



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 12700.5
EEO

MAY 29 2019

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER
12700.5

From: Commander
To: Distribution List

Subj: PROCEDURES FOR PROCESSING REQUESTS FOR PERSONAL ASSISTANCE
SERVICES (PAS)

Ref: (a) 29 CFR §1614.203(d)(5)
(b) Section 501 of the Rehabilitation Act of 1973
(c) Americans with Disabilities Act (ADA) of 1990
(d) Americans with Disabilities Act Amendment Act (ADAAA) of
2008
(e) EEOC Final Rule, Affirmative Action for Individuals with
Disabilities in the Federal Government of 3 January 2018
(f) DON Procedures for Processing Requests for PAS of 28 March 2018

Encl: (1) Procedures for Processing Requests for Personal Assistance
Services
(2) Personal Assistance Services Request Form
(3) Sample Request for Medical Documentation for PAS Request
(4) Sample Letter Approving Request for PAS
(5) Sample Letter Denying Request for PAS
(6) Tip Sheet for Contracting PAS
(7) Sample Personal Assistant Position Description

1. Situation. To provide instructions and guidance on the procedures for processing requests for PAS as they apply to Department of the Navy (DON) civilian employees (Appropriated Fund and Nonappropriated Fund) whether permanent, full-time, part-time, flexible, or probationary in accordance with the references.

2. Mission. This Order provides PAS direction, in addition to reasonable accommodation (RA), during work hours and work-related travel to employees with targeted disabilities unless doing so would impose an undue hardship. PAS are services that help individuals with disabilities perform activities of daily living, including, assistance with removing and putting on clothing, eating, and using the restroom. Such services do not, however, include medical care. This policy is central to our efforts to provide equal employment opportunities (EEO) to Individuals With Disabilities (IWD) in accordance with the references. PAS processing procedures applicable to this Order are outlined in the enclosures.

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

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3. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. All organizations employing civilian personnel shall comply with this Order.

(2) Concept of Operations. Organizational commanders, heads of command staff sections, and department heads will ensure all subordinate managers and supervisors (military and civilian) are thoroughly familiar with the contents of this Order.

4. Administration and Logistics. The point of contact for this Order is the Deputy EEO Officer at 910-451-5272.

5. Command

a. Applicability. This Order is applicable to Marine Corps Base Camp Lejeune (MCB CAMLEJ), its subordinate commands, and Marine Corps Air Station New River.

b. Installation commanders/commanding officers may adapt guidance contained in this Order. Such guidance and policy must be consistent with the provisions of this Order, but commands may adopt more detailed rules to meet specific needs. Tenant commands supported by Marine Corps Installation East-MCB CAMLEJ may elect to comply with this Order in its entirety or may describe more detailed rules to meet specific needs as required.

c. Signal. This Order is effective the date signed.


S. A. BALDWIN
Acting

DISTRIBUTION: A/C (plus MCAS NR, H&S Bn, and WTBn)

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PROCEDURES FOR PROCESSING REQUESTS FOR PERSONAL ASSISTANCE SERVICES

1. As required by reference (a), a regulation implementing reference (b), as amended, Federal agencies are required to provide PAS, in addition to RA, during work hours and work-related travel to employees with targeted (severe) disabilities unless doing so would impose an undue hardship. The Department of the Navy (DON) affirms its commitment to providing PAS so that employees who cannot be at work without PAS may enjoy the opportunities and benefits of employment.

2. PAS allows individuals to perform activities of daily living that an individual would typically perform, if they did not have a disability, such as assistance with removing and putting on clothing, eating, and using the restroom. The procedures outlined below are to be used when a DON employee makes a request for PAS. Requests for RA and PAS can be made simultaneously, but must be processed separately using appropriate procedures.

