



U.S. Immigration and Customs Enforcement

Procedures to Facilitate the Provision of Personal Assistance Services

Office of Diversity and Civil Rights

Washington, D.C.

DRAFT

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PART I - PURPOSE/BACKGROUND

The procedures detailed in this manual were developed in accordance with Title 29 of the Code of Federal Regulations (C.F.R.), section (§) 1614.203(d)(5), which implements Section 501 of the Rehabilitation Act of 1973, as amended, and requires federal agencies to provide Personal Assistance Services (PAS) for employees with a targeted disability unless doing so would impose an undue hardship. To continue to ensure a diverse and inclusive workforce, the Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE) affirms its commitment to providing PAS to allow employees with a targeted disability to participate in the workplace.

PAS are available to assist employees whose targeted disability causes them to require assistance in performing basic activities of daily living, such as eating, using the restroom, and putting on and removing clothing.

The procedures below outline the process for ICE employees to request PAS. Requests for reasonable accommodation (RA) and PAS can be made simultaneously but should be processed using the appropriate procedures.

PART II - AUTHORITIES/REFERENCES

Rehabilitation Act 29 C.F.R. § 1614.203¹

Affirmative Action for Individuals with Disabilities in Federal Employment issued January 3, 2017.²

EEOC's Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services under Section 501 of the Rehabilitation Act issued September 18, 2017.³

EEOC's Questions and Answers: The EEOC's Final Rule on Affirmative Action for People with Disabilities in Federal Employment, date of issuance January 3, 2017.⁴

The Job Accommodation Network's (JAN) Accommodation and Compliance Series: Personal Assistance Services in the Workplace, date of issuance July 24, 2018.⁵

Section 501 of the Rehabilitation Act of 1973, as amended: The Equal Employment Opportunity Commission (EEOC) issued a final rule on January 3, 2017 to amend the regulations implementing Section 501 of the Rehabilitation Act of 1973. These regulations require federal agencies to provide PAS to certain employees who need them because of a disability.⁶

¹ <https://www.govinfo.gov/content/pkg/CFR-2018-title29-vol4/xml/CFR-2018-title29-vol4-sec1614-203.xml>

² <https://www.eeoc.gov/laws/regulations/qanda-ada-disabilities-final-rule.cfm>

³ EEOC's Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services under Section 501 of the Rehabilitation Act issued September 18, 2017

⁴ <https://www.eeoc.gov/laws/regulations/qanda-ada-disabilities-final-rule.cfm>

⁵ <https://askjan.org/publications/Topic-Downloads.cfm?pubid=962866>

⁶ <https://www.eeoc.gov/laws/statutes/rehab.cfm>

PART III – DEFINITIONS

The following definitions apply for purposes of this manual only:

- A. **Chief Diversity Officer (CDO):** The individual who serves as the manager for the Diversity Management Division within the Office of Diversity and Civil Rights (ODCR) and oversees the Disability Program, which serves as ICE’s lead for all disability-related issues, including the Rehabilitation Act, Sections 501, 504, and 508 of the Rehabilitation Act. The CDO serves as expert for all Rehabilitation Act related issues, all PAS requests, and promotes a disability inclusive culture at ICE. The CDO chairs the disability review board, and coordinates with the ICE Recruitment Branch in the Office of Human Capital (OHC) to develop disability recruitment plans.
- B. **Decision-maker:** The individual with principal responsibility for identifying possible accommodations and determining whether PAS will be provided. For employees, the Decision-maker is the employee’s First or Second Level Supervisor, or designee. Additionally, the Head of Office can delegate the authority to a supervisor within the requestor’s chain of command, depending on the complexity of the case and requested services.
- C. **Disability:** A physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. An impairment that lasts only a short period of time may be covered if it is sufficiently severe when it occurs. The determination of whether a person has a disability will be made without regard to “mitigating” measures, such as medication, therapy, or assistive devices.
- D. **Disability Program Manager (DPM):** An employee of ODCR who is responsible for interpreting this policy and providing guidance to all ICE headquarters and field office managers, supervisors, employees, and applicants on all disability-related issues, including PAS, the Rehabilitation Act, Sections 501, 504, and 508 of the Rehabilitation Act.
- E. **Equal Employment Opportunity (EEO) Complaints:** Federal employees are protected from discrimination because of their disability under the Rehabilitation Act of 1973, as amended, and have a right to file an EEO complaint if they believe that they have been discriminated against. An individual, whose request for PAS has been denied, will be advised of their opportunity to pursue the EEO complaint process in accordance with the provisions of 29 C.F.R. Part 1614. The denial letter will state that the individual is required to initiate contact with an EEO Counselor within 45 calendar days of the date the request for PAS was denied.
- F. **Interactive Process:** A dialogue between the employee requesting PAS, his or her supervisor, and/or the servicing PAS POC, that determines the employee’s eligibility to receive PAS and the services required in order to participate in the workplace or in work- related travel. The interactive process begins upon receipt of an employee’s

request for PAS, occurs throughout the processing of the request, and continues after PAS has been approved to ensure that the employee's need for PAS has been met.

