

## Essential Functions (EF) Duty Statements

**Introduction** The purpose of this manual is to provide users with a detailed “map” of the necessity for essential functions duty statements and the “tools” to develop defensible, effective essential functions duty statements. The table below depicts the topics that will be covered in this manual.

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## Essential Functions (EF) Duty Statements, Continued

### Introduction (continued)

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## Essential Functions (EF) Duty Statements, Continued

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### Overview

An essential functions duty statement is a written statement stating the main objective of a position, its essential and non-essential functions, position qualifications, and any other information needed to understand what the incumbent is expected to do.

An essential functions duty statement usually describes tasks, skills, required qualifications, reporting relationships, responsibilities of the position, and environmental and working conditions specific to the position, as well as the education and experience required to perform the tasks of the position.

Essential functions duty statements clarify who is responsible for what within the DGS and helps the incumbent understand the responsibilities of the position. This not only enables the incumbent to assess the relative importance of everything s/he is accountable for, but it also provides a sense of where the position fits into the DGS as a whole. Complete and accurate essential functions duty statements can help determine which positions to eliminate when workforce reductions become necessary, as well as which positions are suitable for “outsourcing,” telecommuting, part-time or temporary hiring, or other alternative work arrangements.

Essential functions duty statements form the main line of defense against claims of discrimination, by clarifying just what is expected of each incumbent. Whether it’s an unemployment compensation claim involving unsatisfactory performance of essential position functions or a claim under the American with Disabilities Act (ADA) involving a worker’s ability to meet the physical demands of the position, an essential functions duty statement is one piece of evidence that can settle key issues with certainty.

Essential functions duty statements provide the only genuinely reliable foundation for position evaluation.

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### Why an effective EF duty statement makes good business sense

Effectively developed, the EF duty statement is a communication tool that is significant in the DGS’ success. A poorly written EF duty statement, on the other hand, adds to workplace confusion, hurts communication, and makes people feel as if they don’t know what is expected from them.

The EF duty statement is based on objective information **generally** obtained through job analysis, and understanding of the competencies and skills required too accomplish needed tasks, and the needs of the organization to produce work.

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## Essential Functions (EF) Duty Statements, Continued

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**Why an effective EF duty statement makes good business sense**  
(continued)

Consider these tips about EF duty statements. An EF duty statement:

- **provides an opportunity to clearly communicate DGS' direction and where the incumbent fits inside of the big picture.**
- **sets clear expectations about why the position exists, what the incumbent in the position is responsible to accomplish, and what is required to be able to effectively perform in the position.**
- **helps you cover all your legal bases.**
- **details the expected results so that performance expectations can be articulated, communicated, measured, and documented in some form of performance assessment.**
- **provides a defensible document from which a failing employee's performance can be compared and required improvements can be communicated and measured.**
- **tells the candidate exactly what you want in your selected person, whether you are recruiting new employees or posting jobs for internal applicants.**
- **helps organization employees, who must work with the person hired, understand the boundaries of the person's responsibilities, if well-written.**
- **becomes dated as soon as you write them in a fast-paced, changing, customer-driven work environment. May be necessary to review and update when the position is next filled or during an annual performance review.**
- **has enough flexibility so individuals can "work outside the box."**
- **can serve as evidence of wrong-doing or wrong-telling in a wrongful termination lawsuit, if poorly written.**
- **provides a foundation for consistency in communication and a document from which incumbents and their supervisors/managers can be held accountable.**

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## Essential Functions (EF) Duty Statements, Continued

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**Why an  
effective EF  
duty  
statement  
makes good  
business  
sense**  
(continued)

For effectiveness, you must regularly look at and use the EF duty statement as apart of your day-to-day work. An EF duty statement that sits unused in a drawer is a waste of time; it must be integral in your hiring process.

## Formulating an EF Duty Statement

### Introduction

There are several steps to completing an EF duty statement. These steps include completing a job analysis (duty statement questionnaire), recording the basic purpose and functions of the job, and detailing necessary qualifications. The following maps discuss the steps involved for a complete duty statement and provide you with a variety of tools to facilitate the completion.

### Roles and responsibilities

The following table depicts the roles and responsibilities in the EF Duty Statement process and procedure.

| Role   | Responsibility  |
|--|---|
| Manager/<br>Supervisor<br>( <a href="#">“The Supervisor’s Role in Determining Essential Job Functions”</a><br>booklet) | <ul style="list-style-type: none"> <li>• attends training on preparing EF Duty Statements</li> <li>• meets with PL and SMEs to conduct job analysis to identify essential tasks, percentage of time performed, and KSAs required</li> <li>• works with PL to develop a complete EF duty statement (format, language)</li> <li>• works with RAC if reasonable accommodation is necessary or requested</li> <li>• ensures the STD 910 and/or STD 610 is read and/or understood and signed by the prospective employee</li> <li>• ensures the EF duty statement is read and/or understood and signed by the prospective employee</li> <li>• engages in an interactive process with the prospective employee if reasonable accommodation is requested or indicated</li> </ul> |
| Personnel Liaison (PL)   | <ul style="list-style-type: none"> <li>• attends training on preparing EF duty statements</li> <li>• works with the supervisor and SMEs to develop an EF duty statement</li> <li>• prepares the EF duty statement</li> <li>• submits the EF duty statement to the C&amp;P Analyst for review</li> <li>• ensures the supervisor and prospective employee have signed the EF duty statement and STD 910 and/or STD 610, as appropriate to the classification</li> </ul>   |

