



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

CEMVP-EE

21 Oct 16

MEMORANDUM FOR All St. Paul District Employees

SUBJECT: Policy Letter No. 16-24, St. Paul District Reasonable Accommodation

1. The attached Standard Operating Procedures (SOP) outlines the rules governing the rights of employees and job applicants to reasonable accommodation, and the procedures employees, supervisors, and job applicants must follow when making and responding to reasonable accommodation requests.
2. In order to meet the MVD strategic goal of becoming an "employer of choice," it is necessary that all employees be given the opportunity to realize their full potential. Further, it is the goal of the St. Paul District that individuals with disabilities be fully integrated into the District workforce. For employees with disabilities, the provision of reasonable accommodation will serve as the vehicle for accomplishing this. Title 29 of the Code of Federal Regulations states that the government shall be a model employer for individuals with disabilities. In addition, the Rehabilitation Act of 1973 requires Federal employers to provide reasonable accommodation to qualified employees and applicants with disabilities. The command recognizes their responsibility as outlined in these statutes and will make every effort to ensure that not only the requirements are met, but that their spirit and intent are also fulfilled.
3. This policy shall be made available to all St. Paul District employees and job applicants.

A handwritten signature in black ink that reads "Samuel L. Calkins".

SAMUEL L. CALKINS
COL, EN
Commanding

2 Enclosures

1. CEEO HQ SOP for Reasonable Accommodations
2. Reasonable Accommodations Forms



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
441 G STREET NW
UNITED STATES ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

MAY 16 2011

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**MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS AND
DISTRICT COMMANDS**

**SUBJECT: Standard Operating Procedure (SOP) for Reasonable Accommodations for
Individuals with Disabilities**

1. **PURPOSE:** This SOP establishes procedures and assigns responsibility for submitting and processing requests for Reasonable Accommodation for Individuals with Disabilities made by United States Corps of Engineers (USACE) civilian employees and applicants for employment under Section 501 of the Rehabilitation Act of 1973, as amended. All submissions are voluntary. However, failure to complete all appropriate portions of the submission forms may lead to a delay in processing and/or denial of requests for reasonable accommodation on the basis of inadequate data.

2. **APPLICABILITY:** These procedures apply to all USACE employees and applicants for employment. These procedures do not apply to uniformed members of the military. It also does not apply to non-U.S. citizens employed by USACE outside of the U.S., or to U.S. citizens employed as indirect hire employees outside of the U.S.

3. REFERENCES:

- a. U.S. Army Procedures for Providing Reasonable Accommodation for Individuals with Disabilities, 17 March 2009
- b. 29 U.S.C. 791, The Rehabilitation Act of 1973, as amended
- c. The Americans with Disabilities Act of 1990, Titles I and V, as amended
- d. EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation dated 20 October 2000
- e. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, October 2002
- f. EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA), 27 July 2000
- g. EEOC Management Directive (MD) 715, 01 October 2010

4. FORMS:

- FORM 1-1 – REQUEST FOR REASONABLE ACCOMMODATION
- FORM 1-2 – MEDICAL INFORMATION SHEET
- FORM 1-3 – REASONABLE ACCOMMODATION REQUEST CHECKLIST
- FORM 1-4 – REQUEST FOR REASONABLE ACCOMMODATION CONFIRMATION
- FORM 1-5 – DENIAL OF ACCOMMODATION REQUEST

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FORM 1-6 – AUTHORIZATION TO RELEASE MEDICAL RECORD AND INFORMATION

5. RESPONSIBILITIES:

a. Commanders:

(1) Establish and enforce written procedures to address procedures for providing reasonable accommodation for individuals with disabilities.

(2) Ensure compliance with reasonable accommodation requirements of the Rehabilitation Act of 1973, as amended to ensure that individuals with disabilities have full access to equal employment opportunity. These requirements cover applicants for and employees in part-time, temporary, term and full time positions.