- G. **Medical Documentation:** A statement, medical record, or other such documentation from a licensed physician or other appropriate practitioner that (1) describes the nature, severity, and duration of the employee's impairment, the activity or activities that the impairment limits, and the extent to which the impairment limits the employee's ability to perform the activity or activities; and, (2) substantiates why the requested PAS is needed.
- H. **Medical Officer:** A medical professional in the Office of Human Capital who collaborates with the DPM (or designee) and, if necessary, other medical professionals, to evaluate a Requestor's medical documentation and substantiates a disability. The medical Officer also provides advice or recommendations on suitable accommodations to provide
- I. **Negotiated Grievance Procedures:** A bargaining unit employee, whose request for PAS has been denied, will be advised of their opportunity to file a negotiated grievance if this matter is not excluded under the collective bargaining agreement. Please note that the amended Section 501 regulations do not take a position on the availability of a private remedy for affirmative action obligations, but the EEOC believes that its procedural regulations governing complaints of discrimination are the most appropriate place to address the denial of PAS.
- J. **Personal Assistance Services (PAS):** Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including assistance with removing and putting on clothing, eating, and using the restroom. These services are needed by individuals whose specific disabilities make it difficult for them to perform such activities on their own. PAS does not include services of a medical nature such as administering shots or monitoring blood pressure and does not include assistance with commuting to and from work.
- K. **PAS Provider:** An employee or independent contractor whose primary job functions includes provision of personal assistance services. The PAS provider can provide the service to more than one individual, and can perform tasks unrelated to PAS, but only to the extent that doing so does not result in failure to provide services in a timely manner. If ICE is hiring a PAS provider to assist a single individual, then the employee's preferences shall be primarily considered to the extent permitted by law.
- L. **Qualified Individual with a Disability:** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he/she holds or has applied for, and who, with or without reasonable accommodation, can perform the essential functions of that position; or meets the criteria for appointment under one of the special appointing authorities for individuals with disabilities. An employee or an applicant for employment must demonstrate that he/she is

a qualified individual with a targeted disability in relation to the requested PAS.

M. Reasonable Accommodation: An adjustment or alteration that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodation:

- modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
- modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters, ergonomic workstations, accessibility software, and telework); and
- modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in the work place).

Potential reasonable accommodations provided to a qualified individual with a disability are numerous and include, but are not limited to, the following: assistive technology; ergonomic equipment; permitting the use of leave; job restructuring (e.g., redistributing marginal job functions or altering when and/or how a function is performed); modified work or flexible schedule (e.g., telework or a gliding schedule); limited lifting/pushing; frequent breaks; fragrance-free work zone; and, as a last resort, reassignment.

Note: Individuals who fall under the definition of “regarded as disabled” are not entitled to a reasonable accommodation.

N. Receiving Officials: Officials whom receive a request for PAS from an employee or applicant (or an individual acting on his/her behalf). Typically, these are the employee's immediate supervisor; another supervisor or manager in the employee's immediate chain of command; the DPM, RAC, or other member of ODCR; and, if the request for PAS is from a job applicant, the OHC point of contact listed on the vacancy announcement. In connection with the application process, the Receiving Official can also be any ICE employee with whom the applicant has contact in connection with the application process.

O. Section 501 of the Rehabilitation Act of 1973, as amended: A federal civil rights law that prohibits federal agencies from discriminating against job applicants and employees based on disability and requires agencies to engage in affirmative action for individuals with disabilities.

P. Targeted Disabilities: A subset of disabilities deemed to be severe. The federal government has recognized that qualified individuals with targeted disabilities face significant barriers to employment, above and beyond the barriers faced by people with the broader range of disabilities. The targeted disabilities are provided on the Office of Personnel Management’s Standard Form 256 (SF-256), “Self-Identification of Disability,” in which the October 2016 version of the form identifies the following as

targeted disabilities:

- Developmental Disability, for example, autism spectrum disorder;
- Traumatic Brain Injury;
- Deaf or serious difficulty hearing, benefitting from, for example, American Sign Language, CART, hearing aids, a cochlear implant and/or other supports;
- Blind or serious difficulty seeing even when wearing glasses;
- Missing extremities (arm, leg, hand and/or foot);
- Significant mobility impairment, benefitting from the utilization of a wheelchair, scooter, walker, leg brace(s) and/or other supports;
- Partial or complete paralysis (any cause);
- Epilepsy or other seizure disorders;
- Intellectual disability;
- Significant Psychiatric Disorder, for example, bipolar disorder, schizophrenia, PTSD, or major depression;
- Dwarfism; and
- Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders.

Q. Undue Hardship: Significant difficulty or expense, focusing on the resources and circumstances of the agency in relationship to the cost or difficulty of providing PAS services. Undue hardship refers not only to financial, but also to administrative difficulties caused by the accommodation that are unduly extensive, substantial, disruptive, or those that would fundamentally alter the nature or operation of the agency's mission. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the PAS and the impact of the accommodation on the operations of the agency.

PART IV – RESPONSIBILITIES OF OFFICIALS INVOLVED IN THE PERSONAL ASSISTANCE SERVICES PROCESS

A. Decision-maker: The Decision-maker is responsible for considering the request for PAS, engaging in the interactive process, either approving or denying the request after consultation with the DPM, or designee, no later than thirty (30) business days after receipt, and ensuring that ODCR has been notified of the PAS request. In making his/her determination, the Decision-maker will consult and coordinate with the DPM or designee, and, as appropriate the Office of the Principal Legal Advisor, OHC, and other ICE offices relevant to the particular Requestor's request for PAS and will follow the procedures set forth herein.

