested RA or PAS, or if enough information is provided through the interactive process.

(4) If a person's disability and need for an RA or PAS are not obvious or already known, then the Mission Area, agency, or staff office RAC is authorized to ask for and receive medical information showing the person has a qualifying disability requiring an RA or PAS, and information about the nature or extent of the employee's medical limitations, if needed.

(5) It is the responsibility of the requester to provide appropriate medical information requested by the Mission Area, agency, or staff office RAC where the disability and

need for an RA or PAS are not obvious, already known, or where there is a need to change a current RA or PAS.

(6) The Mission Area, agency, or staff office RAC may request relevant, supplemental medical information if the information submitted by the requester in their initial request did not provide adequate information to assess the RA or PAS request, or if the medical information does not support a change of the accommodation.

(7) Medical information must be sufficient to explain:

(a) The nature and duration of the person's disability;

(b) The limitations, scope of limitations, and restrictions related to the disability;

(c) The need for RA or PAS; and

(d) How the requested RA will assist the person with applying for a job, performing the essential functions of a job, or enjoying the benefits and privileges of employment.

(8) The Mission Area, agency, or staff office may have the medical information reviewed by a medical expert of their choosing at the Mission Area, agency, or staff office's expense.

(9) Once a person has identified their disability with the Mission Area, agency, or staff office, new or updated medical information will only be requested in limited circumstances where the person:

(a) Requests a new RA or PAS;

(b) Is observed by the supervisor or manager having difficulties in performing essential job functions;

(c) Has a change in their disabling condition or functional limitations;

(d) Has a change to their essential job duties that are not addressed by the medical information previously provided; or

(e) Can no longer perform their essential job duties or enjoy the privileges of employment.

(10) If an employee's condition is expected to improve, an RA agreement may indicate the RA will be reevaluated.

b. Confidentiality Requirements.

(1) Requests for RA and PAS are considered medical information and must remain confidential.

(2) RACs may only request medical documentation directly related to the accommodation being requested, and are not entitled to the person's complete medical record.

(3) A person's RA or disability should not be described in their telework agreement, time and attendance record, or tour of duty work schedule.

(4) Any additional medical information obtained in connection with RA and PAS requests must also remain confidential and be maintained by the Mission Area, agency, or staff office RAC.

(5) RA and PAS files must remain separate from an employee's personnel file. This includes any RA or PAS requests, denials, medical information, and relevant communications.

(6) Any USDA employee who obtains or receives medical information related to an RA or PAS request is strictly bound by the confidentiality requirements in this DR.

(7) The RAC will only disclose information to the person's supervisor or other agency official(s) as necessary to process and implement an RA request. Under these circumstances, the RAC will inform the recipient of the requirement to maintain the confidentiality of the medical information.

(8) Any information disclosed must be no more than is necessary to process and implement the request.

(9) In addition to disclosures of information needed to process a request for an RA or PAS, other disclosures of medical information are permitted as follows:

(a) To provide an effective RA, supervisors and managers are entitled to relevant information that is necessary to understand the person's restrictions and limitations related to the essential job functions;

(b) First-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation;

(c) Government officials may be given information necessary to investigate USDA's compliance with the Rehabilitation Act;

(d) When a Mission Area or agency medical officer consults with the person requesting an RA regarding the interpretation of medical documents;

(e) In certain circumstances related to litigation, the worker's compensation or insurance carriers, in accordance with EEOC regulation; and

(f) When otherwise authorized by law.

14. INTERACTIVE PROCESS

a. The interactive process is a dialogue between the person with a disability and their direct supervisor or manager to determine an effective accommodation. The person with a disability should be consulted to determine the precise job-related limitations imposed by their disability, and how those limitations can be overcome with an RA.

b. The interactive process may also require key people to work together with the person with a disability to consider options available to help them perform the essential job functions, absent undue hardship to the organization.

c. Actively engaging in the interactive process will promote the timely and efficient processing of RA and PAS requests. In many instances, the person with the disability will be able to provide information regarding the type of accommodation needed.

d. If a person cannot participate in the interactive process, they may designate someone else to participate in the interactive process.

e. Below are a few examples of key people or entities that may be consulted to participate in the interactive process.

(1) Supervisors and managers;

(2) Hiring officials;

(3) Mission Area, agency, or staff office RAC;

(4) Medical care or mental health care professional of the individual;

(5) USDA Technology and Accessible Resources Give Employment Today (TARGET) Center;

(6) Mission Area, agency, or staff office HR Specialist, Employee, or Labor Relations staff;

(7) Rehabilitation counselor;

(8) A family member of the person;

(9) Department of Labor's Job Accommodation Network;

(10) Union Representative; and

(11) The personal representative of the person requesting the RA.

15. UNDUE HARDSHIP

a. The Department is not required to provide an RA if it would cause an undue hardship to an organization.

b. Factors to consider in determining if an RA would impose an undue hardship include, but are not limited to:

(1) The nature or net cost of the accommodation needed;

(2) The overall financial resources of the Department;

(3) The overall size, number, location, and number of employees of the Mission Area, agency, or staff office; and

(4) The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

c. A Mission Area, agency, or staff office cannot claim an undue hardship based on:

(1) Employee or customer fears or biases about a person's disability;

(2) Negative impact on the morale of other employees; or

(3) Changes needed to property owned by another entity other than the Department.

d. Generalized conclusions do not support a claim of undue hardship.

e. Determinations of undue hardship must be based on a personalized review of current circumstances that show a specific accommodation request would cause significant difficulty and expense to the Department.

f. If there is another accommodation that will avoid undue hardship to the Department, then the Mission Area, agency, or staff office must provide the other RA.

16. DENIED REQUESTS

a. A supervisor or hiring official must communicate a denial of an RA or PAS request in writing via e-mail, memorandum, or on Form AD-1165, *Reasonable Accommodation and Personal Assistance Services Employee Denial Form*, and must specify:

(1) The reason for the denial;

(2) The right to file an administrative grievance or, if permitted under the applicable collective bargaining agreement, negotiated grievance with the agency;

(3) The right to file an Equal Employment Opportunity (EEO) complaint with OASCR, or the Mission Area or agency EEO office; and

(4) Instructions on how to file an EEO complaint with OASCR, or the Mission Area or agency EEO office.

b. An accommodation denial does not prevent the requestor from making another RA request at a later time if circumstances change and they believe an accommodation is needed (e.g., a disability worsens, or the requestor is assigned new duties that require an additional or different RA).

c. If a person is denied an RA or PAS, they may request reconsideration.

d. Upon receipt of a written denial, a requester has 10 business days to request reconsideration from their second line supervisor. A request for reconsideration does not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

e. After receiving a request for reconsideration, the second line supervisor will render a decision and notify the requester in writing within 14 business days of receiving the request for consideration.

17. COMPLAINTS AND DISPUTE RESOLUTION

a. Employees and applicants may use informal or alternative dispute resolution processes to obtain prompt reconsideration of denied requests.

b. Employees and applicants may file complaints related to an RA.

(1) EEO Complaint Process. Employees and applicants must initiate contact with an EEO Counselor within 45 calendar days of the date of denial (as defined by the date the written denial is issued via e-mail, memorandum, or Form AD-1165 with an additional 5 calendar days when the written denial must be mailed to the employee or applicant).

(2) Employee Grievance Process. Employees may file an administrative grievance in accordance with the provisions of the DR 4070-771-001, *Administrative Grievance System*. Employees should contact their Mission Area, agency, or staff office Employee Relations Office for further information.

(3) Negotiated Grievance Procedure. Employees may contact their union representative to file a negotiated grievance, in accordance with collective bargaining agreement provisions.

(4) Appeal Process. Employees may initiate an appeal to the Merit Systems Protection Board within 30 calendar days of an appealable adverse action as defined in 5 CFR § 1201.3.

18. MAINTENANCE OF RECORDS AND FORMS

Mission Areas, agencies, and staff offices will maintain RA and PAS records in accordance with the Department's record retention policy, including aggregated, anonymized records that track the number of RAs and PASs currently in effect for the relevant agency, sub-agency, or office.

19. ROLES AND RESPONSIBILITIES

a. The Assistant Secretary for Civil Rights will:

(1) Monitor and evaluate the implementation of the RA and PAS process;

(2) Provide policy compliance oversight, technical assistance, and direction on issues that arise;

(3) Annually prepare and submit an affirmative action plan to the EEOC that includes a copy of USDA's RA and PAS DR and information on the Department's efforts to implement RA and PAS; and

(4) Review and revise this DR as needed.

b. The Director, OHRM, serving as the USDA Chief Human Capital Officer (CHCO), will:

(1) Establish and implement USDA's RA and PAS procedures in compliance with applicable law, regulations, OPM Guidance, this DR, and DM 4300-002, *Reasonable Accommodation Procedures*;

(2) Oversee the establishment and implementation of RA and PAS procedures for Mission Area, agency and staff offices;

(3) Ensure policies and procedures for requesting RA and PAS and applicable forms are published to the Department's public-facing and internal websites;

(4) Provide technical assistance to Mission Area, agency, and staff office RACs;

(5) Ensure Mission Areas, agencies, and staff offices actively support and adhere to RA and PAS procedures; and

(6) Review, direct, and approve Mission Area, agency, and staff office internal RA and PAS procedures.

c. Mission Areas and Agencies will:

(1) Designate one or more RACs (depending on workforce size) and ensure they are trained and qualified to manage, process, and provide technical assistance for RA and PAS requests to their respective organizations;

(2) Establish and maintain a secure, accessible, centralized RA and PAS tracking system to monitor compliance with the process and timeline requirements outlined in this DR;

(3) Ensure there are enough RACs to ensure timely and effective processing of RA and PAS requests.

(4) Implement RA and PAS procedures;

(5) Provide resources for program implementation to ensure efficient and timely processing of RA and PAS requests;

(6) Develop an affirmative action plan for the recruitment, hiring, advancement, and retention of persons with disabilities;

(7) Maintain sufficient funding to support the ongoing costs associated with providing RAs to applicants and employees with disabilities;

(8) Maintain sufficient funding to support the ongoing costs associated with providing PAS to employees who have targeted disabilities; and

(9) Ensure procedures for requesting RA and PAS and any associated forms are published on their public-facing and internal websites and made available to all applicants and employees.

d. USDA CHCO Council Members will:

(1) Ensure their RA and PAS policies and procedures comply with this DR;

(2) Ensure sufficient funding is maintained within their own Mission Area, agency, or staff office to support the ongoing costs associated with providing RA and PAS;

(3) Ensure all vacancy announcements include instructions on how to request an RA and include contact details of the HR Specialist noted in the job announcement;

(4) Ensure tentative and final job offer letters include RA and PAS procedures and contact details for the Mission Area, agency, or staff office RAC;

(5) Provide reassignments as an RA to a vacant and funded position at the same or lower grade level without competition, consistent with this DR;

(6) Provide staff support to identify current and anticipated vacancies to reassign a qualified employee seeking reassignment as an RA after attempts to accommodate the employee in their current job have been exhausted;

(7) Conduct an annual evaluation of Mission Areas, agencies, and staff offices to evaluate compliance with established policies and procedures, and determine the need for improvement, training, or guidance;

(8) Collaborate with OASCR and OHRM to timely provide the information necessary for submission of the annual EEO Management Directive (MD) 715 reports to the EEOC with a copy to OHRM; and

(9) Provide required reports and documentation of program activities to support USDA and OPM accountability program reviews and audits.

e. Reasonable Accommodation Coordinators will:

(1) Complete RA and PAS training within 30 business days after their initial appointment, and additional training as needed;

(2) Complete RA and PAS annual training;

(3) Adhere to this DR to ensure qualified employees and applicants with disabilities are provided RAs in an effective and efficient manner that meets the timelines set forth within this DR;

(4) Adhere to this DR to ensure qualified employees who have targeted disabilities are provided PAS in an effective and efficient manner that meets the timelines set forth within this DR;

(5) Participate in the interactive process with job applicants or candidates to assist in providing an RA during the application or hiring process;

(6) Maintain RA and PAS request records in accordance with applicable Federal regulations and this DR;

(7) Ensure medical records are kept confidential and maintained in secured files

(8) Maintain current, up-to-date inventories of granted and denied RAs or PASs request in the RA Coordinator's respective agency; and

(9) Submit quarterly reports to OHRM for monitoring and measuring USDA's compliance with the Rehabilitation Act.

f. Human Resources Specialists will:

(1) Complete RA and PAS annual training, and additional training as needed;

(2) Work with their respective RACs to evaluate requests for RA and PAS within the timeframe described in Section 8 of this DR;

(3) Actively participate in the interactive process to assist with finding an effective RA for employees and qualified applicants, when needed;

(4) Actively assist in the reassignment process, when necessary;

(5) Provide an effective RA for employees and qualified applicants, when needed; and

(6) Provide an effective PAS for employees with targeted disabilities, when necessary.

g. Mission Area, Agency, and Staff Office Managers and Supervisors will:

(1) Complete RA and PAS annual training, and additional training as needed;

(2) Work with their respective RAC to evaluate requests for RA and PAS within the timeframe described in Section 8 of this DR;

(3) Actively participate in the interactive process to assist with providing an effective RA for employees and qualified applicants, when needed;

(4) Provide an effective RA for employees and qualified applicants, when needed;

(5) Provide an effective PAS for employees with targeted disabilities;

(6) Evaluate the RA at the end of any timeframes communicated by the employee's healthcare provider;

(7) Evaluate the RA at the end of its established timeframe;

(8) Evaluate the RA if there is a change in staffing, job position, responsibilities of the job, or if the RA is no longer effective;

(9) Contact the Labor Relations Staff for guidance and assistance if an RA is requested by a bargaining unit employee; and

(10) Maintain RA and PAS records in a secure area, separate from the employee's personnel file, in accordance with applicable Federal regulations.

h. Employees and Applicants with Disabilities who need RA will:

(1) Initiate RA requests, as needed, in the manner outlined in Section 8 of this DR;

(2) Provide timely and relevant medical information that specifically connects the disability to the requested RA, if requested; and

(3) Actively participate in the interactive process.

i. Employees with Targeted Disabilities who need PAS will:

(1) Initiate a request for PAS, in the manner outlined in Section 8 of this DR;

(2) Provide timely, relevant medical information specifically relating the targeted disability to the requested PAS, if requested; and

(3) Actively participate in the interactive process.