(3) Designate EEO Officer to administer USACE's EEO program; to include managing the Special Emphasis Programs to include the Individuals with Disabilities Program

b. Civilian Personnel Advisory Center (CPAC):

CPAC often serves as the first resource for supervisors and managers with respect to potential reasonable accommodation requests. When a reasonable accommodation request has been received, CPAC will then notify Counsel and the EEO Disability Manager that a request has been received; the date of the request, the name of the employee making the request, and the accommodation requested. CPAC may confirm receipt of any requests using Form 1-4 (Request for Reasonable Accommodation Confirmation Form). The CPAC office will consult with Counsel to review all formal requests prior to the issuance of a final decision to ensure the deciding official has considered relevant regulatory requirements. Assists and consults with the Disability Manager in obtaining additional medical documentation when necessary, and will safeguard medical information obtained during the request process. Additionally, CPAC will assist in assessing qualifications if reassignment is the only effective accommodation. CPAC will consult with the Disability Program Manager as needed to assist in the accommodation process if the individual has been determined to be a qualified individual with a disability (see key terms).

c. USACE Attorney/Labor Counsel:

The USACE Attorney/ labor counselor (Counsel) provides legal advice and assistance to military and civilian managers and supervisors (Decision Makers) regarding civilian personnel, labor relations, and EEO-related issues, including reasonable accommodation issues. Legal Counsel is available and should be consulted to provide advice to Decision Makers and to Disability Program Managers at the earliest possible stage to ensure that management's actions not only comply with applicable laws, directives, regulations, and guidance but that they also are legally defensible and otherwise appropriate. Further, it is imperative Counsel conducts a legal review

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prior to the denial of a requested accommodation or prior to granting the particular accommodation requested.

d. Disability Program Managers (DPM) from USACE Equal Employment Opportunity Office :

(1) Is appointed by EEO to serve as a resource for supervisors and managers with respect to potential reasonable accommodations and assists in obtaining medical documentation when necessary. Confirm receipt of any requests using Form 1-4 (Request for Reasonable Accommodation Confirmation Form).

(2) Disability Program Managers will coordinate, as needed, with Counsel prior to providing a Decision Maker with any recommendations in connection with a request for accommodation. Legal reviews must be conducted for all proposed denials of a reasonable accommodation or prior to granting the accommodation requested.

(3) Facilitate the reasonable accommodation process. Establish the USACE log/tracking number system.

(4) Monitor and track requests for reasonable accommodation

(5) Refer any requests received by the EEO Office to the appropriate supervisor or decision maker.

(6) Educate and provide information to commanders and supervisors on the process for handling reasonable accommodation requests.

(7) Document and record all requests for reasonable accommodation for proper recordkeeping and reporting to higher headquarters.

(8) Avoid conflicts of interests. The Disability Program Manager does not advocate on behalf of the requestor.

(9) Provide USACE employees with information regarding the reasonable accommodation process.

(10) Be proactive in locating and considering possible accommodations, including appropriate resources for assistance.

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(11) Process any request for adaptive devices, sign language interpreters, removal of architectural barriers, accessible parking, alternative methods (i.e., Braille, larger print) which cannot be handled by the supervisor(s), and reassignment to another job.

(12) Retain a complete copy of the file throughout the reasonable accommodation process and maintain at a minimum for the duration of the employee's tenure in USACE. This will ensure that an employee is not asked to provide medical documentation previously submitted.

e. Equal Employment Opportunity (EEO) Officers/Officials:

(1) Manage USACE Special Emphasis Programs to include the Individuals with Disabilities Program.

(2) Establish a system of record keeping to track the processing of requests for reasonable accommodation. Local EEO Office will assign tracking number provided by DPM.

(3) Retain information or any cumulative records used to track USACE's performance with regard to reasonable accommodation for at least three years. Tracking performance over a three year period is critical to assessing whether or not USACE has adequately processed and provided reasonable accommodation.

(4) Report annually to the Equal Employment Opportunity Commission (EEOC) through command channels using the Management Directive 715 (MD 715) process:

(a) The number of reasonable accommodations, by type, that have been requested for the application process and whether those requests have been granted or denied.

(b) The types of reasonable accommodations that have been requested by job series.

(c) The number of reasonable accommodations, by type, for each job that have been approved/denied.

(d) The number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment and whether those requests have been granted or denied.

(e) The reasons for denial or requests for reasonable accommodation.

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(f) The amount of time taken to process each request for reasonable accommodation.

(g) The sources of technical assistance that have been consulted in attempts to identify possible reasonable accommodations.

f. Decision Makers (Supervisor or Selecting Official):

(1) Working with Counsel, CPAC, and the DPM, consider requests for reasonable accommodation and normally provide decision to the requestor within 30 business days of receipt or sooner if no extenuating circumstances exist. Decision makers must consult directly with the Counsel, CPAC, and the DPM prior to denying a request for accommodation or prior to granting the particular accommodation requested. Legal reviews must be conducted for all proposed denials of a reasonable accommodation or the particular accommodation requested.

(2) Track the 30 day time period, ensuring the clock is stopped while awaiting any additional medical or other required or needed documentation.