B. Disability Program Manager: The DPM, located within the Diversity Management Division, ODCR, is responsible for interpreting the ICE PAS policy and providing guidance to ICE Headquarters, field offices, managers, supervisors, employees, and

applicants on matters related to PAS. The DPM may, in cases when medical information is needed to substantiate a targeted disability in support of a request for personal assistance services, also be responsible for obtaining and maintaining medical information needed to process the request and ensuring the confidentiality of the employee's medical information. The DPM or designee, is responsible for providing assistance to employees, the Decision-maker, and OHC officials in the processing of PAS requests and in determining and providing the appropriate services.

- C. Requestor:** An employee seeking PAS, or another individual acting on the employee's behalf, may submit a request to a Receiving Official, another member of the requestor's chain of command, or directly to ODCR via at ICEReasonableAccommodation@ice.dhs.gov. The request may be submitted verbally or in writing. An employee may track the status of their request by contacting the Disability Program Manager.
- D. Office of Diversity and Civil Rights (ODCR):** ODCR, through the DPM or designee, is responsible for assisting employees, applicants, OHC officials, and Decision-makers in processing requests for Personal Assistance Services, determining the appropriate services, and providing the services. Additionally, ODCR is responsible for interpreting policy and providing guidance to ICE Headquarters, field offices, managers, supervisors, and employees on matters related to Personal Assistance services. ODCR is also responsible for managing the ICE Central Accommodation Fund, to cover the cost of providing PAS for employees and applicants for employment.
- E. Office of the Principal Legal Advisor (OPLA):** OPLA is responsible for providing legal advice to the Decision-maker, DPM or designee, ODCR, and OHC during the processing of a request for Personal Assistance Services.
- F. Medical Officer:** A medical professional in the Office of Human Capital who is responsible for collaborating with the DPM or designee and, if necessary, other medical professionals, to evaluate a Requestor's medical documentation and substantiate a targeted disability, and provide recommendations on the appropriate Personal Assistance Services, if any to provide.

PART V – PROCEDURES

STEP 1 - THE INITIAL REQUEST

An employee's initial request for PAS can be made verbally or in writing, but should be followed up with a written request, to his/her management and/or the DPM. If the DPM receives the request directly from the employee, the DPM shall immediately inform the employee's first-line supervisor, or another management official within the employee's chain of command specifically identified by the employee, of the request. Additionally, a family member, spouse or partner, friend, health professional, or other representative may request PAS on behalf of an individual with a targeted disability. It is the responsibility of all ICE managers and supervisors to recognize a request for PAS; if anyone other than a member of the employee's management or the DPM receives a request for personal assistance services, they should immediately submit the

request to the DPM.

Requests for PAS must be submitted by the receiving official and/or decision maker or his/her designee to the servicing DPM as soon as practicable, but no later than within **five (5) business days** of receipt of the initial request for processing. Requests for PAS must be subsequently documented, in writing, signed and dated, for inclusion in the PAS request file. A PAS Request Form is provided as *Appendix A*.

The DPM shall retain all documents related to the request for PAS in a file separate from the employee's official personnel record and shall be kept separate from the employee's Reasonable Accommodation (RA) file, if applicable. Any information or documentation relating to the employee's request for PAS is to be kept confidential and may be shared only with individuals involved in the PAS process who have a need to know.

STEP 2 – THE INTERACTIVE PROCESS

The interactive process is an informal discussion between the individual requesting personal assistance services, his or her first-line supervisor, a designated member of the employee's chain of command, and/or the DPM collectively or individually based on need. The purpose of the interactive process is to determine whether the employee is entitled to PAS, identify the services needed, and to determine the number of hours per day services are needed. The initial step in the interactive process is to determine if the individual is entitled to personal assistance services. In order to be entitled to personal assistance services:

- The individual must be an ICE employee;
- The employee must have a targeted disability (see the above definition of Targeted Disabilities);
- The employee must require PAS because of his/her targeted disability;
- The employee will be able to perform the essential functions of his or her position, without posing a direct threat to safety, once PAS and/or any required RA have been provided; and
- Providing PAS will not impose undue hardship on ICE.

In most cases, the employee's targeted disability, and the need for PAS is obvious. Therefore, the determination of whether the individual has a targeted disability should be made quickly. In the event that the targeted disability or the need for PAS is not evident, medical documentation can be requested by the DPM or designee. When the decision-maker has questions as to if medical documentation is required, they can reach out to discuss these concerns with the DPM. Medical documentation submitted will be reviewed by the DPM or designee, and/or the Medical Officer to determine if the individual has a targeted disability which necessitates assistance with activities of daily living.

If the employee is entitled to PAS, the interactive discussion then serves to determine the extent and nature of the services required based on the employee's limitations. The employee's input is critical in determining the services that are needed. At a minimum, the employee must provide in-depth information regarding the hours per day assistance is needed, his/ her work schedule,

and the activities of daily living that the PAS provider needs to provide.