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## Formulating an EF Duty Statement, Continued

### Roles and responsibilities (continued)

| Role  | Responsibilities   |
|---|--|
| Personnel Liaison (PL) continued            | <ul style="list-style-type: none"> <li>forwards STD 910 and/or STD 610 to RAC, if reasonable accommodation or subject to proper placement is indicated</li> </ul>  |
| Classification and Pay (C&P) Analyst        | <ul style="list-style-type: none"> <li>meets with PL, supervisor and SMEs, <b>if those involved have not received EFDS training</b>, to review EF duty statement content, format, language<br/>NOTE: Allocation may or may not be made at this time.</li> <li>reviews EF duty statement for proper essential function language</li> <li>determines proper allocation based on duties</li> <li>provides feedback and guidance to PL<br/>NOTE: It is a conflict of interest for the C&amp;P Analyst to write the EF duty statement.</li> </ul> |
| Division and/or Branch Chief                | <ul style="list-style-type: none"> <li>supports the EF duty statement process</li> <li>attends training on EF duty statements</li> <li>requires all managers and supervisors to attend EF duty statement training</li> <li>allows staff time to develop duty statements with PL</li> </ul>   |
| Reasonable Accommodation Coordinator (RAC)  | <ul style="list-style-type: none"> <li>notifies C&amp;P Analyst of any changes in duties in order to determine appropriate allocation</li> </ul>   |
| State Personnel Board (SPB) Medical Officer | <ul style="list-style-type: none"> <li>reviews and approves, denies, or indicates Subject to Proper Placement (STPP) on the STD 610 or STD 910 (includes copy of the EF duty statement)</li> </ul>   |
| Prospective employee                        | <ul style="list-style-type: none"> <li>reads, understands, and signs the EF duty statement</li> </ul>  |
| Subject Matter Expert (SME)                 | <ul style="list-style-type: none"> <li>meets with other SMEs and the PL to develop an EF duty statement</li> </ul>   |

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## Formulating an EF Duty Statement, Continued

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### **Audience**

Who is the audience for the duty statement?

- Incumbent – always write for this audience; keeping in mid level of ability but also clearly defining the expectation is key so the incumbent can perform what you hired them to do
  - C&P – allocation purposes
  - Potential candidates – advertising purposes
  - Hiring Manager and/or Supervisor – job expectations, training, performance reviews
  - Medical community – medical evaluations at time of hire
  - Reasonable Accommodation Coordinator
  - Training
  - Constructive Intervention – performance issues and adverse actions
  - EEO – grievance issues, randomly reviewing for discriminatory language
  - SCIF, RTW – injured workers
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## Job Assessment

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### Duty statement questionnaire (DSQ)

Before you start recruiting, it's important that you understand the job, its essential functions, and what characteristics will be required for a candidate to be successful in the job. The best way to ensure your understanding is to write down a complete description of the job and its specifications by utilizing:

- the [Duty Statement Questionnaire](#) found in this manual
- prior duty statements
- the classification specification.

The DSQ is an excellent tool to get you started on the completion of a duty statement because by completing the DSQ “up front” it reflects:

- non-discrimination when filling a vacancy
- reflects the job/business needs vs. a specific person
- excellent benchmarks for **any** action (good or bad) in the future

This process is often called “job assessment” since you are analyzing the position and its needs. When you conduct your assessment, you should complete the entire form, which includes:

- Evaluating the organizational needs that justify filling the position (purpose of the position)
- Defining the position's essential functions, duties, and responsibilities (tasks)
- Defining the characteristics a person would need to be successful in the position (knowledge, skills, abilities, desirable qualifications, work environment, mental abilities, physical abilities and competencies or job dimensions)

When the Duty Statement Questionnaire has been completed you will be able to compose the EF duty statement ([GS 907T-Rev. 3/03](#)).