3. Step One - The Initial Request

a. An employee's initial request for PAS can be made verbally or in writing to their first-line supervisor or the RA point of contact (POC). If the RA POC receives the request directly from the employee, the RA POC shall immediately inform the employee's first-line supervisor of the request. Additionally, a family member, spouse or partner, friend, or medical health professional may request PAS on behalf of an individual with a targeted disability. It is the responsibility of all DON employees to recognize a request for PAS; if anyone other than the first-line supervisor or the RA POC receives a request for PAS, they should immediately notify the servicing RA POC.

b. Requests for PAS must be submitted to the servicing RA POC as soon as practicable, but no later than within **two business days** of receipt of the initial request for processing. Requests for PAS, similar to requests for RA, must be subsequently documented, in writing, signed and dated, for inclusion in the PAS request file. A PAS Request Form is provided as enclosure (2).

c. The RA POC shall retain all documents related to the request for PAS in a file separate from the employee's official personnel record, and may be kept in the employee's RA file if applicable. In addition, the PAS request and processing efforts must be documented electronically in the Navy Electronic Accommodations Tracker (NEAT). 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.

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4. Step Two - The Interactive Process

a. The interactive process is an informal discussion between the individual requesting PAS, their first-line supervisor, and/or the RA POC. This discussion first sets out to determine whether the employee is entitled to PAS. In order to be entitled to PAS, the following must hold true:

- (1) The individual is a DON employee;
- (2) The employee has a targeted disability (refer to definition section);
- (3) The employee requires PAS because of their targeted disability;
- (4) The employee will be able to perform the essential functions of their position, without posing a direct threat to safety, once PAS and any required RA have been provided; and
- (5) Providing PAS does not impose undue hardship on the Agency.

b. 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, the employee's first-line supervisor may request medical documentation to support the request. A sample Request for Medical Documentation Letter is provided as enclosure (3).

c. 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.

d. 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 servicing RA POC 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 complete.

5. Step Three - The Interactive Process

a. Decision to Approve Request for PAS: If the employee's first-line supervisor determines that providing PAS is the appropriate course of action, a letter denoting the acceptance of the PAS request is issued from the supervisor to the employee within **30 calendar days of receipt of the written request by the RA POC**. This approval letter

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may also be used to document that an alternative form of PAS from the PAS originally requested will be provided, and explains why it will be effective. A sample approval letter is provided as enclosure (4).

b. 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 as an undue hardship on the agency. If the employee is not entitled to receive PAS, they must be notified of this decision within **30 calendar days of receipt of the written request by the RA POC**. The denial notification must provide available avenues of redress, to include Alternative Dispute Resolution (ADR), the EEO complaints process, and negotiated grievance procedures. A sample denial letter is provided as enclosure (5).

6. Step Four - Obtaining the PAS Provider

a. A PAS provider is an employee or independent contractor whose primary job functions include the provision of personal assistance services. In general, the training or skill that a PAS provider should have will depend on the specific services needed by the employee.

b. The DON is entitled to consider all available resources when arranging for PAS, including 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.

c. The DON gives its major commands the flexibility of providing PAS via Federal employee or independent contractor, depending on the employee's need and the operational resources required to establish and provide PAS. When making this determination on how to provide the PAS, the below list includes items that may be considered:

	FEDERAL EMPLOYEE	CONTRACTOR
Hiring/Procurement	Authority to appoint non-competitively via 5 C.F.R. 213.3102 (LL) (Schedule A)	May contract service as a commercial item under the procedures in FAR Part 12, with the NAICS code being 624120, "Services for the Elderly and Persons with Disabilities"
Length of Employment	Can be temporary, term or permanent employee	Determined by period of performance

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	FEDERAL EMPLOYEE	CONTRACTOR
Cost	PAS duties are generally graded around GS-05 level (with 25 percent administrative duties), and could differ depending on complexity	Cost depends on level/amount of services required and structure of contract (firm fixed price contract vs. indefinite delivery/indefinite quantity)
Security Clearance	Agency is responsible for ensuring PAS provider has appropriate security clearance	Can demand minimum clearance requirement provisions
PAS Duties	Duties are outlined in position description	Duties are outlined in Statement of Work
Performance and Mandatory Training	Agency is responsible for monitoring performance and mandatory training	Contracting agency is responsible for monitoring performance and mandatory training, and is subject to Government inspection
If PAS need changes or is eliminated	May be subject to management-directed reassignment (MDR) or reduction in force (RIF) procedures	Contract can be modified or terminated
Other Considerations	PAS providers may be bargaining unit employees	The Service Contract Labor Standards may apply to a contract for PAS

d. To assist commands in obtaining PAS, a guide that can assist DON commands in contracting PAS is provided as enclosure (6). A template position description is provided as enclosure (7), which DON commands may use as a reference in establishing their own position description that is tailored to the services required.

e. In determining a PAS provider for a single individual, the DON must give primary consideration to the requestor's preferences to the extent permitted by law. In some cases, the employee who needs PAS 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. The option of using a family member or spouse as a PAS provider can also be considered.