A continuing dialogue throughout the PAS request process is required to ensure an effective process. When a delay in processing a request for PAS occurs, the employee's first-line supervisor, or the DPM must notify the employee of the reason for the delay and continue to provide updates as to when the PAS process is expected to be completed.

Due to the nature of federal recruitment and contracting and other unforeseen circumstances relating to the consideration and provision of PAS, interim services may be provided while a request is being considered, processed, and implemented. If interim PAS are required, ICE employees may volunteer, but shall not be compelled, to assist with minimal non-invasive tasks that are non-medical in nature to support the employee. Those tasks include, but are not limited to, removing and putting on a coat, opening doors, retrieving items in the workplace that are out of reach, or replenishing water. If volunteer assistance by other employees are considered it must be with the consent of the Requestor, and in writing to document the specific tasks the individual has volunteered to provide. The Decision-maker should seek advice from OPLA, ODCR, and/or OHC before initiating such an arrangement.

STEP 3 – DECISION WHETHER TO PROVIDE PAS

Decision to Approve the Request for PAS

The Decision-maker, in coordination with the DPM, and/or the Medical Officer, will determine whether the employee is qualified for PAS and requires assistance with activities of daily living in the work place. If affirmed, the Decision maker will issue a letter denoting the approval of the PAS request within **thirty (30) calendar days of receipt of the employee's request**. The approval letter may also document that an alternative form of PAS - other than what was originally requested, but which was agreed upon in the interactive process, will be provided with an explanation of the alternative's effectiveness. A sample approval letter is provided as *Appendix C*.

Decision to Deny Request for PAS

There is no requirement to provide PAS if the employee does not have a targeted disability, or if providing PAS would pose an undue hardship on the agency. If the Decision-maker, in coordination with the DPM, determines the employee is not entitled to receive personal assistance services, the employee must be notified of this decision within **thirty (30) calendar days of receipt of the written request by the PAS POC**. A denial of PAS may occur when:

- The employee is not a Department of Homeland Security, Immigration and Customs Enforcement (ICE) employee;
- The employee has not established a targeted disability;
- The employee's targeted disability does not create a need for PAS;
- The employee would not be able to perform the essential functions of his/her position, even with the provision of PAS, together with any reasonable accommodations;
- Even with PAS and any reasonable accommodations, the employee's limitations would create a direct threat to safety in the workplace; or

- Providing PAS would impose an undue hardship on ICE.

The denial notification must inform the Requestor that he/she has the right to file an EEO complaint and, if applicable, a Merit Systems Protection Board (MSPB) appeal and/or negotiated grievance. A sample denial letter is provided as *Appendix D*.

STEP 4 – OBTAINING THE PAS PROVIDER

A PAS provider's primary job is to provide PAS and any other additional duties as included in the Statement of Work.⁷ In general, the training or skill that a PAS provider should have will depend on the specific services needed by the employee.

ICE is entitled to consider all available resources when arranging for PAS. This includes outside sources that are already providing PAS or are willing to provide PAS at their own expense, such as a state or veteran's rehabilitation agency, so long as the services are provided in a timely manner.

ICE can provide PAS by using federal employees or contractors as the providers, or an applicable combination of providers. ICE has the discretion to determine the classification of the PAS providers who are federal employees with regard to pay grade, benefits, and leave.

Although an agency may ask current employees to provide interim PAS, it is not appropriate to require someone who does not provide PAS or similar services as part of his or her job duties, to assist another employee with tasks such as eating and using the restroom. However, the regulations do not prohibit agencies from assigning the responsibility to perform PAS to a current employee who already performs a similar service as part of his or her regular job duties.

Although PAS includes assistance with activities that may be considered personal, PAS providers render this assistance in a professional capacity. Generally, providers of one gender are no more qualified than those of another to provide such services. However, when hiring a PAS provider who will be assigned to a single individual, the agency must give primary consideration to the employee's preferences to the extent permitted by law.

The PAS provider will receive written notification of the specific services required for the Requestor. If PAS will be provided by a federal employee, a sample position description is provided in *Appendix E*.

Once a PAS provider is obtained, they will be provided the following information:

- Employee's name and contact information;
- Worksite location – name and address;

⁷ The PAS provider can be a federal employee or contractor, hired specifically to provide PAS and/or other duties included in the Statement of Work.

Start date;
End date, if applicable;
General schedule of services; and
General description of tasks to be provided, as agreed upon in the Action Plan/Action Plan Addendum.

The PAS provider will meet with the customer to discuss the employee's specific needs, tasks to be performed, and the manner in which tasks are to be performed. The PAS provider will document specific needs for their own information and recordkeeping but will not share such personal information with the Decision-maker.

The employee must notify the Decision-maker and the DPM if there are any changes needed to the services currently in place.

The employee will be asked to acknowledge receipt of the agreed upon PAS by signing an acknowledgement of the PAS decision letter, that includes a detailed description of the services to be provided. Additionally, the PAS provider may request the employee sign documentation confirming the PAS providers schedule, such as daily, weekly, monthly etc., as established in the contract between ICE and the PAS vendor. If the employee feels there is a discrepancy between the PAS providers documentation and the actual services received, they are to notify the DPM immediately.