(3) Actively participate in the interactive process with the requestor to clarify the request and obtain and exchange information.

(4) When seeking reasonable accommodation, the employee or applicant will provide the deciding official or supervisor – whoever is engaging in the interactive process relevant documentation of the covered condition or impairment upon request. Failure to provide the documentation may result in denial of the accommodation. May use Form 1-3 (Reasonable Accommodation Request Checklist) when processing request. Collection and maintenance of all documentation for the reasonable accommodation file must be done as provided and protected by the Privacy Act (5 U.S.C. 552a). To determine if the information provided by the employee is adequate to substantiate disability and the need for the requested accommodation, as appropriate, the deciding official may have the USACE medical expert review the medical information t—at no cost to the employee.

(a) Only information about the individual that is relevant and necessary to accomplish the purpose of determining and evaluating a request for reasonable accommodation should be requested (5 U.S.C. 552a(e)(1));

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(b) Information should be collected directly from the individual requesting the reasonable accommodation, particularly when the information may result in sensitive determinations about the individual's rights, benefits, and privileges that include possible reasonable accommodation (5 U.S.C. 552a(e)(1)); and

(c) Appropriate administrative, technical, and physical safeguards must be followed to insure the security and confidentiality of records and to protect against anticipated threats or hazards to their security or integrity. Not safeguarding sensitive information appropriately could result in substantial harm, embarrassment, inconvenience or unfairness to any individual on whom information is maintained. (5 U.S.C. 552(e)(10).

(d) Because the accommodation issue is so intertwined with legal issues, early and close coordination with Legal Counsel is essential

(5) Provide written explanation(s) to the DPM for any significant or unusual delays in processing the reasonable accommodation and should consider a provisional accommodation, whenever necessary and possible.

(6) Use the Denial of Accommodation Request Form (Form 1-5) to notify individuals when requests for accommodation have been denied. The individual must be notified in writing of the denial and the specific reasons for the denial (e.g., why the medical documentation is inadequate to establish that the individual has a disability or needs reasonable accommodation, why the requested accommodation would not be effective or why the accommodation would pose an undue hardship). Include the following data:

(a) The name of the deciding official who made the decision

(b) If a specific requested accommodation has been denied and another offered in its place, the reasons for the denial and the reasons the decision maker believes the offered accommodation will be effective.

(c) Information about the individual's right to file an EEO complaint and to invoke other statutory processes and

(d) Information about the availability of the informal dispute resolution process.

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g. Individual with the Disability:

(1) Request a reasonable accommodation based on a disability, either orally or in writing to any supervisor in the chain of command, EEO, CPAC, or DPM. May use Form 1-1 (Request for Reasonable Accommodation).

(2) Provide medical documentation from a medical healthcare professional supporting the need for such accommodation if needed. May use Form 1-2 (Medical Information Sheet).

(3) Actively engage in the interactive process with his/her supervisor.

(4) Process the request for reasonable accommodation through the Human Resources Specialist responsible for the recruitment and/or selection process if he/she is an applicant for employment.

6. REASONABLE ACCOMMODATION INTERACTIVE PROCESS:

a. A request for reasonable accommodation may be filed by a USACE employee or applicant for employment for an adjustment in job duties or a change in the work environment, in the application process, or for a benefit or privilege of employment for a reason related to a medical condition. The request will be processed on a case-by-case basis and the outcome of each may vary depending on the facts and circumstances.

b. A family member, healthcare professional, or other representative may request a reasonable accommodation on behalf of an individual seeking reasonable accommodation. The initial request may be either oral or written. The request does not have to be in a prescribed format or use any special words, such as "reasonable accommodation," "disability" or "Rehabilitation Act."

c. The request for reasonable accommodation should primarily be submitted to the first-line supervisor or secondarily to an EEO Official or CPAC along with proper medical documentation for timely and efficient processing. When the request for reasonable accommodation is submitted to the first-line supervisor, the supervisor will forward a copy of the request to EEO for review and processing as soon as reasonably possible. [EEO will promptly provide a copy to Counsel and CPAC.]