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f. If there is more than one employee requiring PAS in the organization, DON commands 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.

g. When work-related travel (PAS for Official Travel) results in the employee's inability to rely on their usual source of PAS, DON must provide PAS at all times (both work and off-work hours) during the work-related travel, independent of the new regulations, as a RA (absent undue hardship). Additionally, even if employee's usual PAS provider is available during work-related travel, the DON is required to pay any additional costs related to providing PAS while on travel, such as transportation costs for the PAS provider, as a RA. The DON 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 them, as long as it is considered effective. The DON may cover the PAS provider's travel costs in various ways, depending on the type of PAS provider (e.g., family member or spouse or other provider, Federal employee, or contractor). Applicable policies or regulations as set forth in the Department of Defense (DoD) Joint Travel Regulations and/or as outlined in the contract shall be followed.

h. The DON 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 or as a RA. Permission to telework should not be revoked solely due to an employee's need for PAS. The determination of whether PAS can be provided to an employee while teleworking should be made on a case-by-case basis.

i. The DON recognizes that it may take an extended period of time between when the request for PAS is approved and when PAS is implemented, due to the nature of Federal recruitment and contracting. In the event that provisional PAS is required, the employee's first-line supervisor and coworkers may volunteer to assist with minimal non-personally invasive tasks 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, and replenishing water. If volunteer assistance by the employee's first line supervisor or coworkers is being considered, the supervisor should seek advice from legal counsel before agreeing to such an arrangement.

j. 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 billet is in place,

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interim arrangements can be made for performing these more personal tasks through exploring the availability of local resources or providing temporary base access to spouses or family members who can assist with PAS.

7. Step Five - Ongoing Interactive Process. If the request for PAS is approved, the employee shall be informed, in writing, of any changes in providing PAS. 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 their supervisor or the servicing RA POC 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 PAS request folder and electronically in NEAT.

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Definitions

Alternative Dispute Resolution (ADR): Any procedure that is used in lieu of a formal administrative process or litigation to resolve issues in controversy. DON activities and employees are encouraged to consider the use of ADR at any stage of the PAS process to resolve any conflicts. Upon PAS denial, employees may request ADR in writing within 14 calendar days from receipt of the denial letter, or in accordance with the appropriate collective bargaining agreement.

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 must 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. 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 EEO Complaints believes that its procedural regulations governing complaints of discrimination are an appropriate place to address the question.

Interactive Process: A dialogue between the employee requesting PAS, their supervisor, and the servicing RA 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.

Negotiated Grievance Procedures: A bargaining unit employee, whose request for PAS has been denied, will be advised of their opportunity to file a grievance if this matter is not excluded under the collective bargaining agreement.

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 RA, 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.

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Personal Assistance Services (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 the DON 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.

Reasonable Accommodation (RA): A change to the work environment or the way things are usually done that allows an individual with a disability to apply for a job, perform the essential functions of the position, or enjoy equal access to benefits available to other individuals in the workplace. RA differs from PAS, as the assistance or modification provided as an accommodation is directly related to the performance of job-related tasks. Examples of an accommodation include providing a reader to enable individuals who have visual impairments to read printed text, or a Sign Language interpreter to facilitate deaf-to-hearing communication.

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. 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 personal assistance services to certain employees who need them because of a disability.