Providing PAS to a Single Individual

When providing PAS, ICE must give primary consideration to the employee's PAS of choice, to the extent permitted by law. In some cases, the employee will be able to recommend a provider and may also be able to get a referral from a local center for independent living or a state vocational rehabilitation agency. An individual may request permission to bring his or her own PAS provider to work if the individual does not request that the agency assume the cost of providing services; however, if the individual wants the agency to assume the cost of providing the services, the agency may have reasons to choose a different provider. It may not be possible to honor the individual's preferences in all cases. An agency may choose a different provider if, for example,

- The individual's preferred provider is not qualified or is less qualified than another provider;
- If the agency decides to utilize a pool of shared providers instead of dedicated providers, for reasons of cost or convenience;
- Or if the agency decides to have appropriate existing employees provide PAS. For reasons of cost or convenience, the agency must ensure that there are sufficient number of PAS providers available to meet the needs of the individuals receiving services; or
- Due to Law Enforcement requirements or National Security Reasons.

Providing PAS to More than One Employee in the Organization

If there is more than one employee requiring PAS in the organization, Directorates/Field Offices

may use a pool of PAS providers, rather than assign one PAS provider to each employee, so long as the services are provided in a timely manner. If a pool of providers is utilized, the agency must ensure that sufficient PAS providers are available to meet the needs of all employees receiving PAS.

PAS for Official Travel

Absent undue hardship, when work-related travel results in the employee's inability to rely on his or her usual source of PAS, ICE must provide PAS (during work and off-work hours) during the work-related travel. Additionally, even if an employee's usual PAS provider is available during work-related travel, ICE is required to pay any additional costs related to providing PAS while on travel, such as transportation costs for the PAS provider. ICE also has the option of arranging for PAS at the destination site, rather than paying for the employee's own PAS provider to travel with him/her, as long as doing so is considered effective.

ICE may cover the PAS provider's travel costs in various ways, depending on the type of PAS provider (e.g. family member, spouse or other provider, federal employee, or contractor). Applicable policies or regulations, as set forth in the ICE Travel handbook and DHS Travel Policies, shall be followed.

When an employee with a targeted disability requests PAS while on travel, the interactive process is initiated.

The employee must provide the Decision-maker and DPM with his or her travel itinerary including:

- Departure date and time;
- Departure city/airport;
- Departure and arrival transportation details (flight number, schedule, train number, etc.);
- Return date and time;
- Return city/airport;
- Return departure & arrival transportation details (flight number, schedule, train number etc.);
- Hotel name and contact information;
- Numbers of days/nights while on official business travel;
- Description of reason for travel, i.e. conference or meeting name; and
- General description of PAS requested.

Once the requested PAS have been approved, the employee must notify his or her supervisor and the DPM of any changes to their travel.

PAS during Telework

ICE is required to provide PAS during telework if the individual is entitled to PAS and is entitled to telework under the organization's telework policy and/or as a reasonable accommodation. Permission to telework should not be revoked solely due to an employee's need for personal assistance services. The determination of whether PAS can be provided to an employee while

teleworking should be made on a case-by-case basis.

Providing Provisional PAS

Due to the nature of federal recruitment and contracting and potential unforeseen circumstances relating to the consideration and provision of PAS, interim services may be provided while a request is being considered, processed, and implemented. In the event that provisional PAS is required, ICE employees may volunteer to assist with minimal non-personally invasive tasks that are non-medical in nature, to support the employee, such as, but not limited to, removing and putting on a coat, opening doors, retrieving items in the workplace that are out of reach, or replenishing water. If volunteer assistance by other employees is considered it must be with the consent of the Requestor, and in writing as to the specific tasks the individual has volunteered to provide. The decision-maker should seek advice from OPLA, ODCR, DPM and/or OHC before agreeing to such an arrangement.

Employees who do not perform PAS as a primary job function shall not assist employees who require PAS with personally invasive tasks that they may not be qualified to perform, such as feeding, toileting, bathing, or lifting or moving employees from vehicles, beds, or wheelchairs. Until a contract is secured, or a funded position is in place to perform the PAS functions, interim arrangements can be made for performing these more personal tasks through exploring the availability of local resources or providing temporary facility access to spouses or family members who can assist with PAS.

STEP 5 – ONGOING INTERACTIVE PROCESS

If the request for PAS is approved, the employee shall be informed, in writing, of any changes in providing the approved services. Changes can include incurred delays due to the nature of federal recruitment or contracting, the unavailability of the primary PAS provider, and any alternative arrangements made, among other situations. In addition, the employee must promptly inform his or her supervisor and/or the servicing DPM of any changes needed to the services in place so that they may address these changes. These interactions must be documented and retained in the employee's PAS request folder.

Personal Assistance Services Request Form

Employee Information

Name:	<input type="text"/>	Email:	<input type="text"/>
Work Phone Number:	<input type="text"/>	Secondary Phone Number:	<input type="text"/>
Program/Sub Program:	<input type="text"/>	Title, Series, and Grade	<input type="text"/>
Work Address:	<input type="text"/>		

Supervisor Information

Name:	<input type="text"/>	Email:	<input type="text"/>
Title:	<input type="text"/>	Phone Number:	<input type="text"/>

Request Information – *Attach additional documents if needed*

1) Identify the targeted disability or diagnosis which limits your ability to perform activities of daily living.