20. COMPLIANCE

a. OASCR will audit Mission Areas, agencies and staff offices to ensure compliance with this DR.

b. USDA CHCO Council Members are responsible for ensuring their RA and PAS programs comply with the policies specified in this DR.

c. OHRM, on an as needed basis, will establish mandatory compliance reporting.

21. INQUIRIES

Questions and comments pertaining to this DR should be directed to the Office of the Assistant Secretary for Civil Rights at (202) 720-3808.

-END-

APPENDIX A

ACRONYMS AND ABBREVIATIONS

AD	Agriculture Department (for Departmental forms use only)
ADA	Americans with Disabilities Act
ADAAA	Americans with Disabilities Act Amendments Act
CFR	Code of Federal Regulations
CHCO	Chief Human Capital Officer
DM	Departmental Manual
DR	Departmental Regulation
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
HR	Human Resources
OASCR	Office of the Assistant Secretary for Civil Rights
OCIO	Office of the Chief Information Officer
OHRM	Office of Human Resources Management
OPF	Official Personnel File
OPM	Office of Personnel Management
PAS	Personal Assistance Services
RA	Reasonable Accommodation
RAC	Reasonable Accommodation Coordinator
SF	Standard Form
U.S.C.	United States Code
USDA	United States Department of Agriculture
TARGET	Technology and Accessible Resources Give Employment Today

APPENDIX B

DEFINITIONS

ADA. For purpose of this DR, ADA refers to Title I of the Americans with Disabilities Act of 1990, as amended, as it relates to employment standards. Title I of the ADA requires an employer to provide RA to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause an undue hardship. These standards are set forth in the EEOC's ADA regulations at 29 CFR part 1630. Section 501 of the Rehabilitation Act of 1973, as amended, comports with Title I of the ADA.

ADAAA. Americans with Disabilities Act Amendment Act of 2008.

Agency. Organizational units of the Department, other than staff offices as defined below, whose heads report to officials within the Office of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and Assistant to the Secretary.

Bargaining Unit Employee. An employee included in an exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition. (DG 0100-002, *USDA Departmental Directives Definitions Glossary,* September 26, 2018)

CHCO Council Member. The most senior Human Resources Officer in a Mission Area.

Deciding Official. A USDA supervisor, manager, RAC, HR Specialist, Employee Relations Specialist, or other USDA employee who has the authority to make a decision regarding an employee or applicant's RA or PAS.

Direct Threat. A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by RA. (29 CFR § 1630.2(r))

Disability. With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. (29 CFR § 1630.2(g))

Drug. A controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (29 CFR § 1630.3 and 21 U.S.C. § 812)

Effective Accommodation. An accommodation that removes a workplace barrier and allows an applicant to apply for a job, or allows an employee to perform the essential functions of the job.

Essential Functions. The fundamental duties of the job the individual with a disability holds or desires, and that the individual who holds the job must be able to perform unaided or with the assistance of RA. (29 CFR § 1630.2(n)(1) and Appendix to 29 CFR Part 1630)

Extenuating Circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or limited situations in which unforeseen or

unavoidable events prevent prompt processing and delivery of an accommodation. (e.g., identified software such as a screen reader is not compatible with existing equipment).

Illegal Use of Drugs. The use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act, as periodically updated by the Food and Drug Administration. This term does not include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law. (29 CFR § 1630.3)

Interim Accommodation. Any temporary or short-term measure put in place until an RA request is approved or denied, or until a granted accommodation is available. An interim accommodation can be put in place before there is a determination that the individual has a disability; before or after the interactive process; before there has been a decision re: an RA; or when more time is needed to put a granted RA in place.

Job Coach. Someone who assists in training or guiding the performance of a person with a disability.

Major Life Activities. Major life activities include activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive function. (29 CFR 1630.2(i))

Manager. A person in a management job who typically supervises one or more supervisors.

Mission Area. A group of agencies with related functions that report to the same Under or Assistant Secretary. Research, Education, and Economics (REE) is an example of a mission area.

Mitigating Measures. Include, but are not limited to: medication, medical supplies, equipment, or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or "auxiliary aids or services" (as defined by 42 U.S.C. 12103(1)); Learned behavioral or adaptive neurological changes; or Psychotherapy, behavioral therapy, or physical therapy. (29 CFR 1630.2 (j)(5))

Official Personnel File. The file containing records for a person's federal employment career.

Ordinary Eyeglasses or Contact Lenses. Lenses that are intended to fully correct visual acuity or eliminate refractive error (eyeglasses or contact lenses that are the wrong prescription, or an

outdated prescription, may nevertheless be ordinary eyeglasses or contact lenses, if a proper prescription would fully correct visual acuity or eliminate refractive error.)

Personal Assistance Services. Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a RA, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. (29 CFR § 1614.203)

Personal Assistance Provider. An employee or independent contractor whose primary job functions include provision of PAS. (29 CFR § 1614.203)

Personally Identifiable Information (PII). Any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. (DG 0100-002, *USDA Departmental Directives Definitions Glossary,* September 26, 2018)

Physical or Mental Impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities. (29 CFR § 1630.2(h))

Qualified. With respect to an individual with a disability, someone who satisfies the requisite skill, experience, education and other job-related requirements of the employment job such individual holds or desires and, with or without RA, can perform the essential functions of such job. (29 CFR § 1630.2(m))

Reasonable Accommodation. Change or adjustment to a job application process that helps a qualified applicant with a disability to be considered for the job such qualified applicant desires; or change or adjustment to the work environment, or to the manner or circumstances under which the job held or desired is customarily performed, that helps an individual with a disability who is qualified to perform the essential functions of that job; or change or adjustment that helps an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. (29 CFR § 1630.2(o)(1))

Rehabilitation Program. In-patient and out-patient programs, as well as appropriate employee assistance programs, professionally recognized self-help programs, such as Narcotics Anonymous, or other programs that provide professional (not necessarily medical) assistance and counseling for individuals who illegally use drugs. (29 CFR Part 1630 Appendix)

Section 501 of the Rehabilitation Act, as Amended. Section 501 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federal employment, and requires agencies to provide RA to a qualified employee or job applicant with a disability, unless

doing so would be an undue hardship on the agency. Section 501 also requires the Federal Government to be a model employer of persons with disabilities. The standards for determining employment discrimination under the Section 501 of the Rehab Act are the same as those used in Title T of the ADA.

Staff Office. Departmental administrative offices whose heads report to officials within the Office of the Secretary.

Supervisor. An individual employed in USDA having authority, in the interest of an agency, to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline and remove employees; to adjust their grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. Except with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

Targeted Disability. A disability designated as a "targeted disability or health condition" on OPM SF-256 or a disability falling under one of the first 12 categories of disability listed in Part A of question 5 of the EEOC's Demographic Information on Applicants Form. (29 CFR § 1614.203)

Undue Hardship. Significant difficulty or expense in, or resulting from, the provision of the accommodation. (29 CFR § 1630.2(p))

APPENDIX C

AUTHORITIES AND REFERENCES

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Establishment of Official Personnel Folder, 5 CFR § 293.302 , January 24, 1985

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

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Privacy Act of 1974, 5 U.S.C. Section 552a, as amended, December 31, 1974

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USDA, DR 4080-811-002, *Telework Program*, January 4, 2018

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USDA United States Department of Agriculture
Food and Nutrition Service

Civil Rights EEO and ADR Review Toolkit

for

Alternative Dispute Resolution (ADR)

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Appendix E	Notify Regional Civil Rights Office of receipt of complaint
Appendix G	Resolution with signed agreement and Compliance
Appendix H	Unable to reach resolution
Appendix I	Case Closure Processes
Appendix J	Methods of ADR discussions

NOTE:

This toolkit was designed to bolster and standardize the FNS Civil Rights Division's approach to processing Alternative Dispute Resolution (ADR) requests to resolve disputes at the lowest possible level. It is anticipated that this tool will be used by FNS CRD staff to provide efficient and effective ADR services to FNS employees. The index of items outlined above notes the most common and frequent items needed when conducting ADR. All days expressed or referenced in the toolkit are calendar days.

This toolkit is a living document and will be updated at the appropriate intervals to capture new requirements or approaches to conducting ADR services. Any comments can be directed to Roberto Contreras, Director, Civil Rights Division (CRD, at Roberto.contreras@usda.gov or Anita Cunningham at Anita.cunningham@usda.gov.

EEO and ADR Mediation Overview

It is the intent of FNS that every good faith effort will be made to resolve all allegations relating to discrimination through the informal process. If after consultation with the FNS EEO counselor during the informal process, the employee elects to participate in ADR, this option is available to

them. The mediation process is strictly voluntary and it is understood the complainant may withdraw from or suspend the mediation process at any time, for any reason or no reason. ADR offers the parties the opportunity to resolve issues at the earliest and informal stage for resolution of disputes. Utilizing ADR avoids undue costs and uses fewer resources. The use of ADR can enhance morale and promote open dialogue and communication.

The ADR program must be designed to meet the timeframes of the EEO regulations (29 CFR 1614.105(b)(2). If an individual agrees to participate in the ADR process, the pre-complaint process will take place within 90 days. If the dispute is not resolved, the individual must be advised of their right to file a formal complaint and provided a Notice of Right to File.

There are several frequently used ADR techniques available for use by agencies in their programs. These techniques are defined as follows:

1. **Alternative Dispute Resolution**: A term used to describe a variety of approaches resolving conflict rather than the traditional adjudicatory methods or adversarial methods (i.e. litigation, hearings, and agency administrative processing and appeals).
2. **Mediation**: The most popular form of ADR in use by agencies in employment related disputes. Mediation is the intervention in a dispute or negotiation by an acceptable, impartial and neutral third party, who has no decision-making authority. The objective of this intervention is to assist the parties to reach an acceptable resolution of the issues in dispute voluntarily. The mediator makes primarily procedural suggestions regarding how parties can reach agreement. The mediator may suggest some substantive options as a means of encouraging the parties to expand the range of possible resolutions. A mediator often works with the parties individually, in caucuses, to explore acceptable resolution options or to develop proposals that might move the parties closer to resolution.
3. **Facilitation**: The use of techniques designed to improve the flow of information in a meeting between parties to a dispute. The term “facilitator” is often used interchangeably with the term “mediator,” but a facilitator does not typically become as involved in the substantive issues as does a mediator. The facilitator focuses more on the process involved in resolving a matter, works with all parties at once, and provides direction to move the parties through problem-solving steps of the meeting to agree upon the goal.
4. **Fact-Finding:** The use of an impartial expert (group) selected by the parties, by the agency, or by an individual with the authority to appoint a fact finder, in order to determine what “facts” are in dispute. The fact finder may be authorized only to investigate or evaluate the matter presented and file a report establishing the facts in the matter.
5. **Combination of techniques**: Techniques may be combined to provide advantageous aspects of more than one method. Agencies are not limited to using only one method or technique in their ADR programs. They may find that using various methods in combination may also yield fruitful results and be very effective in reaching a resolution.

The ADR processes give both parties an opportunity to play a more active role in crafting a resolution to their dispute. A successful mediation is getting the parties to the table, agreeing to participate in the session, and making a good faith effort to address the issues. The following list identifies some of the benefits of ADR:

- EEO and ADR is a complainant driven process;
- Parties have control of the outcome;
- Time savings compared to traditional bureaucratic venues;
- Saves money vs. spending resources on legal fees;
- Focuses on issues through a structured process;
- Solutions are reached through flexibility and creativity;
- Opportunity to preserve relationships;
- Fairness; and
- Confidential.