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:

- o Developmental Disability, for example, autism spectrum disorder;
- o Traumatic Brain Injury;
- o Deaf or serious difficulty hearing, benefitting from, for example, American Sign Language, Computer Assisted Real-Time Translation, hearing aids, a cochlear implant and/or other supports;
- o Blind or serious difficulty seeing even when wearing glasses;
- o Missing extremities (arm, leg, hand and/or foot);

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- o Significant mobility impairment, benefitting from the utilization of a wheelchair, scooter, walker, leg brace(s) and/or other supports;
- o Partial or complete paralysis (any cause);
- o Epilepsy or other seizure disorders;
- o Intellectual disability;
- o Significant Psychiatric Disorder, for example, bipolar disorder, schizophrenia, Posttraumatic Stress Disorder, or major depression;
- o Dwarfism; and
- o Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders.

Undue Hardship: Significant difficulty or expense, considering the nature, extent, and cost of PAS in relation to an agency's overall resources and the impact of providing PAS on the operation of the agency's business. The DON is not obligated to provide PAS when provision of the services poses an undue hardship on the agency. The determination of undue hardship is made on a case-by-case basis.

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Resources

Affirmative Action for Individuals with Disabilities in Federal Employment

EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act

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

EEOC's Questions and Answers: The EEOC's Final Rule on Affirmative Action for People with Disabilities in Federal Employment

The Job Accommodation Network's (JAN) Accommodation and Compliance Series: Personal Assistance Services in the Workplace



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Personal Assistance Services Request Form

Employee Information

Name: Email Address:

Work Phone Number: Secondary Phone Number (Cell /Home):

Major Command: Organization:

UIC: Organizational Code:

Position Title, Pay Plan/Series/Grade:

Work Address:

Supervisor Information

Name: Email Address:

Phone Number:

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:

Enclosure (2)



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Personal Assistance Services Request Form

d. Will you need the personal assistant to accompany you to and from your TDY destination?

e. If your 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?

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:

Privacy Act Statement: The collection of this information is authorized by 29 USC 791 et seq. This information will be used to process a request for personal assistance services. As a routine use, the information may be disclosed to: appropriate agency officials processing or otherwise responding to the request for personal assistance services and/or decisions related to such request; an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the DON is a party or has an interest; to a government agency in order to obtain information relevant to DON decision(s) concerning personal assistance services; to a congressional office in order to obtain information relevant to DON decision(s) concerning personal assistance services; to an expert, consultant or other person under contract with the DON to fulfill an agency function; to an investigator, administrative judge or complaints examiner appointed for the investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; to a labor organization as required by the Federal Labor Management Relations Act; to the Office of Personnel Management in making determinations related to disability retirement and benefit entitlement; to officials of the Office of Workers' Compensation Programs; to the Department of Veterans Affairs; to an employee's private treating physician and to medical personnel retained by the DON to provide medical services in connection with an employee's health or physical condition related to employment; and to the Occupational Safety and Health officials when needed to perform their duties. Completion of this form is voluntary. If this information is not provided, processing the request for reasonable accommodation may not be possible.

Requestor's Signature:

Date:

Supervisor's Signature:

Date:

Provide this completed form to your servicing Reasonable Accommodation (RA) Point of Contact (POC) within two (2) business days.

Received by (RA POC's name):

Date Received by RA POC:

Enclosure (2)

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SAMPLE REQUEST FOR MEDICAL DOCUMENTATION FOR PAS REQUEST

(Insert Date)

From: (Insert Supervisor's Title and Name)

To: (Insert Requestor's Title and Name)

Subj: REQUEST FOR CURRENT MEDICAL DOCUMENTATION

Ref: (a) 29 CFR §1614.203(d)(5)

1. On (insert request date here), you submitted a request for Personal Assistance Services (PAS), and you identified your targeted disability as (insert targeted disability here). You have 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).

2. In accordance with reference (a), the goal of providing PAS is to assist employees in performing activities of daily living during work hours and work-related travel to those who need them because of certain disabilities. Reference (a) also indicates that eligibility for receiving PAS, absent undue hardship on the agency, is dependent on an employee having a targeted disability and requiring the service as a result of the employee's limitations. At this time, I do not have enough information regarding your need for PAS, so the purpose of this letter is to request information regarding your current medical condition and how the PAS would allow you to participate in the workplace or in job-related travel. This information will assist me in determining your eligibility to receive PAS and if required, what services may be effective.