2) Describe the full scope of personal assistance services needed to participate in the workplace (or during work-related travel if this is an official travel PAS request):

3) Indicate the expected duration (frequency and length of time) in which services are required.

4) Complete the following only if you are requesting PAS for official travel:

a. Purpose of work-related travel:

b. Dates services are needed:

c. TDY Location:

d. Will you need the personal assistant to accompany you to and from your TDY Destination? Yes No

e. If you response to the previous question is “yes”, please provide logistics of the trip (method of travel, hotel information, etc.)

5) Do you have a specific individual in mind that can provide personal assistant services?

Yes No

6) If your response to the previous question is “yes”, please provide the individual’s name, telephone number, and e-mail address.

Confirmation of Submission/Receipt

I have read and understand the Privacy Act Statement Below and am confirming the submission (employee) or receipt (supervisor) of this request for Personal Assistance Services.

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

PRIVACY NOTICE REGARDING THE COLLECTION OF YOUR MEDICAL INFORMATION TO PROCESS YOUR PERSONAL ASSISTANCE SERVICES

What is ICE's legal authority for collecting this information? The collection of your information by ICE is authorized by 29 USC 791, Section 504 of the Rehabilitation Act, as amended; and, the U.S. Equal Employment Opportunity Commission's Procedures for Providing Personal Assistance Services (PAS) for Individuals with Targeted Disabilities. ICE has the legal authority to provide Personal Assistance Services to ICE employees with Targeted Disabilities. In doing so, ICE has the legal authority to assess an employee's disability and determine what Personal Assistance Services will enable the individual to perform their position and/or enjoy equal benefits of employment.

Why is this information being collected? Information about you is being collected as a part of the Personal Assistance Services process. PAS's are available to assist employees whose targeted disability causes them to require assistance in performing basic activities of daily living, such as eating, using the restroom, and putting on and removing clothing. Your information will be used by the Disability Program manager within the Office of Diversity and Civil Rights at ICE to determine if you are an individual with a Targeted Disability as defined by the Rehab Act of 1973, as amended. ICE may collect your information in various ways, including through medical records that you provide.

How will the information be used and with whom will it be shared? Your information is used by the Office of Diversity and Civil Rights to make the assessments described above. In the event the Office of Diversity and Civil Rights requires medical expertise to process your PAS request or determines an independent medical exam is required in your case, ICE will share your information with the ICE Medical Officer to conduct an assessment of your PAS request. Finally, if your medical information becomes relevant to a legal proceeding, ICE may share your information with the Department of Justice, the United States Courts, the Merit Systems Protection Board, an arbitrator, or the Equal Employment Opportunity Commission.

Am I required to provide this information? Furnishing this information is voluntary. However, if you choose not to provide the requested information it may result in the processing of your PAS request without the requested information or medical information to either substantiate that you are an individual with a Targeted Disability or determine the appropriate Personal Assistance Services based upon your disability and current position at ICE.

IMPORTANT NOTE: The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by its Title II from requesting or requiring genetic information of employees or their family members. In order to comply with GINA, ICE instructs that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an

embryo lawfully held by an individual or family member receiving assistive reproductive services.

Requestor's Signature:

Date:

Supervisor's Signature:

Date:

Provide this completed form to your Personal Assistance Services (PAS) Point of Contact (POC) within five (5) business days.

Received by (PAS POC's name):

Date Received by PAS POC:

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

Date

Delivered via electronic mail
REQUESTOR’S EMAIL ADDRESS

Re: Response to Request for Personal Assistance Services
Requestor’s Name
Position Title
Agency
Agency Case #

Dear :

This letter is a follow up to your request for personal assistance services submitted on DATE. You identified your targeted disability as *(insert targeted disability here)*. You requested the following services for the following time period: *(Insert PAS requested - be sure to add in any specific information to describe the services request or any notable details from the request process)*.

- LIST ITEM(S) REQUESTED;
- LIST ITEM(S) REQUESTED; and,
- LIST ITEM(S) REQUESTED.

This letter is to notify you that after assessing the information you provided, as well as using the resources available to me, your request for PAS is approved as stated below *(Be specific in describing the PAS to be provided, to include frequency, duration, and types of tasks to be performed, as well as the estimated date of PAS implementation. If applicable, identify any limitations preventing immediate implementation of the services, and any interim services or arrangements that will be provided while the PAS provider requirement is being filled.)*:

- LIST ITEM(S) APPROVED;
- LIST ITEM(S) APPROVED; and
- LIST ITEM(S) APPROVED

(If the PAS to be provided are different from the employee's original request, the approval letter must explain why the alternative is effective.)

Please be advised that if your needs for PAS change or is different from what is identified above, please notify me immediately. If you have any questions or concerns regarding this, please do not hesitate to contact me or *(insert name of servicing PAS POC)*.

Sincerely,

DECIDING OFFICIAL'S NAME
TITLE
OFFICE

Acknowledgement:

I _____, acknowledge receipt of the aforementioned
Employee's Name

Personal Assistance Services decision and accept the approved services as contained in the letter.