STANDARD OPERATING PROCEDURES FOR EEO ALTERNATIVE DISPUTE RESOLUTION REQUESTS

STEP	ACTION
1. EEO COUNSELOR'S RECEIPT & REFERRAL OF ADR REQUEST	This procedure delineates the process for a counselee to request ADR from the EEO Counselor during the EEO process and the EEO Counselor's responsibilities for referring the case for ADR
	To initiate the process, the counselee must contact an EEO Counselor within 45 days of the alleged discriminatory act (Extensions up to 60 days can be approved with written consent, if complainant agrees to the extension request).
2. INITIAL INTERVIEW	Within five (5) calendar days of the counselee's contact with the EEO Counselor, the EEO Counselor will contact the counselee via telephone to conduct the Initial Interview. The EEO Counselor will explain the following to the counselee: • EEO complaint procedure; • his or her rights and responsibilities; • that s/he may choose between participation in the ADR program and receiving traditional EEO Counseling; • if ADR is elected and the dispute is resolved, the terms of the settlement agreement must be in writing, clearly identify the claims resolved, and be signed by both parties; and • if ADR is elected and the dispute is not resolved, or if the matter is not resolved in 90 days, the counselee will receive a final interview and Notice of Right to File a Formal Complaint. The EEO Counselor will update iComplaints to indicate that the Initial Interview was conducted and that ADR has been offered to the counselee. If the counselee verbally agrees to participate in ADR, the EEO Counselor will also update iComplaints to indicate counselee's agreement. The EEO Counselor will request the counselee to provide the issues and basis(es) of his or her dispute and his or her desired resolution of the dispute.
3. INITIAL CONTACT LETTER	The EEO Counselor prepares and sends an Initial Contact Letter, (Appendix A), to the counselee within five (5) calendar days of the Initial Interview. If the counselee cannot be reached for the Initial Interview, the EEO Counselor will send an Initial Contact Letter to the counselee within 10 calendar

	days of the initial contact. The Letter may be transmitted via email or sent certified mail to the counselee at his or her home address. This Initial Contact Letter will include an ADR Fact Sheet explaining the ADR process and the option to participate in ADR to resolve the dispute. The ADR Fact Sheet is at Appendix B; and includes explaining the counselee's rights and responsibilities in the process.
4. COUNSELEE'S FORMAL ELECTION OF ADR	The EEO Counselor will also include an ADR Selection form, (Appendix C) with the Initial Contact Letter to enable the counselee to elect in writing whether s/he will engage in ADR or receive EEO Counseling. If the complainant requests a representative to participate in the ADR process, a Designation of Representative form is provided. (Appendix D). The EEO Counselor will include the assigned FNCS case number on the selection form. The counselee will be given five (5) calendar days to complete and return the form to the Counselor. If the form is not returned within five (5) calendar days, the EEO Counselor will make attempt(s) to contact the counselee to obtain the signed ADR selection form. If these attempts are unsuccessful, the EEO Counselor will attempt to conduct the Final Interview and will issue a Notice of Right to File a Formal Complaint. The EEO Counselor also provides the complainant a copy of the EEO Complaints Process Brochure outlining the steps of the EEO process. (Appendix E)
5. REFERRAL TO ADR PROGRAM MANAGER	Once the signed ADR selection form is returned, the EEO Counselor will make the appropriate referral to the ADR Program Manager and identify the reasons for the referral within five (5) calendar days of receipt. The EEO Counselor will email the ADR Program Manager and will include an electronic (PDF) copy of the case counseling records from iComplaints as well as relevant information from the counselee identifying the issue(s) and base(s) of the potential complaint. The ADR Program Manager will review the referral. If any information or record(s) is missing or incomplete, the ADR Program Manager will contact the EEO Counselor to request the information. The EEO Counselor will supplement the

	ADR referral with the requested information within five (5) calendar days.
6. ADDITIONAL ISSUES AND/OR CLAIMS	If the counselee contacts the EEO Counselor to add like or related issues or claims, the EEO Counselor will forward the information to the ADR Program Manager within five (5) calendar days for possible inclusion in the mediation.
7. RECORDS RETENTION	The EEO Counselor will maintain original counselor records in accordance with the applicable system of records maintenance (iComplaints)
8. ADR PROGRAM MANAGER'S ASSIGNMENT OF A MEDIATOR	This procedure delineates the process for the assignment of a Mediator for ADR.
9. ASSIGNMENT OF THE MEDIATOR	A case may be assigned to one of the following for mediation: 1. the ADR Program Manager or designee; 2. Federal Executive Board (FEB) mediation: If the counselee requests a Federal Executive Board (FEB) Mediator to conduct the mediation, the ADR Program Manager will contact a Mediator from the FEB in the appropriate Region; or 3. FNS CRD mediations: If a large inventory of ADR requests are received, the ADR Program Manager will solicit assistance from Mediators within FNS CRD with mediation skills and/or ADR experience. A list of Mediators utilized by CRD and their contact information is attached as Appendix E.
10. WRITTEN AGREEMENT TO MEDIATE	The ADR Program Manager will send an Agreement to Mediate (Appendix F) to the counselee and the Management or Resolving Official for signature. The Agreement to Mediate should be returned to the ADR Program Manager within five (5) calendar days.
11. CASE ASSIGNMENT TO AN FEB OR FNS CRD MEDIATOR	After the ADR Program Manager receives the signed Agreement to Mediate, s/he will transmit the following to the FEB Mediator or assigned FNS CRD Mediator, if either is assigned the case: • the signed Agreement to Mediate • contact information for the counselee and the Resolving Official; and • relevant information from the counselee identifying the issue(s) and base(s)of the potential complaint.

	If an FEB Mediator is responsible for the mediation, the ADR Program Manager will contact all parties and arrange the date and time of the mediation session. Once confirmed, the FEB Mediator will provide all relevant information to all parties. The FNS Regional Civil Rights Director will confirm the date and time of the mediation. The ADR Program Manager will update iComplaints with the following events as they occur or when informed by the FEB or FNS CRD Mediator informs the ADR Program Manager: • the date(s) the mediation is scheduled; • the length of time mediation session was conducted; • the technique used to facilitate resolution of the dispute; • whether an extension of the time for ADR is needed and if so, the length of extension granted; and • whether mediation was successful
12. MEDIATION	This procedure delineates how the Mediator will conduct mediation.
13. MEDIATOR ROLES & RESPONSIBILITIES	The Mediator is responsible for: • maintaining open lines of communication and exercising good faith effort to resolve the issues identified by the counselee • maintaining confidentiality and acting fairly and impartial throughout and/or after the mediation process • advising the counselee and Management Officials of the roles, rights and responsibilities of the ADR process; • ensuring that all parties understand that the mediator has an obligation to work on behalf of all parties and cannot render legal advice to either party; and • ensuring the parties understand that the mediator's objective is to facilitate the parties themselves reaching their best possible agreement, if possible
14. SELECTION OF ADR TECHNIQUE(s)	The Mediator will review the case file transmitted by the ADR Program Manager to familiarize him or herself with the issue(s) and base(s) of the potential complaint. After his or her review, s/he will determine which of the following ADR techniques will be used to attempt to resolve the dispute: • Mediation • Facilitation • Fact Finding • Combination of techniques

15. COUNSELEE CONTACT	Within five (5) calendar days of the assignment, the Mediator will contact the counselee and provide an overview of the ADR process. The Mediator will secure dates the counselee is available for mediation.
16. RESOLVING OFFICIAL CONTACT	Within seven (7) calendar days of the case's assignment, the Mediator contacts the Resolving Official, who will participate in the mediation. The Mediator will provide an overview of the ADR process and their role and responsibilities. • RO will be provided a summary of the allegations and issues for review • Consults with the RMO or supervisor to obtain additional information • Represents FNS, USDA and the Secretary • Has the delegated authority to resolve a matter for the Secretary and USDA • Recommends alternative remedies to reach settlement, if necessary • Takes the necessary steps to negotiate settlement, if possible • Takes the necessary steps to ensure that settlement agreements above the thresholds are reviewed by OGC, and meet legal sufficiency and concurrence
17. SCHEDULE MEDIATION	The Mediator will schedule a date and time for the mediation. S/he will send an e-mail notification to the counselee and the Management or Resolving Official specifying the time, date, and location of the mediation along with any other pertinent information.
18. MEDIATION SESSION	The mediation will take place on the date and at the time scheduled. The Mediator will note the beginning and ending time of the mediation session.
NON-EEO REQUESTS FOR ADR	Requests for ADR, which are not part of the EEO process, will be forwarded to the HR Conflict Resolution Manager for processing
19. SUCCESSFUL MEDIATION	If a settlement is reached during the course of the mediation session, all participating parties must agree to the terms and conditions and memorialize their agreement in writing.
20. DEVELOP THE EEO SETTLEMENT AGREEMENT	The Mediator will develop a Settlement Agreement by using (Appendix G) setting forth the terms and conditions of the parties' agreement. FEB and FNS CRD Mediators will provide a draft settlement agreement to the ADR Program Manager within five (5) days of the parties reaching resolution. If the ADR Program Manager is unsure of the

	appropriateness of specific recommended provisions, s/he will confer with the Civil Right Director and submit the draft agreement for his or her review.
21. EXECUTION OF THE EEO SETTLEMENT AGREEMENT AND APPROVING OFFICIAL LEVELS	USDA policy states that prior to entering into a non-personnel settlement agreement in the amount of $500,000 or more, the agreement must be submitted to OGC for legal sufficiency review and concurrence. • All agreements also require concurrence by OGC prior to execution • The mediator takes the necessary steps to ensure that the settlement agreements are approved by individuals with sufficient authority within the organization • Non-personnel settlement agreements of less than $100,000, inc1usive of attorneys' fees, shall be approved by the Deputy Administrator for Management (or equivalent or higher • Non-personnel settlement agreements of $100,000 to $499,999, inclusive of attorneys' fees shall be approved by an Agency Head, Staff Office Director or higher • Non-personnel settlement agreements of $500,000 or more, inclusive of attorneys' fees shall be approved by the Under Secretary, Assistant Secretary of Higher
22. TRANSMISSION OF EXECUTED AGREEMENT TO ADR PROGRAM MANAGER	Upon receipt of the approved settlement agreement with the appropriate signatures, the Mediator will provide a copy of the original executed Settlement Agreement to the parties within 5 calendar days of its execution.
23. MAINTENANCE OF EXECUTED AGREEMENT	The ADR Program Manager will email a scanned copy of the executed Settlement Agreement and mail the original executed Settlement Agreement to the FNS Civil Rights Director and EEO Counselor for their records. A copy of the signed settlement agreement is maintained at FNS HQ for one year or until the FNS Civil Rights Director is certain that the agreement has been fully implemented. The ADR Program Manager will provide a copy of the Agreement to the Office of Assistant Secretary of Civil Rights (OASCR) and the FNS EEO Counselor.
24. FINAL ADR STATUS AND CLOSURE	After receipt of the signed settlement agreement, _____ will update the case in iComplaints (TBD)

	The ADR Program Manager will update the USDA Entellitrak system to reflect the case status
25. UNSUCCESSFUL MEDIATION	If the parties are unable to resolve the dispute, the FEB Mediator or an FNS CRD Mediator will notify the ADR Program Manager and the EEO counselor via e-mail notification.
26. NOTICE OF RIGHT TO FILE	The EEO counselor will advise the counselee of their right to file a formal EEO complaint process.
27. EEO COUNSELOR'S REPORT	The EEO counselor's report must reflect that ADR was unsuccessful.
28. ADR REPORTING TO THE DEPARTMENT	The ADR Program Manager will catalogue all FNS requests for ADR and submit an FNS quarterly report to the Early Resolution and Conciliation Division of the OASCR. (Appendix H)

CHAPTER 2 STANDARD OPERTING PROCEDURES FOR ALTERNATIVE DISPUTE RESOLUTION FOR PROGRAM COMPLAINTS (TITLE VI)

STEP	Action
OVERVIEW	**This procedure delineates the process for conducting an Alternative Dispute Resolution through Mediation** Alternative dispute resolution (ADR) consists of a variety of approaches to early intervention and dispute resolution. ADR increases the parties' opportunities to resolve disputes prior to or during the use of formal administrative procedures and litigation (which can be very costly and time-consuming). It can provide long-term solutions to program participant's conflicts through stakeholders' participation and buy-in. In contrast, investigations often result in a "decision/determination" where neither party walks away satisfied. The disputing parties' conflict continues and/or increases. **Benefits:** There are many benefits to Alternative Dispute Resolution (ADR), including: • Complaints are processed more quickly and resolved earlier • Saving the time of Complainants, program staff, and attorneys • Quicker resolution than an investigation or hearing would offer • Creative resolutions acceptable to the parties • A durable and voluntary agreement. • Moreover, even in the cases which do not result in resolution, other distinct advantages to the ADR process include laying the groundwork for a subsequent settlement increasing clarification of the issues.
1. ASSIGNMENT OF COMPLAINT	The ADR Specialist is assigned a complaint. Generally, this will be accomplished by an email from the Program Complaints Management System (PCMS) Coordinator or EEO ADR Branch Chief stating that the complaint has been assigned for possible early resolution.
2. REVIEW CASE INFORMATION	The ADR Specialist will thoroughly review the entire electronic case file in the PCMS (including all aspects of jurisdiction) within 5 days of receiving the assigned case. The ADR Specialist will indicate that this process was completed by utilizing the Running Record template (Appendix M1) and entering a "New Event Note" in PCMS. All cases must have a Running Record (Appendix M1).