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d. The reasonable accommodation process begins as soon as the request for accommodation is made. If an oral request is presented, processing should begin immediately, even if written confirmation has not yet been received.

e. The first-line supervisor has the authority to consider and approve requests for reasonable accommodation. Each reasonable accommodation request will be considered on a case-by-case basis.

f. In cases where the disability is obvious and the need for accommodation and type of accommodation that should be provided is clear, extensive discussions are not necessary. However, relevant issues should be discussed and full exchange of information should be provided.

g. The Deciding Official will send the Request for Reasonable Accommodation Confirmation Form (Form 1-4) to the requestor and supervisor acknowledging the date of receipt. This will verify receipt of any request to ensure that neither the requestor nor supervisor mistakenly conclude that an oral request is insufficient. The request confirmation will briefly outline any deficiencies or missing documentation and address any issues or concerns in the "Comments" section.

h. The processing of a reasonable accommodation request should not exceed 30 business days. If extenuating circumstances preclude providing the requestor a response within 30 business days, the requestor will be notified by the decision maker of the reason for the delay and the anticipated decision date in writing.

i. A proposed reasonable accommodation will be evaluated to ensure it does not cause an undue hardship to USACE.

7. MEDICAL DOCUMENTATION:

a. The requestor must submit relevant medical support documentation with the request for reasonable accommodation unless the medical condition and affects are obvious or known. The medical information should describe the nature of the job, essential functions the employee is expected to perform and any other relevant information. The medical documentation must specify:

(1) The past, present, and expected continuing nature, severity and duration of the impairment, i.e., functional limitations, symptoms, side effects or any treatments, etc.

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(2) The activities the impairment limits;

(3) The extent of the limitations; and

(4) The reason(s) the requestor requires a reasonable accommodation, and how it will assist the requestor in performing the essential functions of the job, applying for employment or enjoying a benefit in the work environment.

b. USACE where appropriate may request relevant supplemental medical documentation if information submitted does not clearly explain the nature or severity of the disability and the need for reasonable accommodation. When the supervisor requests relevant or supplemental medical documentation, the request should be in writing and closely coordinated with CPAC and Counsel. All timeframes will be suspended until the requestor provides the requested documents. The supervisor(s) may request additional information when needed if the medical support is inadequate but will not ask for unrelated information.

c. Any request for reasonable accommodation and supporting medical documentation must be maintained in confidential files separate from the requestor's personnel file.

d. Medical documentation may not be needed for obvious medical conditions. However, additional medical documentation may be needed in situations where the effects of the medical condition on a major life activity, performance or essential functions of the job or work environment are not obvious or readily determinable. If additional medical documentation is needed to support the reasonable accommodation, the supervisor can make a verbal or written request (using standard memorandum format). Guidance on this subject is attached as Appendix A.

e. Authorization to Release Medical Records and Information (Form 1-6) will be used to request the use and/or disclosure of an individual's health information. An official or employee of the office or agency should not disclose any of this medical documentation or records to any person, another agency, or other entity without the express written consent of the subject individual unless disclosure is to officers or employees of the office who have a need for the information in the performance of their duties. In terms of reasonable accommodation requests, the persons who have a need to know are the parties making or assisting in the decision-making: Commander, Legal Counsel, DPM, EEO Officer, Decision-Maker, personnel specialist, and medical specialist utilized by the Agency, if applicable. All such medical documentation shall be processed and maintained in accordance with 5 CFR Part 293 , Subpart E—Employee Medical File System Records (§ 293.501- § 293.511).

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8. ACTIONS FOLLOWING REQUESTS FOR REASONABLE ACCOMMODATION:

a. The requestor will be notified in writing of the decision regarding his request for reasonable accommodation. The response memo must outline the basis for the initial request and the provisions for granting the request, if approved. If the request is denied, the memo must outline the basis and specific reason(s) for the denial, using Form 1-5 (Denial of Accommodation Request).

b. If the reasonable accommodation is granted, USACE must make the necessary provisions to provide the reasonable accommodation requested. There may be some limitations or restrictions based on USACE's mission and requirements and the requestor will be properly advised on any adjustments or revisions.

c. Reassignment is the accommodation of last resort. A reassignment may be considered if no other accommodations are available to enable the employee to perform his current job, or if the only effective accommodation would cause undue hardship. However, the employee must meet OPM qualification standards for any vacant position and the following should be considered:

(1) If positions are available, the supervisor will work with CPAC to identify all vacant positions within USACE for which the employee may be qualified, with or without the accommodation; and

(2) If there is a vacant position outside of the employee's commuting area, and if the employee is willing to relocate, the USACE is not obligated to pay for the employee's relocation.

d. The Requester may file for reconsideration and provide additional supporting medical documentation; or pursue an EEO complaint, a Merit Systems Protection Board (MSPB) appeal (if applicable), or utilize the negotiated or administrative grievance procedures:

(1) For an EEO complaint pursuant to 29 C.F.R. § 1614, contact an EEO Official within 45 calendar days from receipt of the notice of denial of the reasonable accommodation request;

(2) For a MSPS appeal, initiate an appeal to the MSPB within 30 calendar days of an appealable adverse action as defined in 5 CFR § 1201.3; and

(3) For the negotiated grievance procedure, file a grievance in accordance with the provisions of the local, applicable collective bargaining agreement.