3. Please ask your healthcare provider to provide the following information:

a. Identify the disability or disabilities for which PAS are required;

b. List the daily activity or activities for which PAS are required;

c. Describe how the requested assistance will enable you to perform activities of daily living which occur in the workplace or during work-related travel.

For Official Use Only - Privacy Sensitive:

Any misuse, unauthorized disclosure or unauthorized access may result in civil or criminal penalties, or both.

Enclosure (3)

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Subj: REQUEST FOR MEDICAL DOCUMENTATION

4. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), which became effective 14 April 2003, imposes new requirements on medical providers, employers, health plans and plan administrators to ensure that your individual medical and health information is kept confidential. In adhering to this regulation, your health provider will not release medical documentation without your permission.

5. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you and/or health care professional 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.

6. Please provide me with the requested documentation from your healthcare provider within 15 calendar days of your receipt of this letter. If you have any questions or concerns, please contact me or (*Insert name of RA POC*) at (*insert RA POC information*).

(Supervisor's Signature block)

Copy to:

(Insert parties with a need-to-know)

Acknowledgement of receipt:

Employee's signature

Date

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SAMPLE LETTER APPROVING REQUEST FOR PAS

(Insert Date)

From: (Insert Supervisor's Title and Name)

To: (Insert Requestor's Title and Name)

Subj: APPROVAL OF REQUEST FOR PERSONAL ASSISTANCE SERVICES

1. On (insert request date here), you submitted a request for Personal Assistance Services (PAS), and you identified your targeted disability as (insert targeted disability here). You have 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).

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

3. 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 reasonable accommodation point of contact).

(Supervisor's Name/Signature block)

Copy to:

(Insert parties with a need-to-know)

Employee's signature

Date

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Enclosure (4)

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SAMPLE LETTER DENYING REQUEST FOR PAS

(Insert Date)

From: (Insert Supervisor's Title and Name)

To: (Insert Requestor's Title and Name)

Subj: DENIAL OF REQUEST FOR PERSONAL ASSISTANCE SERVICES

Ref: (a) 29 CFR §1614.203(d)(5)

1. On (insert request date here), you submitted a request for Personal Assistance Services (PAS). You identified your targeted disability as (insert targeted disability here). You have requested the following services: (Insert PAS requested).

2. This is to notify you that after assessing all 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)

- You are not a Department of Navy (DON) employee;
- You do not have a targeted disability;
- Your targeted disability does not create a need for PAS;
- You are not able to perform the essential functions of your position, even with PAS and any reasonable accommodations;
- Even with PAS and any reasonable accommodations, your limitations create a direct threat to safety in the workplace;
- Providing PAS would impose an undue hardship on the DON.

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.)

3. You have the opportunity to:

a. Invoke the Alternative Dispute Resolution (ADR) process. To invoke the ADR process, you must submit a written request to (provide reasonable accommodation (RA) point of contact (POC) information) within 14 calendar days of your receipt of this denial letter, or in accordance with your collective bargaining agreement. ADR may also be appropriately considered as an option in the negotiated grievance and/or discrimination complaint procedures.

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Subj: DENIAL OF REQUEST FOR PERSONAL ASSISTANCE SERVICES

b. File a grievance under the negotiated grievance procedure. If you are a bargaining unit employee, you have the opportunity to file a grievance, in accordance with (reference appropriate provisions of the collective bargaining agreement).

c. Initiate the discrimination complaint process pursuant to reference (a). To do so, you must contact (provide contact information for Equal Employment Opportunity Counselor, who is different from the RA POC) within 45 calendar days from your receipt of this notification of the initial denial.

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

4. If you are eligible, you also have the option of applying for disability retirement. For further information regarding this option, please contact the DON Civilian Benefits Center at (insert the DON Civilian Benefits Center contact information). You are further advised that if you are unable to perform the essential functions of your position, appropriate administrative action may be taken.

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

(Supervisor's Name/Signature block)

Copy to:

(Insert parties with a need-to-know)

Acknowledgement of receipt:

Employee's signature

Date

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in civil or criminal penalties, or both**

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TIP SHEET FOR CONTRACTING PAS

This document provides points that DON commands may consider when seeking to contract PAS for individual(s) with targeted disabilities who require the service to participate in the workplace or during work-related travel. As this tip sheet serves as an overview and is not an exhaustive list, it is advised that commands work with their contracting officer or acquisitions department so that all requirements can be met.