	If the ADR Specialist believes jurisdiction is questionable or incorrect, the ADR Specialist will contact the EEO ADR Branch Chief for clarification and possible alternate resolution. If critical information appears to be missing (i.e. jurisdiction), the ADR Specialist will communicate by email with the Intake staff and copy the EEO ADR Branch Chief requesting the missing information. Critical information includes information that makes it virtually impossible for the negotiations to begin. The omission of the complaint being uploaded for review would be a prime example. The ADR Specialist will be responsible for clarifying unknown information, such as when an individual claims discrimination based on race, but does not provide their race, etc. Basis(es): The basis of a complaint is usually the reason "why" a person believes he or she is being subjected to discrimination (Appendix M2). Although it is the policy of the USDA and FNS to provide fair and equitable treatment to every employee and customer, there are specific laws and regulations that provide for the protected bases for each nutritional assistance program. For this reason, sexual orientation, marital or family status, parental status, and protected genetic information are not protected bases in FNS federally assisted program. The following is the list of FNS programs and their applicable protected bases: Supplemental Nutrition Assistance Program (SNAP) and Food Distribution Program on Indian Reservations 1. Race, 2. Color, 3. National Origin, 4. Age, 5. Sex, 6. Handicap (disability) 7. Religious Creed, and 8. Political Beliefs. All other FNS Nutritional Assistance Programs 1. Race, 2. Color, 3. National Origin,

	4. Age, 5. Sex, and 6. Disability. Issue(s): The issue is the matter in dispute between the Complainant and the Respondent. Note: The ADR Specialist should not review the list of possible bases and issues with the Complainant. Simply record the reason why the Complainant believes the adverse action in question was taken against him/her. The electronic case file will be initiated at the intake stage and will continue through completion of the Meditation. The ADR Specialist will update the case file when any new information is provided. The ADR Specialist accesses the electronic file, opens the complaint information and reviews all relevant documentation and information including information entered in the "comments" section. Additionally, the ADR Specialist will review, update and complete the "Address," "Contact" and "Issue" tabs. Contact (Must be completed twice if the Complainant has a representative. Once for the Complainant, once for the Representative):
3. RUNNING RECORD	The ADR Specialist will ensure all actions and contacts made with the Complainant, Agency and any witnesses are documented in a chronological order (Appendix M1). These notes will include the time, form of communication, and a short summary of what transpired. Notes shall include, but are not limited to: • Each contact with the Complainant and/or his/her representative • Each contact with any relevant information • Each contact with the State Agency (or relevant entity) • Each contact with Program Staff and other relevant offices (i.e. OGC, OIG, DOJ, USDA) • Details of what was requested/offered as resolution and responses to these offers
4. CONTACT COMPLAINANT	The ADR Specialist will first contact the Complainant to gather, clarify and confirm information, as well as explain the ADR process **within 5 days** of assignment (Complete "New Event Note"). During this stage, the ADR Specialist should confirm that the Complainant still wants to continue with the complaint. If they do not want to continue, this would trigger sending out the withdrawal letter (Appendix M3 and M3a).

Once the ADR Specialist has clarified the allegations, the ADR Specialist will describe the potential for resolution of the case. The description of resolution potential should include:

- A statement regarding the ADR Specialist's neutrality concerning resolution efforts.
- A statement indicating that resolution discussions are voluntary, not mandatory, for all parties involved.
- A statement concerning the duty to communicate any and all resolution offers to both parties.
- A statement that the merits of the case are not normally involved in the Early Resolution process. This allows for more creativity in resolving the complaint prior to investigating. If the case goes to investigations, the merits of the case may be considered during the negotiations.
- A statement to the effect that resolution of the issue can occur prior to, during or after the investigation is complete, and that solicitation of resolution offers may be ongoing depending on the situation or relevant facts.
- A statement outlining the potential for resolution discussions to result in a written and binding agreement, or voluntary withdrawal of the complaint.
- Specific details of any offer from the Complainant at the time of the initial interview (The ADR Specialist asks if there is anything the respondent could do to resolve the complaint during the initial contact).

When speaking with the Complainant, the ADR Specialist is simply offering the Complainant an opportunity to voice how they would like to resolve the complaint. The ADR Specialist should not try to convince the Complainant to participate but rather explain the realities of both options; a full investigation vs. a Resolution Agreement. The ADR Specialist can provide examples of possible resolutions for the Complainant's consideration.

The ADR Specialist should explain the difference between what is considered to be a reasonable request and what is considered to be unreasonable in an effort to ensure that the Complainant's expectations of the outcome of a submitted request are reasonable (One million dollars, for example, is generally not reasonable).

If a Complainant refuses to participate, the ADR Specialist does not need to present the option to the Agency, but should move forward to Step 10 of this SOP (The ADR Specialist can solicit possible resolution

	offers from the respondent to present to the Complainant if warranted in special circumstances.
5. CONTACT REGIONAL CIVIL RIGHTS OFICER	The ADR Specialist will contact the appropriate Regional Civil Rights Officer within 5 days of contact with Complainant to inform him/her that a complaint of discrimination has been received (Complete "New Event Note"). Though this is primarily a courtesy call/email, the ADR Specialist may use this opportunity to explore issues such as early resolution and/or appropriate program contacts. Although the Regional Civil Rights Officer is expected to offer assistance to facilitate the flow of information and/or resolution of the complaint, the ADR Specialist retains responsibility and authority over the resolution process.
6. CONTACT AGENCY (RESOLUTION APPEARS LIKELY)	The Respondent must be contacted **within 10 days** of case assignment and should be provided a copy of the complaint. If after the ADR Specialist has contacted the Complainant and the Complainant has indicated a willingness or desire to resolve the complaint, the ADR Specialist will contact the Respondent (State agency, etc.) to inform them that the Complainant has expressed an interest in participating in resolution discussions. The ADR Specialist will determine through consultation with the Responding Agency's Representative, the most appropriate point-of-contact to respond to the allegations, as well as appropriate interested parties to keep abreast of the resolution efforts (i.e. appropriate persons to CC on correspondence). The ADR Specialist will confirm the appropriate contact person has authority to engage in resolution discussions. **Whether or not the** Respondent indicates a willingness or desire to engage in settlement discussions during the initial discussion the ADR Specialist **must** describe the potential for resolution of the case (See Step 7). Once the ADR Specialist has clarified the allegations, the ADR Specialist will describe the potential for resolution of the case. The description of resolution potential should include: • A statement regarding the ADR Specialist's neutrality with regards to resolution efforts. • A statement indicating that resolution discussions are voluntary, not mandatory, for all parties involved.

	• A statement concerning the duty to communicate any and all resolution offers to both parties. • A statement to the effect that resolution of the issue can occur prior to, during or after the investigation is complete, and that solicitation of resolution offers may be ongoing depending on the situation or relevant facts. • A statement to the effect that early resolution may allow the Respondent to avoid the burden of a full data request. • A statement outlining the potential for resolution discussions to result in a written and binding agreement, or voluntary withdrawal of the complaint. • Specific details of any possible offer from the Respondent at the time of the initial interview (The ADR Specialist asks if there is anything the respondent could do to resolve the complaint during the initial contact). When speaking with the Respondent, the ADR Specialist is simply offering the Respondent an opportunity to voice how they would like to resolve the complaint. The ADR Specialist should not try to convince the Respondent to participate but rather explain the realities of both options; a full investigation vs. a Resolution Agreement. The ADR Specialist can provide examples of possible resolutions for the Respondent's consideration. If a Respondent refuses to participate, the ADR Specialist should move forward to Step 10 of this SOP.
7. FORMAL RESOLUTION REACHED	If the resolution discussions prove to be successful, the ADR Specialist will develop a Resolution Agreement by using (Appendix M4) and provide a draft to the Branch Chief, or their designee, within 5 days. The specific terms and conditions of the Resolution Agreement must have been shared with both parties and tentatively agreed to prior to providing the draft agreement to the EEO ADR Branch Chief, or designee. The Branch Chief should be consulted during the development of the specific terms, when the ADR Specialist is unsure of the appropriateness of specific recommended provisions. Upon notification that the EEO ADR Branch Chief has approved the draft agreement, both the Complainant and the official authorized to make decisions from the Responding Agency must sign the agreement. A transmittal letter should be utilized by the ADR Specialist to communicate the Resolution Agreement to all parties, detailing expectations and identifying a 10-Day window from receipt to return

	the executed agreement (Appendix M4a and M4b). Signatures may be obtained via any reasonable method (email, fax etc.), and multiple signature pages may be utilized and combined to constitute one fully executed agreement. After the terms of the agreement have been executed, the ADR Specialist will draft a closure letter (Appendix M5) for the Complainant and one for the Responding Agency within 5 days from receipt of the fully executed Agreement and forward it to the ADR Branch Chief, or designee, for review and signature. Each closure letter will include a copy of the fully executed Resolution Agreement signed by all parties. CRD has set a time limit of **60** days for the early resolution process. The Complainant and the Respondent must be made aware that if it is perceived that settlement efforts are not progressing in a reasonably efficient manner, an investigation will commence and the early resolution discussions will be terminated. The ADR Specialist **must** discuss such issues with the EEO ADR Branch Chief, especially as it pertains to complaints potentially exceeding the **60**-day closure standard.
8. COMPLIANCE	Once all parties have signed the Agreement, the ADR Specialist will maintain the Agreement and all relevant documents, until proof is provided showing that the terms and actions have been completed by each respective party. Generally, the ADR Specialist will ensure that short term items (i.e. those requiring less than 60-days to complete) are completed. The ADR Specialist will upload into PCMS as "Proof of Compliance" (i.e. a letter from the Respondent or screen shot print out showing the complainant's account has been updated). As a general rule, only settlement agreements containing terms that are expected to take longer than 60-days are appropriate to refer to the Compliance Branch. The ADR Specialist will develop a transfer memo (Appendix M10) for the Branch Chief, or their designee, within 5 days of receipt of the fully executed Agreement.
9. RESOLUTION AGREEMENT NOT RETURNED WITHIN ALLOTTED TIMEFRAME	If any or all parties to the Resolution Agreement do not sign and return the document within the allotted timeframe (10 Days), the ADR Specialist will follow up via telephone call and/or email and will log the contact in the Running Record (Appendix M1). If the issue of non-response cannot be resolved within five (5) additional days, the ADR Specialist will elevate the issue to the EEO ADR Branch Chief. At this time, a decision will be made on how to proceed with further follow up (10 Day Letters etc.).

	If the Resolution Agreement is not returned within the appropriate timeframe by the Respondent, the ADR Specialist must contact the EEO ADR Branch Chief for further instructions. The Branch Chief will contact the Respondent to attempt to push the process forward. If the attempts are unsuccessful, mediation will be terminated and the investigation process will commence. The Branch Chief will assign an investigator and the ADR Specialist will prepare the ADR Termination and Request for Position Statement Letters (Appendix M6a and M6b).
10. RESOLUTION APPEARS UNLIKELY	After speaking to both the Complainant and Respondent, if either party is not interested in participating, the ADR Specialist will add a "New Note Event" stating that a resolution was not reached and will include the date. The ADR Specialist will contact the EEO ADR Branch Chief or designee to obtain the name of the assigned Investigator and will utilize the "ADR Termination" Request for Agency Position Statement" letter using (Appendix M6 and M6a), within 5 days of termination. The ADR Termination letter will be sent to the Complainant (Appendix M6b). The Investigator will develop the APS request prior to submitting it to the Branch Chief. The ADR Specialist will email the ADR Termination/Request for Agency Position Statement to the Responding Agency (the APS should include the original complaint). A complete case file (Appendix M7 and M7a) will be uploaded into PCMS within 5 days of the Closure letter being mailed and the ADR Specialist will notify the PCMS Coordinator once this is complete. Once the PMCS Coordinator reviews the case file, the case will then be officially terminated from the ADR process and assigned to an Investigator.
11. INFORMAL RESOLUTION REACHED	**Included but not limited to:** If a resolution is reached but for different reasons a Resolution Agreement is not utilized (i.e. a letter of apology or letter acknowledging that the Respondent's processing of the program application was in error and corrective action was taken), the ADR Specialist obtains a letter from the Respondent resolving the issue (i.e. an apology and case reassignment). The ADR Specialist will prepare a Letter of Closure with Resolution and prepare the case file for closure in accordance with Step 13. In some cases, a resolution may be reached without the use of a resolution agreement (i.e. the issues have been resolved and the ADR Specialist has facilitated a resolution with the parties and the Complainant prefers/decides not to enter into a Resolution Agreement).