Signature

Date

Return a completed, signed copy to ODCR's Disability Program Manager at:
ICEReasonableAccommodation@ice.dhs.gov.

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

Date

Delivered via electronic mail
REQUESTOR'S EMAIL ADDRESS

Re: Response to Request for Personal Assistance Services
Requestor's Name
Position Title
Agency
Agency Case #

Dear :

This letter is a follow up to your request for personal assistance services submitted on DATE. You identified your targeted disability as *(insert targeted disability here)*. You have requested the following services: *(Insert PAS requested)*.

Based on my understanding of the information you have provided, as well as using the resources available to me, your request for PAS is denied. The basis for this decision is that: *(select one or more of the following)*

- The employee is not a Department of Homeland Security, Immigration and Customs Enforcement (ICE) employee;
- The employee has not established a targeted disability;
- The employee's targeted disability does not create a need for PAS;
- The employee would not be able to perform the essential functions of his/her position, even with PAS and/or any reasonable accommodations;
- Even with PAS and any reasonable accommodations, your limitations would create a direct threat to safety in the workplace; or
- Providing PAS would impose an undue hardship on the ICE.

This decision is based on the following: *(Be specific and provide as much detail as necessary to justify the decision, e.g., why the disability does not qualify as a targeted disability, why the PAS would result in an undue hardship, etc.)*

Please be advised that because your request for personal assistance services was not approved you have the right to:

- File a discrimination complaint; and/or
- File a grievance under the negotiate procedure.

You have the right to initiate an EEO complaint pursuant to Title 29 of the Code of Federal Regulations (C.F.R.), Part (§) 1614. To initiate an EEO complaint, you must contact an ICE EEO counselor at EEO-ADR-ICE@ice.dhs.gov, 202-732-0192 or 202-732-0193 within **45-calendar days** of the alleged discriminatory action, or, in the case of a personnel action, within **45-calendar days** of the effective date of the action.

If you are a bargaining unit member, you may elect to file a grievance, in accordance with the appropriate provisions of your collective bargaining agreement. Note that 29 C.F.R. §1614.301 states that when an employee is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to raise the matter through the EEO process or the negotiated grievance procedure, but not both. An election to proceed under the EEO process is indicated by the filing of a formal written complaint; use of the pre-complaint informal process does not constitute an election. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely written grievance.

Unless noted as an exception above, you must initiate the discrimination complaint process or file a negotiated grievance within the applicable timeframes for it to be considered a timely filing.

If you are eligible, you also have the option of applying for disability retirement. For further information regarding this option, please contact the Office of Human Capital (<https://insight.ice.dhs.gov>). You are further advised that if you are unable to perform the essential functions of your position, appropriate administrative action may be taken.

If you have any questions on the above, or if you need for PAS changes, please contact me or (*insert name of servicing PAS POC*).

Sincerely,

DECIDING OFFICIAL'S NAME
TITLE
OFFICE

Acknowledgement:

I _____, acknowledge receipt of the aforementioned Personal
Employee's Name

Assistance Services decision.

Signature

Date

Return a completed, signed copy to ODCR's Disability Program Manager at:
ICEReasonableAccommodation@ice.dhs.gov.

Appendix D – Sample Position Description

DISCLAIMER: Please be advised that this document serves as a sample for generating a position description tailored to the duties required of the PAS provider(s) at an organization and is NOT a classified position description. This sample has not been written with Factor Level Descriptions (with 9 factor levels) as the GS-0303 series is classified using the Grade Level Guide for Clerical and Assistance Work. The PAS position may vary in job series and grade level depending on duties assigned and the complexity of the work, among other factors. This document does not include any potential physical requirements of the position, e.g. lifting the weight of the employee, so any physical requirements of the PAS needed by the employee(s) will need to be incorporated. Please work with your servicing Human Resources Office and/or Operations Center to have a position description classified that will meet your organization's needs.

Personal Services Assistant GS-303-05

Background

This position description (PD) is established to provide Personal Assistance Services as mandated by the EEOC's regulation implementing Section 501 of the Rehabilitation Act of 1973. Federal agencies are required to provide assistance to employees with targeted disabilities in performing basic activities of daily living such as eating and using the restroom. Organizations choosing to use this PD must also have the assistant performing technical work which supports the administration or operation of the programs of an organizational unit for a minimum of 25 percent of the time. The employee will be required to have a working knowledge of the processes and procedures of an administrative field in addition to performing the personal assistance duties.

Duties

Serves as personal assistant for employee(s) with targeted disabilities. May be required to perform the following types of duties as personal assistant: (75%)

- Ensures the personal needs of the employee(s) are met during duty-hours, official travel, and employer-sponsored events. This includes services pertaining to eating, toileting, putting on/removing clothing, maneuvering, orienting, reaching and grabbing items out of reach, traveling, and other related needs in performing activities of daily living. Other types of services not included in this list may be required depending on the limitations of the employee(s).
- Provides a variety of services to employee(s) involving support in work-related duties, such as reading and note-taking. These duties relate to the personal reasonable accommodations needed for the qualified employees to experience the same employment opportunities and benefits as employees without disabilities. Assists in the organizing and maintenance of files and manuals, photocopying, and help with other duties requiring physical demands according to the limitations of the employee(s).
- Assists in emergency type situations (fire drills, illness, building evacuation, etc.).