The Ability to Contract PAS

Federal agencies are generally prohibited to expend appropriated funds on personal expenses for employees, see 3 Comp. Gen. 433 (1924), but those restrictions do not apply to services that are legally required to provide in order to comply with the Section 501 regulation. See 4 GAO-RB pt. C, s. 13 (2015) (explaining that "agencies may expend appropriated funds to accomplish the purposes of the Rehabilitation Act when acting under the Act's authority and the regulatory standards that govern its application"). Other agencies have contracted PAS as a commercial item under the procedures in the Federal Acquisition Regulation (FAR) Part 12, using the North American Industrial Classification System (NAICS) code of 624120, "Services for the Elderly and Persons with Disabilities," and the Product and Services Code (PSC) of R497 for "Support - Professional: Personal Services Contracts." The DON is able to mirror these procurement specifications or utilize other contracting procedures as needed. Therefore, the DON has the ability to use independent contractors to provide PAS.

Type of Contracts

A wide selection of contract types is available (Indefinite Delivery, Indefinite Quantity (IDIQ), Firm-Fixed-Price (FFP), etc.) and the type chosen to obtain PAS depends on price structure, complexity of the requirement, the urgency of the requirement, period of performance, etc. To make the best determination, a full understanding of the PAS needed and the stipulations of each contract type are required.

Statement of Work

Below are some items to consider when generating the Statement of Work (SOW) for the PAS contract:

- All applicable duties that the PAS provider(s) would be performing (including any non-PAS related duties that do not interfere with providing PAS), and if applicable, duties unique to official travel
- Any specific qualifications required (e.g., state licensing/certifications or physical qualifications, etc.)

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- Any specific knowledge or skills required (e.g., ability to communicate effectively, ability to orient and provide sighted guidance, experience with Microsoft Office programs, etc.)
- Hours of operation and the number of hours needed per day, and if applicable, hours of operation and hours needed during official travel
- Duty location(s), and if applicable, the employee's telework location or various temporary duty stations while on official travel
- Minimum security clearance level required
- Confidentiality requirements as protected by the Privacy Act; may have contractor(s) sign Non-Disclosure Agreement or Confidentiality Agreement
- Arrangements for back-up personal assistant if the one assigned cannot provide the agreed-upon services for any reason
- Any deliverables or reports documenting the hours and labor performed, the PAS provided, any areas of concern, etc. and the recurrence of the reports.

Cost for Providing PAS

The EEOC, in its preamble for the amended regulations implementing Section 501 of the Rehabilitation Act, provides a high, and low, cost estimate for hiring PAS providers, not including travel costs.

- In calculating the low estimate, EEOC assumed that agencies would contract with vendors to provide each individual with PAS for the equivalent of full-time hours (2,080 hours per year) at the minimum hourly rate for Federal contractors (\$10.10), yielding an estimated annual per-person cost of 20,800 dollars.
- In calculating the high estimate, EEOC assumed that agencies would hire a PAS provider for each individual at the GS-05, Step 5 level in the Washington, DC region (\$65,519.67, adjusted to include benefits).

DON commands can structure the requirements based on skill/qualification level of PAS provider(s) and hourly rates for standard vs. late requests, among other factors, which may warrant various tiers in pricing.

The cost of having the PAS provider accompany the employee on official travel during work hours and off-work hours, and any other relevant fees, shall be stipulated in the contract.

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Wages and Benefits

Contracts or orders to furnish PAS will generally be subject to the Service Contract Labor Standards requirements (FAR Part 22.10/52.222-41), except in the rare circumstance when an individual(s) signs an employment contract to provide direct PAS to the government (FAR 22.1003-3(f)).

Quality Assurance of PAS

Any concerns with the delivery of services by the PAS provider shall be directly communicated through the Contractor Officer's Representative for immediate response or correction.

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SAMPLE PERSONAL ASSISTANT 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 Equal Employment Opportunity Commission'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

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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 their 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.

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- 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

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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 assisted employee'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 where reasonable accommodations are unavailable.

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.

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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.