	In these instances a withdrawal with resolution is appropriate and the ADR Specialist obtains a signed Voluntary Withdrawal Form from the complainant) (Appendix M9 and M9a). A summary of the reason for withdrawal or a summary of the resolution must be articulated on the withdrawal form. If the Complainant does not return the form within 10 days of receipt, the ADR Specialist will develop a closure letter due to the Complainant's failure to pursue. In such circumstances, the two 10-Day letters discussed in Step 13 are unnecessary, but the Failure to Pursue letter used for a non-response to a withdrawal request should denote the date of the previous withdrawal letter, as well as the date the Complainant requested the withdrawal. Articulation of the circumstances precipitating the withdrawal request may be stated as appropriate.
12. OTHER CLOSURES	There are instances when a complaint needs to be closed prior to commencing the ADR process or during the course of conducting the ADR. For these complaints, the ADR Specialist should utilize a Closure Letter, which will include justification why ADR will not be conducted and the case will be closed. There are at least three (3) common situations when a Closure Letter should be utilized (Appendix M5) during ADR. They are: **Failure to Pursue** The "Failure to Pursue" Closure Letter should be utilized when a Complainant fails to respond to the ADR Specialist's attempts to contact them. The ADR Specialist should send two separate 10-Day Letters, in addition to trying to contact the Complainant via telephone, prior to utilizing a Closure Letter for Failure to Pursue. If the ADR Specialist does not receive a response from the Complainant within 7 days, they should send the first letter no later than 10 days from the initial contact attempt. ADR Specialists will not send a second 10-Day letter until 10 days have elapsed from the date of receipt (or non-acceptance) of the first 10-Day letter. ADR Specialists will not wait longer than 15 days from receipt of the first 10-Day letter in order to send the second 10-Day letter. The ADR Specialist must articulate the dates and methods of the attempted contacts in the Failure to Pursue closure letter. Failure to pursue closure letters will not be processed until at least 10 days, but no later than 15 days, after non-receipt of a response to the second 10-Day letter (Appendix M8).

Failure to Cooperate

- Failure to Cooperate justification is established when a Complainant refuses to adhere to the following: Unwillingness to complete the interview process with the ADR Specialist.
- Unwillingness to provide a response to requested information that is necessary to begin the Mediation process
- Continued use of abusive and disrespectful language (Instances of abusive and disrespectful language will be brought to the attention of the EEO ADR Branch Chief and documented in the Running Record). Though ADR Specialists should not be unduly sensitive to profane language or argumentative Complainants, personal attacks directed to the investigator combined with unwillingness to provide necessary information pertinent to the investigation, will result in a Failure to Cooperate closure letter that will detail the lack of cooperation identified by the investigator.

Withdrawal

When a Complainant decides they do not want to pursue their complaint, the ADR Specialist should obtain a signed Voluntary Withdrawal Form from the Complainant (Appendix M3 and M3a).

If the Complainant does not return the form within 10 days of receipt, the ADR Specialist will develop a closure letter due to the Complainant's failure to pursue. In such circumstances, the two 10-Day letters discussed in the above Failure to Pursue section are unnecessary, but the Failure to Pursue letter used for a non-response to a withdrawal request should denote the date of the previous withdrawal letter, as well as the date the Complainant requested the withdrawal. Articulation of the circumstances precipitating the withdrawal request may be stated as appropriate.

Responsibilities

The ADR Specialist develops the Closure Letter using the appropriate template and forwards the letter along with supporting documentation (if any) to the EEO ADR Branch Chief or their designee.

The EEO ADR Branch Chief or designee will review the letter and documents and will either sign the letter or send back to the ADR Specialist for clarification. All changes must be completed and sent to the EEO ADR Branch Chief within 5 days.

	Once the letter is signed, the letter will be mailed to the Complainant and other relevant parties (i.e. representative, program staff). A scanned copy of the letter will be emailed to the ADR Specialist.
13. CASE FILE ASSEMBLY AND CLOSURE	The ADR Specialist will complete an electronic case file using (Appendix M7 and M7a) and will upload the case file in PCMS under the "Document" tab within 5 days of receipt of the Signed Resolution Agreement, Withdrawal with Resolution, or other closure document and email the PCMS Coordinator to indicate the case file has been uploaded. It is the ADR Specialist's responsibility to scan and upload all complaint case records. No drafts of any type will be uploaded into PCMS. The PCMS Coordinator will review the case file and all other relevant PCMS required entries. If anything is missing, an email will be sent to the ADR Specialist, with a cc: to the E E O ADR Branch Chief, indicating the missing fields. This will continue until the case file is deemed complete. Once this occurs, the case will be closed by the PCMS Coordinator.
METHODS FOR ADR DISCUSSIONS	**These are the methods the ADR Specialist may consider before commencing ADR discussions. This is not an all-inclusive list. Methods may include but not limited to:** 1. Individual telephone discussions with each party: Offer the opportunity to resolve the issue(s) through telephone discussions with each party. 2. Telephone conference including all parties: Schedule a telephone conference with all parties to discuss the issues and options of resolving the complaint. 3. Electronic communications between individual parties: Email communications between parties exchanging proposals for resolving the complaint. 4. In person/onsite discussions with all parties: On-site settlement conference with the parties and representatives.

EEOC FORM
U.S. Equal Employment Opportunity Commission

FEDERAL AGENCY ANNUAL EEO PROGRAM STATUS REPORT

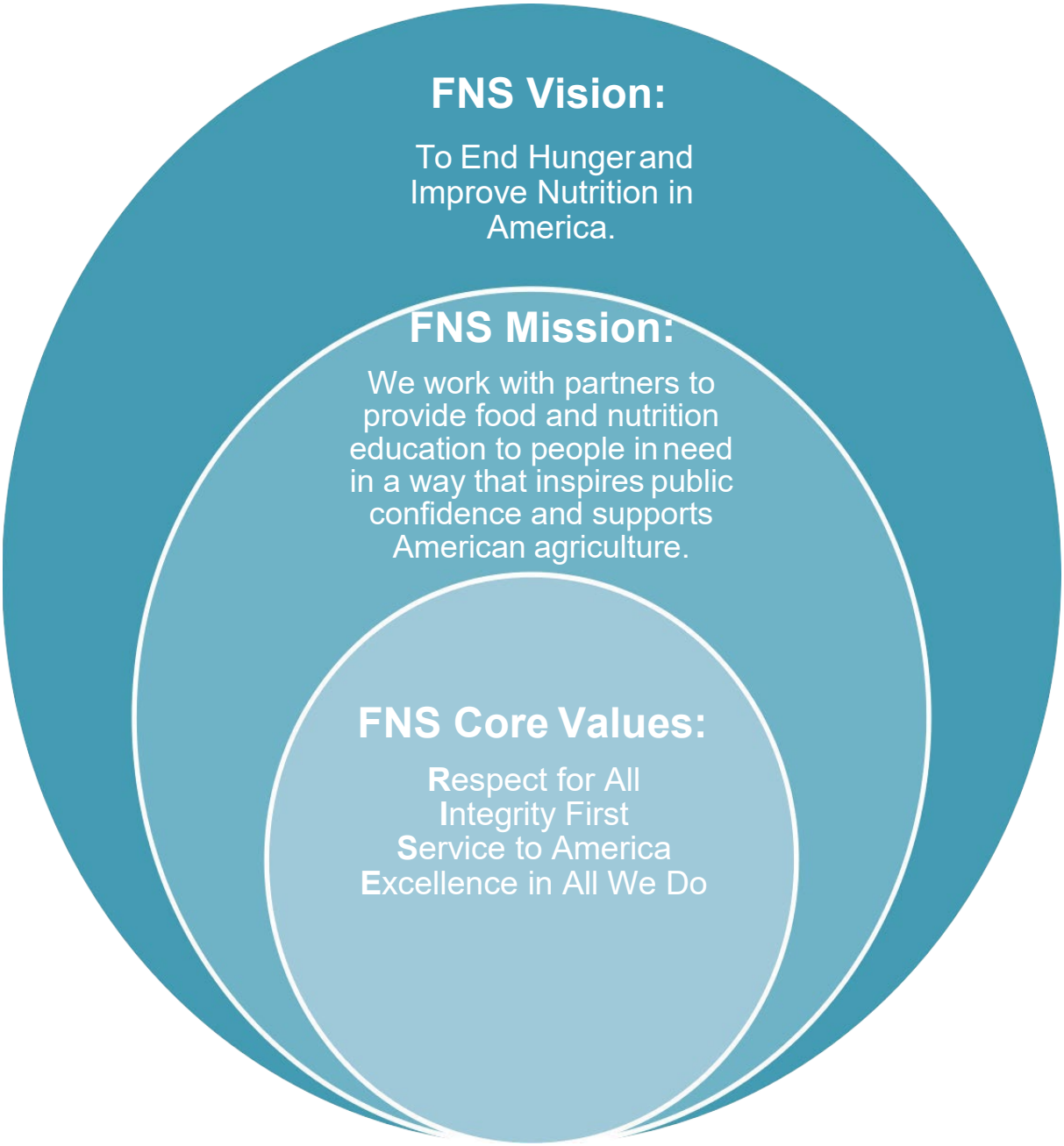
USDA

FY 2020

FNS Annual Review

Planning & Performance 2020: A Year in Review

This report highlights accomplishments of USDA's Food and Nutrition Service (FNS) in support of the Fiscal Year 2020 Agency Priorities. These accomplishments were critical in ensuring FNS achieved its mission in a way that inspired public confidence and supported American agriculture.


FNS Vision:
To End Hunger and Improve Nutrition in America.
FNS Mission:
We work with partners to provide food and nutrition education to people in need in a way that inspires public confidence and supports American agriculture.
FNS Core Values:
Respect for All
Integrity First
Service to America
Excellence in All We Do

Programs and Organization

FNS accomplishes its mission through the following programs:

- ✓ Supplemental Nutrition Assistance Program (SNAP)
- ✓ Supplemental Nutrition and Safety Programs (SNAS)
  - Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
  - Farmers' Market Nutrition Program (FMNP)
  - Senior Farmers' Market Nutrition Program (SFMNP)
  - Commodity Supplemental Food Program (CSFP)
  - Food Distribution Program on Indian Reservations (FDPIR)
  - The Emergency Food Assistance Program (TEFAP)
  - Schools/Child Nutrition USDA Foods Program
- ✓ Child Nutrition Programs (CN)
  - National School Lunch Program (NSLP)
  - School Breakfast Program (SBP)
  - Child and Adult Care Food Program (CACFP)
  - Summer Food Service Program (SFSP)
  - Special Milk Program (SMP)
  - Fresh Fruit and Vegetable Program (FFVP)
- ✓ Disaster Assistance
- ✓ Center for Nutrition Policy and Promotion (CNPP)

In addition to a National Office located in Alexandria, Virginia, FNS has seven Regional Offices:

- ✓ Mid-Atlantic (MARO) in Robbinsville, NJ
- ✓ Mountain Plains (MPRO) in Denver, CO
- ✓ Mid-West (MWRO) in Chicago, IL
- ✓ Northeast (NERO) in Boston, MA
- ✓ Southeast (SERO) in Atlanta, GA
- ✓ Southwest (SWRO) in Dallas, TX
- ✓ Western (WRO) in San Francisco, CA

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Executive Summary

The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) fiscal year 2020 (FY20) Agency Priorities Plan (APP) goals and objectives were largely achieved despite the COVID-19 pandemic. The Office of Strategic Initiatives (OSI) worked throughout the year to coordinate reporting and to monitor the execution of the plan.

The FY20 plan included **77 objectives, an increase of approximately 33%** from the previous fiscal year. **FNS met or exceeded 64 of the 77 objective targets.** The agency demonstrated its commitment to USDA's motto to **Do Right, and Feed Everyone** through accomplishments in the areas of program integrity, increasing accountability, and working to help promote greater self-sufficiency among program recipients. Highlighted outcomes by priority include:

Agency Priority 1: Provide Americans with Access to Nutritious Food

- ★ SNAS worked with the Agricultural Marketing Service (AMS) spent **approximately $1.3B on commodity purchases and related costs** for USDA's Trade Mitigation Food Purchase and Distribution Program. Additionally, **over $58M** was made available **to 51 TEFAP** State agencies to support Trade Mitigation food distribution.
- ★ CN and Financial Management (FM) exceeded expectations by reaching a **Farm to School grantee satisfaction level of 97%** despite rapid expansion of the program, and awarded a record breaking **$12.1M in** grants to **support 159 projects serving over 7,600 schools and 2.5 million students**.
- ★ The Civil Rights Division (CRD) provided **97 civil rights trainings** to staff and State agencies providing important updates regarding requirements to civil rights and disability accommodations to NSLP and CACFP participants **exceeding the target of 21, with 23 of the 97 specifically on meal modifications**.
- ★ SNAP completed multiple initiatives to enable participation of authorized farmers and markets in SNAP ahead of schedule. Notably, the **Healthy Fluid Milk Incentive grant was awarded** to Baylor University Collaborative on Hunger and Poverty on time despite delays due to COVID. SNAP also awarded a grant to allow markets and farmers to accept payment via mobile app increasing their customer base while **giving SNAP recipients access to a healthful diet**.