- Performs related duties such as accompanying the employee to meetings, conferences, and training sessions if required by the employee(s).
- Where necessary, accompanies the employee in official travel in order to facilitate performance of his/her job. Travel-related duties may include duties as described above, dressing and grooming, preparing meals, transferring to and from bed, and facilitating the logistical needs of the employee(s). Job-related duties may also be required during official travel such as reading and note-taking.

Serves as an administrative assistant performing responsible work consisting of standard and non-standard clerical assignments in support of an office. May be required to perform the following types of duties: (25%)

- Maintains necessary files and records to ensure access to desired information. Files can include administrative files, statistical information and other materials related to office functions.
- Prepares final letters, notices, reports and other correspondence from draft documents and/or edited reports.
- Performs office automation tasks not requiring a fully qualified typist, such as creation of documents, graphs, charts and worksheets.
- Provides supply and service procurement services. Receives and processes requests, tracks status of requests and receives incoming supplies and services. Performs periodic inventory to determine stock replenishment requirements.
- Maintains calendars and schedules, arranges meetings, answers requests for information via email or phone calls and schedules travel or events for higher level personnel.
- Performs other administrative tasks needed in support of the organization as assigned.

Nature of Assignment

Employee performs as personal assistant for individual(s) with targeted disabilities. Primary responsibility of employee is to provide assistance in performing activities of daily living. The employee may provide personal assistance services for more than one employee depending on need and as long as it does not interfere with providing assistance to others in a timely manner. Additionally, employee will perform duties providing administrative support in a variety of organizational areas.

Employee will be required to assist coworker with daily living functions such as assistance with eating, using the bathroom, taking off outdoor clothing, navigating elevators and building obstacles or organizing files for ease of locating needed information.

Employee will additionally be required to perform duties of an one-grade interval administrative nature, such as creating a variety of documents, maintaining supplies and services, scheduling business travel, preparing reports or maintaining files. These duties shall not interfere with the

ability to perform the personal assistance services in a timely manner.

Knowledge of applicable fire and safety regulations for the work area in order to aid the employee(s) with targeted disabilities in case of an emergency. Knowledge of basic office equipment, e.g., photocopier, personal computer, phone, calculator, etc., to assist employees(s). Skill to develop and maintain personal one-on-one relationships with tact and courtesy to provide personal assistance for employee(s) with targeted disabilities. Skill in written and oral communication to effectively provide personal assistance services for the individual(s) and in support of the organization(s).

Position requires knowledge of organizational structure and functions that pertain to the assignment area. Knowledge of applicable document requirements and content, and knowledge of related software needed to prepare and use these documents to include Microsoft Office Suite. Knowledge of data source forms and characteristics of data reported thereon. Knowledge of grammar, spelling, punctuation, and format, sufficient to recognize and correct errors in correspondence and reports. Knowledge of the organization of electronic and paper files and the purpose and content of data in these files. Knowledge of the clerical steps in processing documents, associating, filing and retrieving information, and preparing output documents. Basic knowledge of technical information and vocabulary used by the employee(s) in the performance of duties.

Level of Responsibility

The PAS recipient's supervisor will make the determination as to the need for the personal assistant in all work situations, to include during official travel and in off-site training or conferences.

The employee's supervisor oversees the completion of all work and determines if the needs of the employee(s) are being met. The supervisor also assures that the interpersonal relationship between employee and assistant is professional and harmonious as this is essential to the effective assistance of the individual.

The supervisor assigns support work by defining objectives, priorities and deadlines and provides guidance on assignments that do not have clear precedents. The incumbent carries out the assistant and support work independently, referring unusually difficult problems to the supervisor. The employee works in accordance with accepted practices; the supervisor evaluates completed work for technical soundness, appropriateness and effectiveness in meeting goals.

Guidelines include extensive oral and written instructions on office procedures and numerous written guides covering agency-wide and local policies. Included are procedural guides such as instructions, regulations, manuals, precedents, etc., used by the employee(s) with targeted disabilities.

In addition to having a full working knowledge of those guidelines, the incumbent must also be familiar with clerical guidelines such as style manuals and agency instructions concerning correspondence, formats, etc. Judgment is required in locating, selecting and adopting guidelines or determining when deviations are required from among those available.

The incumbent is familiar with requirements which allow for ordering and inventory of supplies and services within an organization. Uses guidelines, which may require judgement in determining appropriate use and pertinence.

Discretion and selectivity are used in choosing the appropriate clerical guidelines; however, this judgment may only be extended to substantive guides by direction of a supervisor of the employee(s) with targeted disabilities.

The personal assistant will provide services on a one-to-one basis in formal and/or informal settings, and may provide services to more than one employee depending on the need. The complexity of the duties depends upon the work environment and the limitations of the employee(s) with targeted disabilities.

Work consists of performing a full range of standard and non-standard clerical assignments and resolving a variety of non-recurring problems. Work includes a variety of assignments involving different and unrelated steps, processes, or methods. The employee must identify and understand the issues involved in each assignment, identify what steps and procedures are necessary, and determine the order of their performance. Completion of each task typically involves selecting a course of action from a number of possibilities.