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(4) For the administrative grievance procedure, file a grievance in accordance with the provisions of the USACE Administrative Grievance System

9. INFORMATION TRACKING:

a. Relevant information will be reviewed during on-site EEO Program reviews. The Army will evaluate USACE's performance in responding to requests for reasonable accommodation. Reviews will include the following:

(1) Length of time it takes to respond to requests for different types of reasonable accommodations.

(2) Whether there are particular types of reasonable accommodations that USACE has been unable to provide.

(3) Whether there are divisions/districts that are consistently not granting reasonable accommodations

(4) The various reasons for denial of a request for reasonable accommodation.

10. INFORMAL DISPUTE RESOLUTION AND EEO COMPLAINTS:

a. Civilian employees who believe they have been discriminated against should consult the Equal Employment Opportunity (EEO) Officer regarding their rights in accordance with AR 690-600.

b. The preferred method of informal dispute resolution is Alternative Dispute Resolution (ADR). Individuals whose request for accommodation has been denied have the right to initiate ADR through any applicable ADR process established by the Army that covers such disputes.

c. An individual whose request for accommodation has been denied may file an EEO complaint in accordance with AR 690-600. An employee whose request for accommodation has been denied and who is covered by a collective bargaining agreement may elect to file a claim of discrimination under a negotiated grievance procedure which covers such claims or through the EEO complaint process, but not both. An employee filing an EEO complaint at any stage of the complaint process may also request the use of ADR. Any EEO Office staff member who has any involvement in processing a request for Reasonable Accommodation shall recuse himself/herself from participating in the processing of any subsequent formal or informal complaint challenging the handling of the accommodation request.

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d. The informal dispute resolution process does not affect the time limits governing the EEO complaint process. An individual's participation in the ADR procedures does not satisfy the requirements for bringing a claim under the EEO, Merit Systems Protection Board (MSPB)

or union grievance procedures. When a request for reasonable accommodation is denied, the individual wishing to pursue the EEO complaint process must do so within 45 days of the denial, even if he has already requested participation in the ADR process.

11. KEY TERMS:

a. Reasonable Accommodation. A change in the work environment or in the way things are customarily done that enables an employee or applicant with a disability to enjoy equal employment opportunities.

b. Essential Functions. Job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function is "essential" if, among other things, the position exists specifically to perform that function; there are a limited number of other employees who could perform the function if they were assigned to them; or, the function is specialized and the incumbent is hired based on his/her ability to perform it.

c. Individual with a Disability. An individual who has a mental or physical disability that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

d. "Qualified" Person with a Disability. An individual with a disability who is otherwise qualified or capable of performing the essential functions of a job with or without a reasonable accommodation.

e. Physical or Mental Impairment:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic skin, and endocrine; or

(2) Any mental or psychological disorder such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities.

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f. Major Life Activities. Functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. This is not an exhaustive list, but is representative of the types of activities that are considered major life activities.

g. Computer/Electronic Accommodations Program (CAP). CAP is a centrally funded reasonable accommodation program that provides assistive technology and services to people with disabilities, managers, supervisors and information technology professionals. For more details see U.S. Army Procedures for Providing Reasonable Accommodation for Individuals with Disabilities, 17 March 2009, Appendices D-1 and D-2.

h. Interactive Process. The ongoing communication between the requestor (employee) and supervisor(s) regarding the request for reasonable accommodation.

i. Undue Hardship. If a specific type of reasonable accommodation causes significant difficulty or expense, USACE does not have to provide that particular accommodation. The determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations and missions of USACE.

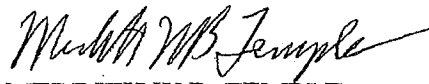
j. Extenuating Circumstances. Circumstances that are very limited and include only such situations as waiting for information/documentation from an individual's healthcare provider or factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation such as where equipment must be back-ordered or where reassignment is being explored as an accommodation.

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k. Alternative Dispute Resolution (ADR). A variety of techniques and methods used to resolve disputed issues informally, including but not limited to facilitation, mediation, fact-finding or any combination thereof.

12. The point of contact for this SOP is Mr. Henry McLain, 202 761-8707 or henry.mclain@usace.army.mil.



MERDITH W.B. TEMPLE

Major General, USA

Deputy Commander