Agency Priority 2: Utilize Data-Driven Strategies to Improve Program Integrity

- ★ ROC implemented **5 retailer focused integrity enhancements** to improve oversight and accountability of SNAP retailers, exceeding the target of 3. The initiative resulted in the **withdrawal of 254 stores, preventing over $965k in illegal SNAP benefits**, and assessing $3.2M in fines**.**
- ★ Regional Offices implemented key strategies, such as providing targeted technical assistance, that were successful in **reducing the number of open findings by more than half from 1301 to 643**.
- ★ SNAP created procedures to ensure that State profiles used as reference for Quality Control reviews, were regularly updated. This effort resulted in a single source document for QC reviewers and others to identify correct and current State policies and procedures and apply them to QC reviews, **improving the quality and consistency of reviews**. Furthermore, an 8-week interactive and discussion based training series for all regional QC staff was held to improve the quality and consistency of reviews.

Agency Priority 3: Increase Organizational Effectiveness and Efficiency by Improving Performance, Customer Service and Accountability

- ★ CRD **exceeded Departmental requirements** to maintain an average of 180 days for closure of program Civil Rights complaints **by 35%**. CRD also exceeded the Departmental requirement of providing one agency training opportunity by providing **9 EEO training opportunities**.
- ★ The Office of Information Technology (OIT) successfully met the FY20 Data Center Consolidation goals by closing the National Office Data Center and the FNS South West Region Dallas Data Center. The FNCS Mission Area is now **fully compliant with the Data Center Optimization Initiative (DCOI),** exceeding completion of 95% of the OCIO Data Center Consolidation requirements.

Agency Priority 4: Deliver FNS Programs in a Manner that Maximizes Customer Service and Ensures Equal Access and Opportunity

- ★ FNS increased access to nutrition information among CN operators and participants by **developing Spanish language translations for 19 Child Nutrition resources**, including 7 training worksheets, a CACFP guide to feeding infants, and a set of CACFP trainer's tools, exceeding the target of 15.
- ★ CRD's target for successfully resolving discrimination complaints in which parties participated in Alternative Dispute Resolution (ADR) was 60%. **CRD maintained a 94% ADR success rate, exceeding their target by 157%.**
- ★ SNAP expanded Online Purchasing rapidly and well beyond the goal in the Agency priority plan. **Online Purchasing is now available in 47 States, serving 97 % of SNAP participants** improving customer service, recipient access and supporting COVID social distancing. As a result, SNAP recipients can conveniently shop for food just as many Americans already do, online.

Agency Priority 5: Ensure FNS Programs Pave a Pathway to Self-Sufficiency

- ★ CN's Team Nutrition successfully provided skills-based trainings to State and local program stakeholders to include the execution of **two new cooperative agreements** to provide future trainings and in-person cooking demonstrations, and made preparations for the award of a new round of Team Nutrition Training Grants. Moreover, Team Nutrition **provided 27 total job skills and meal service training** at conferences and venues, **reaching more than 15,800 CN program operators and stakeholders**.
- ★ SNAP, in collaboration with Regional Operations and Support (ROS) and Financial Management (FM), developed and presented to the Administrator, a report of recommendations **to expand FNS' capacity at the National and Regional levels to support high-quality, employer-driven Employment and Training (E&T) programs in States**.
- ★ CN's Team Nutrition worked collaboratively with the Institute for Child Nutrition (ICN) to reach 5,691 CN program operators in 228 face-to- face or virtual, instructor-led trainings; and 22,715 CN operators in 20 webinars; **for a total of 28,406 CN program operators in 248 job skills training opportunities.**

The FNS team's dedication to the mission and priorities of FNS and USDA is apparent in the accomplishments highlighted throughout this report.

COVID-19 Impacts

FNS supports American families with access to healthy food and the unprecedented COVID- 19 pandemic did not stop that work. Stay-at-home recommendations catalyzed FNS to innovate how we conduct and support our partners in the administration and operation of nutrition assistance programs for the benefit of American families. FNS worked, and continues to work with our state, local and tribal partners across all our nutrition assistance programs by:

- Allowing states to serve free meals to children, launching Pandemic-EBT (P-EBT), and forming public-private partnerships to support children who rely on free and reduced-price school meals;
- Increasing SNAP benefits and expanding access to online purchasing; over 97% of SNAP benefit recipients live in states where SNAP Online Purchasing is now available;
- Addressing supply challenges and allowing substitutions when WIC foods are unavailable;
- Providing billions of dollars in food through local food banks, food pantries, and disaster household distributions to 14.4 million people;
- Approving more than 4,000 flexibilities and program adjustments to ease operations and protect the health of applicants and participants;
- Helping families find free meals for children while schools are closed; 87,000(+) locations in all 50 states and 2 territories are now available on the Meals for Kids Interactive Site Finder.

Many of FNS' successes in FY20 were achieved despite significant impacts from COVID-19. A total of 39 of 77 objectives in the FY20 APP were affected. Nevertheless, approximately 74% of those 39 objectives were fully completed at the task and/or objective level due to innovative mitigation strategies. Several examples of the COVID-related challenges include:

- Significant number of in-person meetings, conferences, reviews, technical assistance visits and trainings were canceled or postponed as priorities shifted to pandemic response and/or the virtual environment.
- Several FNS rule timelines were delayed including the National Accuracy Clearinghouse, SNAP Quality Control (QC) Reform, SNAP FOIA, State Utility Allowances (SUA), CSFP Farm Bill rule, School Meals 2.0, and Summer Meals.
- One of the four States scheduled to participate in a data readiness assessment for data analytics to fight fraud, dropped out of the project.
- The awarding of the FY20 Team Nutrition Training Grant opportunity for State agencies was delayed until October 2020, with a 23-month period of performance, starting November 2020.

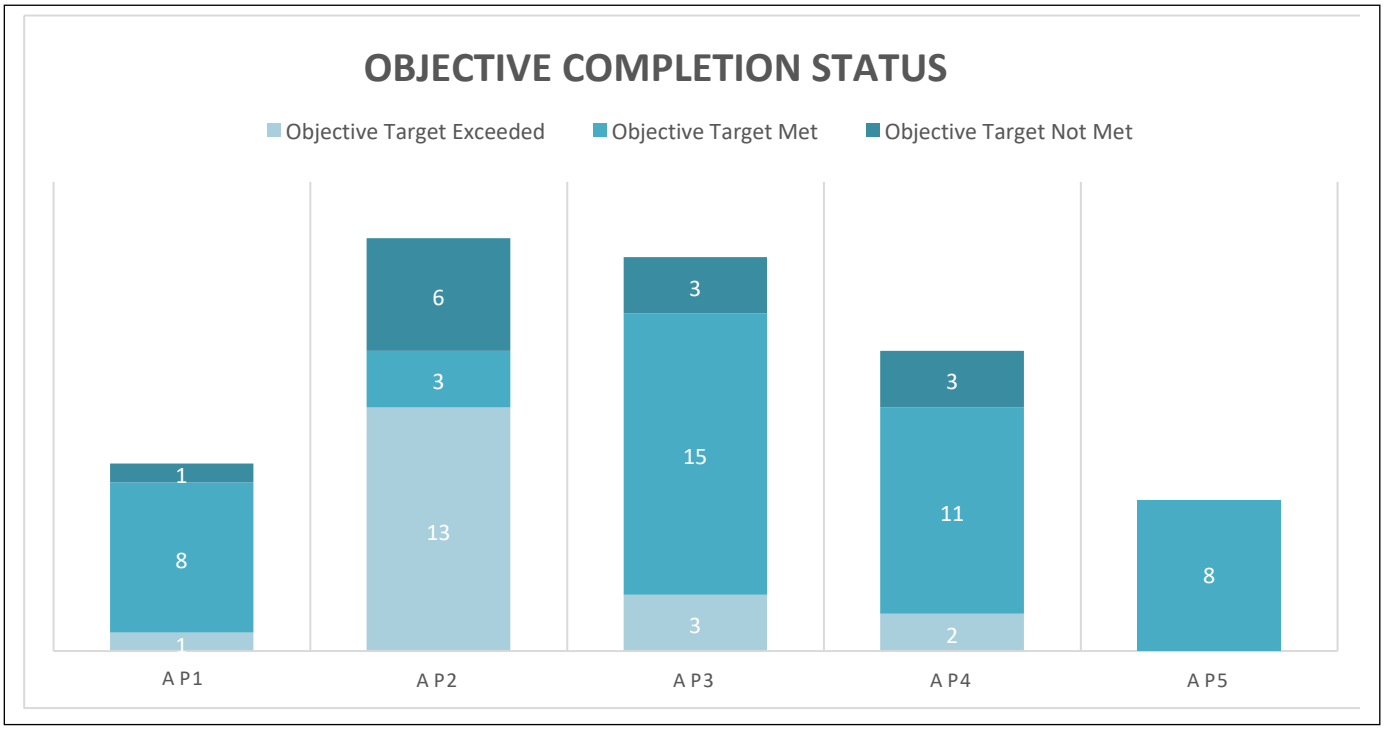
Certainly, FNS faced unprecedented challenges due to the pandemic, yet still played an important role in addressing the crisis. The agency leveraged innovation, creativity, and decisive action to ensure critical nutrition assistance was available to families and children in need during the nationwide public health emergency as it sought to embody the USDA motto to "Do right, and feed everyone."

FY20 Priorities at a Glance

Agency Priority	Objective Target Exceeded	Objective Target Met	Objective Target Not Met	Total Objectives	Task Completion Rate
Agency Priority 1: Access to Nutritious Food	1	8	1*	10	100%
Agency Priority 2: Program Integrity	13	3	6*	22	99%
Agency Priority 3: Enabling Performance, Increasing Accountability	3	15	3*	21	99%
Agency Priority 4: Customer Service, Equal Access & Opportunity	2	11	3*	16	98%
Priority 5: Self-Sufficiency	0	8	0	8	99%
PRIORITY TOTALS	**19**	**45**	**13***	**77**	

*Completion affected by COVID-19

The overall completion rate is the overall percentage of objectives and tasks completed for the priority. For more details on the project plans and outcomes for each priority, please visit the Agency Priorities Dashboard intranet site.



Background

FNS strives to harness the Nation's agricultural abundance to end hunger and improve health in the United States. FNS collaborates with partners to provide food and nutrition education to people in need in a way that inspires public confidence and supports American agriculture. In partnership with State and Tribal governments, FNS programs serve one in four Americans during the course of a year.

FNS is committed to ensuring access to healthy and safe food for program participants, including expectant mothers, infants and children in childcare and school, and low-income families. These investments support education, health care, and a competitive workforce.

FNS' challenge and commitment now, and in the future, is to ensure that the programs continue to respond to the need for healthy and safe food while paving a path to self-sufficiency. FNS is committed to partnering with States to ensure responsible stewardship of taxpayer dollars through aggressive efforts to reduce and prevent fraud while increasing efficiency.

Strategic Planning

FNS' ongoing responsibilities and performance objectives are derived from USDA's Strategic Plan 2019-2022. FNS leverages USDA's Strategic Goals 1 and 7 as an organizing structure for its annual planning effort. USDA's 2019-2022 Strategic Goal 1, "Ensure USDA programs are Delivered Efficiently, Effectively, and with Integrity," establishes the Agency's focus on improving program integrity, effectively managing resources and maintaining a high- performing workforce. USDA Strategic Goal 7, "Provide all Americans access to a safe, nutritious and secure food supply" sets out the major objectives of the 15 Federal nutrition assistance programs administered by FNS.

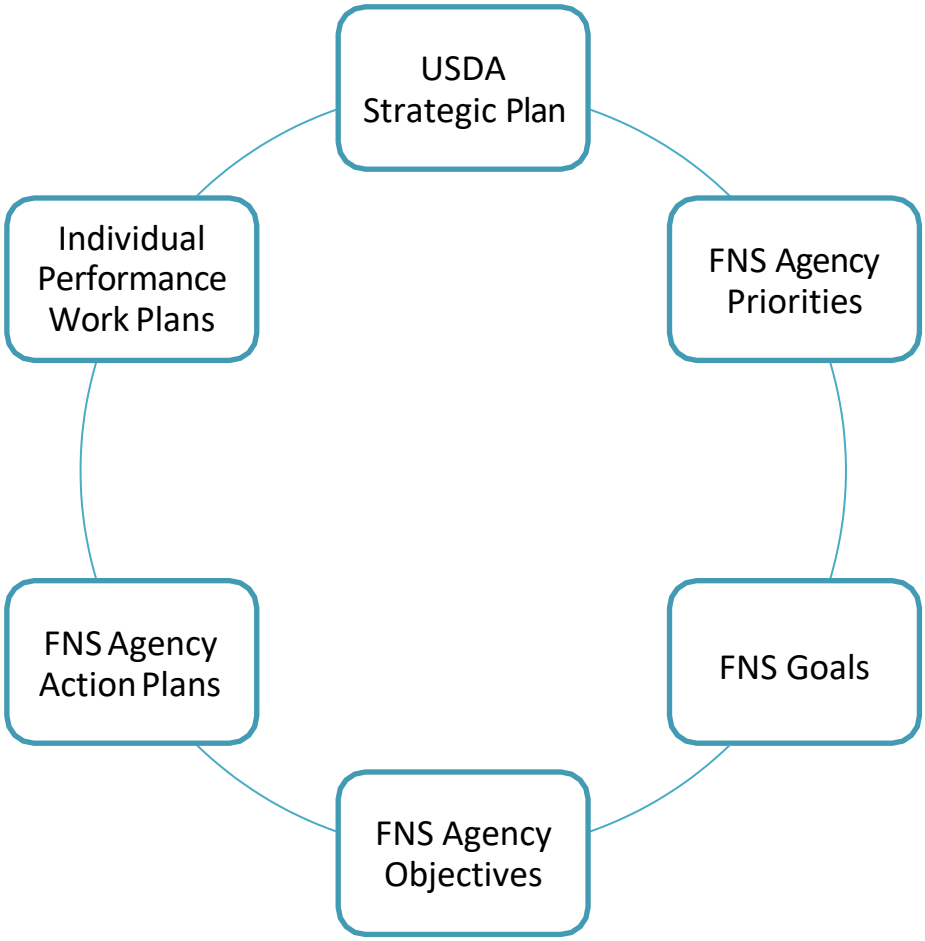
The operational foundation for the FY20 FNS APP consists of five priorities:

- ✓ **Agency Priority 1:** Provide Americans Access to Nutritious Food
- ✓ **Agency Priority 2:** Utilize Data-Driven Strategies to Improve Program Integrity
- ✓ **Agency Priority 3:** Increase Organizational Effectiveness and Efficiency by Improving Performance, Customer Service, and Accountability
- ✓ **Agency Priority 4:** Deliver FNS Programs in a Manner that Maximizes Customer Service and Ensures Equal Access and Opportunity
- ✓ **Agency Priority 5:** Ensure FNS Programs Pave a Pathway to Self-Sufficiency

Annual Planning

FNS executes an annual APP consisting of multi-year goals and current year objectives that align to our Agency Priorities. FNS uses these objectives as the basis for a corporate priority-setting process that promotes focused and effective management of administrative resources. The priorities exemplify the major areas of focus for the agency and serve as an umbrella for 14 goals and 77 objectives. APP elements cascade into the corresponding performance standards of agency staff.

Progress is monitored throughout the year through monthly updates and reporting provided to and reviewed by Agency Senior Leadership and the Administrator. In addition, quarterly reviews are conducted with Agency Senior Leadership and representatives from all Agency programs and offices. At the close of the fiscal year, FNS provides this report summarizing the agency's performance in meeting the objectives.



Agency Priority 1: Provide Americans Access to Nutritious Food

This priority had a total of two goals, containing ten objectives. One objective exceeded the target, and eight objectives met the target. Highlighted accomplishments by goals include:

Goal 1.1: Support and increase the use of American agriculture products.

- SNAS in collaboration with the AMS spent **approximately $1.3B on commodity purchases** for USDA's Trade Mitigation Food Purchase and Distribution Program. Additionally, **over $58M** was made available **to 51 TEFAP** State agencies to support the operational needs of managing Trade Mitigation food distribution.
- **Two webinars were offered** to CSFP State and local program sites, covering program administration topics as wellas the food package enhancements and inventory management strategies.
- Participated in two webinars with partner organizations incorporating COVID-19 impacts, **provided training and technical assistance about program management to 155 State agency and Regional office representatives**.
- CN and FM exceeded the expectations by reaching a Farm to School grantee satisfaction level of **97%**, despite rapid expansion of the program, and **awarded a record breaking $12.1M in grants** to **support 159 projects serving over 7,600 schools and 2.5 million students.**
- SNAP completed multiple initiatives to enable participation of authorized farmers and markets, most notably, the Healthy Fluid Milk Incentive grant was awarded to Baylor University Collaborative on Hunger and Poverty. SNAP also awarded a grant to allow markets and farmers to accept payment via mobile app increasing their customer base.

Goal 1.2: Facilitate an increase in nutritious diets grounded in food based scientific evidence.

- The Civil Rights Division (CRD) provided **97 civil rights trainings** to staff and State agencies providing important updates regarding civil rights and disability accommodations requirements to NSLP, CACFP and Summer Food Service Program participants **exceeding the target of 21, with 23 of the 97 specifically on meal modifications**.

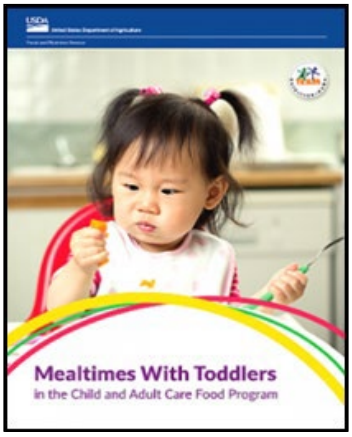
USDA Standardize Recipes

Child Nutrition Recipe Box

Healthy Recipes for Child Nutrition Professionals

★ CN's Team Nutrition exceeded expectations by **releasing 20 new tools and training resources for CN operators**, including Spanish versions of each. In addition, Team Nutrition released **96 new recipes** for CACFP Home Childcare (3- to 5-year olds) and Adults in CACFP centers. The Team Nutrition website housing these tools and resources had almost 1.6 million page views.

★ CNPP staff supported **the Dietary Guidelines Advisory Committee efforts to complete their scientific report**, which had more than **10,000 downloads** within the first week, and more than **38,000 public comments**. CNPP also **created DietaryGuidelines.gov** to increase transparency and public participation in the Dietary Guidelines development process. The website had **1 million page views**, including **335,000 unique** users from 51 States and Washington, DC.



★ CNPP coordinated with Health and Human Service (HHS) to **provide outreach to the public related to the Dietary Guidelines** Advisory Committee's work and Dietary Guidelines development process. This included 28 GovDelivery notifications to over 252,000 subscribers to increase transparency in the process.

★ As part of its Start Simple with MyPlate campaign, CNPP launched the Start Simple with MyPlate app for mobile phones and smartwatches. The app is designed to **help consumers incorporate MyPlate into their daily lives by setting food group-related goals**. From the app launch at the end of January through the end of September 2020, there were **more than 125,000 installs of the app**.

Agency Priority 2: Utilize Data Driven Strategies to Improve Program Integrity.

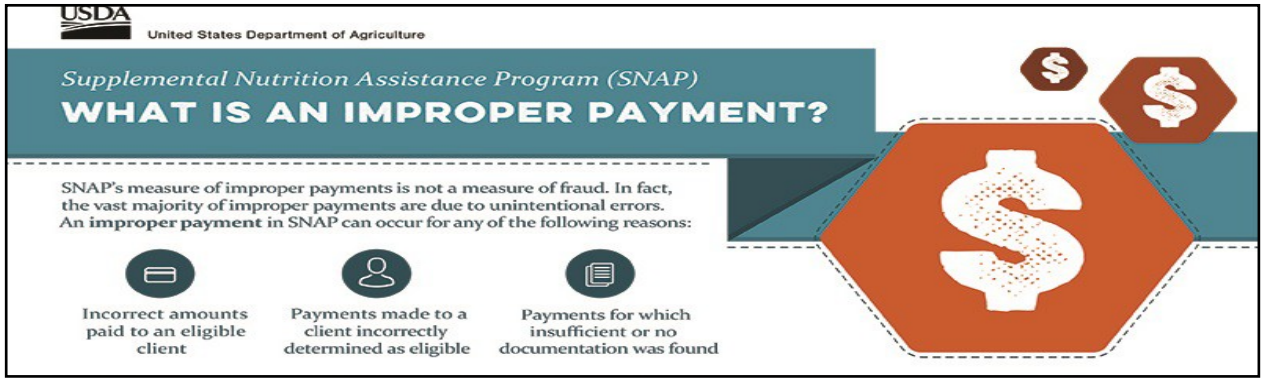
This priority had a total of three goals containing twenty-two objectives. Three objectives exceeded the target, and thirteen objectives met the target. Highlighted accomplishments by goals include:

Goal 2.1: Strengthen controls over improper payments and financial management within all FNS programs

- ★ Regions **conducted 27 Technical Assistance visits** to high risk States, 15 of which were done virtually.
- ★ FNS took action to address improper payments in CN Programs by:
  - Developing a **fraud risk assessment** for the school meals programs;
  - Developing a first-ever methodology for **investigating program error** in the SFSP gaining approval from OMB for data collection in FY21;
  - Analyzing findings from the APEC III; and
  - **Completing a first-ever improper payments study** examining CACFP childcare centers.
- ★ CN'S Office of Program Integrity also initiated **a joint project with GSA's Office of Evaluation Sciences to advance the Administration's "Getting Payments Right" cross-agency priority goal,** evaluating the value of online school meal applications on the number of applications in the verification pool.

In closing 445 cases, the FOIA team **exceeded its goal to close 300 cases by almost 1.5 times.** The FOIA Team also **exceeded the DOJ requirement by over 2.5 times**; reducing the FOIA appeals backlog by 26% versus the 10% target.

- ★ SNAP created procedures to ensure that State profiles used as reference for Quality Control reviews were regularly updated. This effort resulted in a single source document for QC reviewers and others to identify correct and current State policies and procedures and apply them to QC reviews, **improving the quality and consistency of reviews.** Furthermore, an 8-week interactive and discussion based training series for all regional QC staff was held to improve the quality and consistency of reviews.
- ★ **FNS met critical milestones in response to the OIG multi-year audits of the SFSP in FY20** including achieving full final action and closure of Phase I, final action on 36 recommendations from Phase II, and management decision on 12 of 15 recommendations from Phase III.



Goal 2.2: Reduce the SNAP trafficking rate through retailer and client focused activities.

- ★ Retailer Operations and Compliance (ROC) implemented five retailer focused integrity enhancements to improve oversight and accountability of SNAP retailers, exceeding the target of three. The initiative resulted in the **withdrawal of 254 stores, preventing more than $965k in illegal use of SNAP benefits**, and assessing **$3.2 million in fines**.
- ★ ROC **implemented three new indirect trafficking detection reports** that generated a new scope of referrals for investigation resulting **in increased trafficking cases (20%)** in comparison to overall results in FY20.
- ★ OIG MOU progress included 80 cases returned for potential administrative action resulting in 15 permanent disqualifications and **ended $42 million of potential fraudulent redemptions**.
- ★ ROC implemented year two of contract supported investigations resulting in **2,642 investigations completed** submitting **19% trafficking cases** and additional **42% sanctionable cases.**
- ★ SNAP **awarded $5 million in competitive Fraud Framework grants** to nine States, resulting in implementation of strategies to address recipient fraud. Partnerships with FNS Regional Offices regarding implementation and challenges from the SNAP Fraud Framework were strengthened and a data readiness assessment was conducted in three States, as a precursor to building out their advanced analytical capability.
- ★ SNAP provided significant technical assistance to States on their eligibility systems **leading to improved customer service.** The first **Systems 101 trainings were presented to 58 Regional Office staff**, expanding regional office system capacity. The team led a series of three virtual technical assistance trainings for 50 staff to develop regional office capacity in supporting State eligibility system upgrades. Ongoing technical assistance was provided to Hawaii, West Virginia, Georgia, and Maryland in system builds to ensure compliance with SNAP certification policy, which directly impacts payment accuracy.
- ★ SNAP explored potential for improved customer service through call centers through new flexibilities for non-State merit employees. Technical assistance was provided to Kentucky, North Carolina, Nebraska, and New Mexico to develop call centers with non-merit staff. SNAP worked with Georgia to implement a bots pilot to improve efficiency in certain eligibility processes. Results from the bots pilot efforts will **help inform future efforts** in this area.

Goal 2.3: Strengthen programs, policy, and operations through data driven analysis.

- ★ Regional Offices implemented key strategies, such as providing targeted technical assistance, that were successful in **reducing the number of open findings by more than half** from 1301 to 643.
- ★ CN completed several initiatives to strengthen the administrative data foundation of the CN programs including a **successful pilot test for a State data validation service**, and on-site direct certification technical assistance visits to 3 States to improve data matching.
- ★ Data Analytics Collaboration Initiative (DACI) **developed the Quarterly Cash Management Analysis Tool** which was implemented in all regions creating significant efficiencies and consistency in oversight and monitoring.
- ★ SNAP updated SNAP-Ed data collection and reporting practices before the deadline. This plan incorporated feedback from SNAP-Ed national and regional office personnel, State and implementing agencies, related Federal agency staff, and researchers in public health nutrition resulting in the SNAP-Ed Data Improvement Agenda and Action Plan, which **presents recommendations to improve data collection and reporting, pros and cons for each recommendation, and suggested timelines for implementation.**

Agency Priority 3: Increase Organizational Effectiveness and Efficiency by Improving Performance, Customer Service and accountability.

This priority had a total of four goals containing twenty-one objectives. Three objectives exceeded the target, and fifteen objectives met the target. Highlighted accomplishments by goals include:

Goal 3.1: Implement human capital management strategies in accordance with Departmental guidance.

- ★ FNS **recruited and on-boarded nearly 400 employees** through FY 2020.
- ★ **Three Strategies were implemented** to support the Employee Development Program (EDP) to include: Seven Train the Trainer sessions; and Standard Operating Procedures were developed to describe the process to review and update curricula, modules, and ongoing administration of the EDP.

Goal 3.2: Maintain excellence in Civil Rights training and closure of Civil Rights complaints.

- ★ CRD **exceeded the Agency target goal to process Program discrimination complaints within an average of 165 days, by maintaining a 116 day average of closing civil rights complaints**. CRD also exceeded the Departmental requirement of providing one agency wide civil rights training opportunity by **providing 9 EEO training opportunities**.
- ★ CRD held **three scheduled compliance reviews** and provided training during each of the compliance reviews utilizing the available technology. Due to travel restrictions because of COVID, CRD **created a virtual based plan** to accomplish this goal. Virtual training was conducted with all employees, non-management employees, and managers ensuring all employees were trained in their rights and responsibilities in EEO ensuring compliance with Departmental regulations.

Goal 3.3: Implement strategies supporting Departmental Information Technology Modernization initiatives.

- ★ OIT achieved FISMA compliance through:
  - **Consolidating 16 Federal Information Security Management Act (FISMA) applications accreditations by 50%** to 8 reportable FISMA Authorization to Operate (ATO) boundaries;
  - The enhancement of the vulnerability assessment and patching working group;
  - Incorporating patching compliance into the configuration control boards; and
  - Improving cyber monitoring capabilities.
- ★ OIT successfully met the FY20 Data Center Consolidation goals by closing the National Office Data Center and the FNS South West Region Dallas Data Center. The FNCS Mission Area is now **in full compliance with the Data Center Optimization Initiative (DCOI)**exceeding completion of 95% of the OCIO Data Center Consolidation requirement.

Goal 3.4: Improve the effectiveness, efficiency and customer experience of mission support activities.

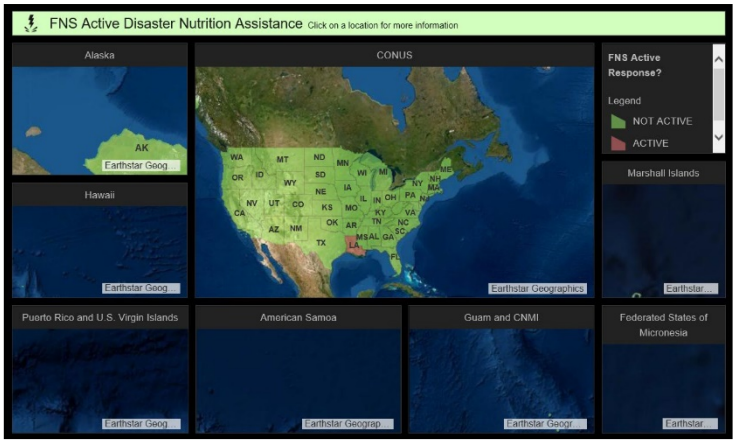
- The Office of Strategic Initiatives (OSI) Learning Series continually reflected positive feedback scores exceeding the target of 85% annually, and achieving 100% positives scores on all sessions with an **average score of 4.6 out of 5.0.**
- FNS FOIA Team implemented new FOIA trainings utilizing technology to ensure that the FNS programs and FOIA POCs were able to respond to new FOIA requests in accordance with requirements, with the monthly report **reflecting a 95% compliance rate**.
- 14 Diversity and Inclusion related articles were posted on the FNCS employee intranet site, **increasing Diversity and Inclusion related content by 10%.**
- OIT **reduced the average time** to deploy technology support with laptops, monitors, and other required equipment **from 7 days to within 5 days** after receiving an approved request.
- The Operations and Facilities Division (OFD) successfully **relocated (800+) employees and over 2500 pieces of equipment** from Park Center to Braddock Place in Alexandria, Virginia. **Over 1200 pieces of equipment were turned in and 350 full bins of recyclable materials were excessed** as part of the FNS National office relocation.
- OFD completed 945 customer service requests, with **94% of customers rating their service as good or exceptional.**
- The Office of Policy Support (OPS) effectively communicated the important work of FNS through execution of the agency's annual Strategic Communications Plan by leading and executing **75 communications plans** to promote the agency's key priorities. Through **over 125 press releases and stakeholder notices**, **626 responses to media inquiries, 53 news** correction requests, **616 social media posts**, and **over 800 Congressional notifications**, OPS enhanced stakeholder understanding of, and confidence in, USDA's administration of FNS programs.
- OPS launched and maintained an innovative COVID-19 response web presence. This achieved **over 3.3 million visitors and 11.6 million page views** specific to the COVID-related pages, while the full FNS website attracted **14.5 million unique visitors and 54 million page views**.
- In order to streamline and accelerate the Procurement Action Lead Time of acquisitions, the Contracts Management Division (CMD) **identified training needs, acquired expert training services, and delivered over 100 hours of training sessions to the acquisition workforce**. Additionally, nearly a dozen **new Acquisition Operating Procedures were implemented to control and enhance the acquisition process**. These efforts helped contribute to the successful completion of Fiscal Year 2020 contract awards.

Agency Priority 4: Deliver FNS Programs in a Manner that Maximizes Customer Service and Ensures Equal Access and Opportunity.

This priority had a total of three goals containing sixteen objectives. Two objectives exceeded the target, and eleven objectives met the target. Highlighted accomplishments by goals include:

Goal 4.1: Increase the effective and innovative use of technology in nutrition program operations.

- ★ The Office of Emergency Management (OEM) **developed the internal hurricane briefing tool** to provide leadership with geospatial awareness of existing hazards, and subsequent disaster response activities, as they relate to FNS assets and customers.
- ★ The CN Office of Program Integrity **completed a prototype 'SD Navigator' tool** to assist State agencies with making determinations of Series Deficiencies in the CACFP.
- ★ In response to social distancing and the public health emergency, the Supplemental Nutrition Assistance Program (SNAP) expanded Online Purchasing rapidly and well beyond the goal established in the APP. **Online Purchasing is now available in 47 States, serving 97 % of SNAP participants improving customer service**, recipient access and supporting COVID social distancing. As a result, SNAP recipients can conveniently shop for food just as many Americans already do, online.



Goal 4.2: Implement flexible, customer focused initiatives supporting State, Tribal and local program administration.

- ★ SNAS successfully **drafted and entered into clearance 3 regulations**. For FDPIR, these included **2-Year funding provisions** and the administrative burden waiver for matching funds. For CSFP, the final rule **extended the certification period** from one year to up to three years. FNS also **awarded funds to 19 States** in FY20, whose plans were approved for grants through TEFAP Farm to Food Bank Projects.
- ★ Office of Food Safety (OFS) designed a prototype resource related to food allergy management, **enhancing the CACFP adult day care operator's ability to provide safe and healthy meals to participants.** The fact sheets are the first resource created by OFS specific to the adult day care population.

- CN exceeded expectations by **successfully developing 5 Child Nutrition Program regulations** designed to ease State administrative burden and increase program operational flexibility.
- In addition to ongoing summer demonstrations, FNS acted quickly to expand an existing collaboration with the Baylor Collaborative on Hunger and Poverty, McLane Global, and PepsiCo to deliver delicious, self-stable meals to children in rural communities impacted by the COVID-19 pandemic emergency. By the end of FY20, **38.7 million meals were provided to over 270,000 participants via the Emergency Meals to You demonstration**.

- CN increased access to nutrition information among CN Program operators and participants by **developing Spanish language translations for 19 Child Nutrition resources, including 7 training worksheets, a CACFP guide to feeding infants, and a set of CACFP trainer's tools, exceeding the target of 15.**

Goal 4.3: Improve and promote consistency in civil rights related program oversight and complaint resolution.

- CRD maintained a **94% ADR success rate for program discrimination complaints in which all parties agree to participate in ADR. This reflected 34% increase in overall success above the 60% target originally identified.**
- CRD **held five Civil Rights Impact Analysis trainings** in FY 2020 exceeding their target of three.
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Agency Priority 5: Ensure FNS Programs pave a pathway to self-sufficiency.

This priority had a total of two goals, containing eight objectives. All eight objectives met their target.

Goal 5.1: Achieve an increase in employer driven, skill based training programs

- CRD **developed guidance on Civil Rights requirements to ensure equal access and opportunity** within the SNAP E&T Program.
- SNAP planned the **first ever SNAP E&T National Work Forum, bringing E&T stakeholders together to share and learn best practices to promote and increase employment among SNAP households through State SNAP E&T programs**. The team swiftly pivoted the planning process from a 2-day, in-person meeting to a 3-day virtual event due to the public health emergency.
- SNAP, in collaboration with Regional Offices, analyzed and identified best practices for expandingEmployment and Training activities for implementation in FY21.
- SNAP, in collaboration with ROS and FM, developed and presented to the Administrator, a report of recommendations to **expand FNS capacity at the National and Regional levels to support high-quality, employer-driven E&T programs in States**.

- Despite challenges related to social distancing, SNAP continued the SNAP to Skills project (S2S) which focused on using a human-centered design approach, informed by behavioral science, **to help States improve recruitment and engagement in SNAP E&T programs**. Results include a webinar, *Adapting SNAP E&T Services for the COVID-19 Pandemic and Beyond,* attended by more than 616 participants, featuring a diverse group of presenters (State SNAP agency, two Community-Based Organizations, and a community college) sharing how their organizations responded to the COVID-19 pandemic by re-tooling their SNAP E&T services and shifting to virtual delivery models.
- SNAP **awarded the first E&T National Partnership grants**, worth $6.7 million to national organizations to provide technical assistance on how to become an E&T provider. This effort will result in an enormous multiplier effect by tapping into entire networks of providers rather than working with one provider at a time, one State at a time.

Goal 5.2: Develop and implement FNS program strategies that build a foundation of self sufficiency

- In support of the nutrition education campaign to help consumers make healthier food choices, **CNPP developed and launched the Start Simple with MyPlate App**, including user challenges to encourage healthier choices and badges to increase engagement.
- CN's Team Nutrition successfully provided skills-based trainings to State and local program stakeholders to include the execution of **two new cooperative agreements** to provide future trainings and in-person cooking demonstrations, and made preparations for the award of a new round of Team Nutrition Training Grants. Moreover, Team Nutrition provided **27 total job skills and meal service trainings** at conferences and venues, reaching more than 15,800 Child Nutrition Program operators and stakeholders.
- CN's Team Nutrition worked collaboratively with the Institute for Child Nutrition (ICN) to reach 5,691 CN program operators in 228 face-to-face or virtual, instructor-led trainings; and 22,715 CN operators in 20 webinars; for **a total of 28,406 CN program operators in 248 job skills training opportunities.**
- The SNAP E&T State Plan Template was revised in collaboration with the Regional Offices, to collect more targeted and complete information about State agencies' plans, improving management and reporting for SNAP E&T programs. $3.2 million was awarded to six States for E&T data systems resulting in **significant efforts to explore information technology solutions to collect accurate and reliable E&T data, analyze data more efficiently for program improvement, and reduce complexity and overall cost to collect and analyze data**.

Next Steps: A Glimpse of the FY21 Plan

The FNS FY21 Agency Priorities Plan is built around Moving Families Forward. Through Administration priorities, lessons learned from prior years, and known best practices, FNS will focus on delivering programs through a human-centered approach that meets families where they are, providing not only access to adequate nutrition, but pathways to sustainable independence and positive health outcomes. For the FY21 APP, all program areas and offices worked together with OSI to develop measurable objectives that:

- Improve economic and health outcomes for participating families;
- Increase health and learning outcomes through connectivity to the farm;
- Provide effective and efficient program delivery; and
- Enhance customer service to all stakeholders.

Moving Families Forward is about families taking one step forward each day to be better off than the day before. A glimpse of the FY21 APP is provided below.

Agency Priority 1: Ensure FNS Programs Move People Forward

- ✓ FNS will strive to achieve an increase in employer-driven, skills-based training programs and to develop and implement strategies that build a foundation of effective and efficient program delivery across all programs.

Agency Priority 2: Provide Americans with Access to Nutritious Food

- ✓ Goals will focus on supporting the use of American agriculture products and facilitating an increase in healthy diets grounded in scientific evidence.

Agency Priority 3: Utilize Data-Driven Strategies to Improve Program Operations for Customers and Program Integrity on Behalf of Taxpayers

- ✓ Efforts will center on strengthening controls over improper payments and financial management; reducing SNAP trafficking through retailer and client focused activities; and strengthening programs, policy, and operations through data-driven analysis.

Agency Priority 4: Increase Organizational Effectiveness and Efficiency by Improving Performance, Customer Service and Accountability

- ✓ Performance and accountability efforts across the agency will focus on executing human capital management strategies; maintaining excellence in Civil Rights training and closure of Civil Rights complaints; implementing strategies to support USDA-wide technology modernization initiatives; and improving the effectiveness, efficiency, and customer experience of mission support activities.

Agency Priority 5: Deliver FNS Programs in a Manner that Maximizes Customer Service and Ensures Equal Access and Opportunity

- ✓ Organizational commitments include the effective and innovative use of technology in nutrition program operations; flexible, customer focused initiatives supporting State, Tribal and local program administration; and consistent oversight and resolution of civil rights complaints.

These priorities highlight the work FNS will accomplish in FY21. For the complete FY21 Agency Priorities Plan, please visit the Agency Priorities Planning System (APPS) site, or visit the OSI Intranet homepage

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