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## Position's Organizational Setting and Major Functions

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### Purpose

From the Duty Statement Questionnaire, if one is being used, copy or refine and copy the purpose statement (this is a 3-5 sentence description of the position) onto number 8 of the Duty Statement form (GS 907T-Rev. 3/03) or automated RPA. Section 8 has a few sentences that should include:

- A **broad** overview of the duties to be performed
- How the position fits into the unit, branch, or division
- Reporting relationship, such as:
  - Supervision (given) – coordinating and directing the activities of one or more subordinates
  - Negotiating – exchanging ideas, information, and opinions with others to formulate policies and programs and/or jointly arrive at decisions, conclusions, solutions, or solve disputes
  - Communicating – talking with and/or listening to and/or signaling people to convey or exchange information (includes giving/receiving assignments and/or directions)
  - Instructing – teaching subject matter to others, or training others through explanation, demonstration, and supervised practice, or making recommendations on the basis of technical disciplines
  - Interpersonal skill/behaviors – dealing with individuals with a range of moods and behaviors in a tactful, congenial, personal manner so as not to alienate or antagonize them
  - Control of others – seizing, holding, controlling, and/or otherwise subduing violent, assaultive, or physically threatening persons to defend oneself or prevent injury (body strength and agility of all four limbs is necessary)
- Independence of action, such as:
  - Latitude in making decisions regarding completion of tasks or functions
  - Authority in resolving problems and issues
  - Self-direct work assignments
  - Complexity of the work
  - Job dimensions

### Common terminology

The following terminology should be provided in number 8 of the Duty Statement form. Definitions have been provided to assist you in determining those most applicable to your specific need.

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## Position's Organizational Setting and Major Functions, Continued

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### Common terminology (continued)

**SUPERVISION RECEIVED:** Subordinate staff receives instruction and direction on tasks and functions; their work is subject to checks for quality, output and results.

#### Close supervision

- Used for entry-level classes in which employee receives training
- Receives detailed instruction on job requirements, methods to be adopted and unusual or difficult features;
- Work is subject to checking at all stages.

#### Supervision

- The positions in the class are subject to continuous and direct control.

#### General Supervision

- The positions in the class are subject to a **minimum** of continuous and direct control

#### Direction

- Receives instructions on what is required, on unusual or difficult features and, when new techniques are involved, on the method of approach, and where appropriate deadlines and priorities for task completion would also be given;
- Is normally subject to progress checks but these are usually confined to the unusual or difficult aspects; has assignments reviewed at discrete phases or on completion; and
- Has the technical knowledge and experience to enable duties to be performed usually without technical instructions.

#### General direction

- Receives general instructions, usually covering the broader technical aspects of the work or where these are unusual situations which do not have clear precedents;
- May be subject to progress checks but where these are made they are usually confined to ensuring that, in broad terms, satisfactory progress is being made; has assignments reviewed on completion; in the case of experienced and competent officers work is subject to final checking; and
- Although technically competent and well experienced, there may be occasions on which the person will receive more detailed instructions.

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## Position's Organizational Setting and Major Functions, Continued

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**Common terminology (continued)**  
(continued)

**And/Or**

- Receives limited instructions normally comprising a clear statement of objectives and the resources available;
- Has the authority to plan and carry out assignments using some latitude in approach to achieve objectives, and has that work measured usually in terms of the achievement of stated objectives; and
- Is fully competent and very experienced in a technical sense and requires little guidance during the performance of the work.

**And/Or**

- Receives direction in terms of broadly stated objectives, missions or functions; extensive knowledge and experience enables the officer to contribute to the determination of goals and objectives;
- Has the authority to plan, design and carry out programs, projects or assignments independently and exercises discretion on how to achieve end results;
- Has work reviewed only in relation to such matters as fulfillment of program objectives, effect of advice and influence on the overall program; results of the person's work therefore would be considered as technically authoritative and normally accepted without significant change; and
- May receive guidance on work which involves new and sophisticated techniques or which relates to areas outside the person's normal span of activity.

**SUPERVISION GIVEN:** Supervisors supervise staff, provide direction, inspect with authority, guide and instruct with immediate responsibility for purpose of performance, to lead, to allocate work and check against given standards. Terms indicating performance of work and supervision exercised may include the following

**Close supervision**

- Provides detailed instructions and guidance on day to day tasks, methods and functions, explaining unusual or difficult features; and

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## Position's Organizational Setting and Major Functions, Continued

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**Common terminology (continued)**  
(continued)

- Regular checking of tasks for quality and quantity of work.

**Routine supervision**

- Provides instructions on job requirements, methods, priorities and deadlines with particular attention to unusual or difficult aspects/functions; and
- Regular or systematic reviews of progress, quality and output of work, usually at discrete phases but occasionally only on completion.

**General supervision**

- Provides general instructions on an ongoing basis, usually covering only the broader technical aspects, particularly where there are no clear precedents; and
- May need to ensure satisfactory progress is being made and provide more detailed instruction where necessary; and
- Reviews results on completion.

**Limited supervision**

- Provide clear statements of objectives and resources available; and
- Measure outcomes in terms of achievement of those objectives.

**Broad supervision**

- States broad objectives, missions or functions; and
- Provides guidance only where there are new and sophisticated techniques or where the work relates to areas outside the person's normal span of activity; and
- Reviews outcomes, impact and influence of work undertaken.

**To Do**

- Indicates performance of the task by the *incumbent* employee in the position and not supervision of the task being done by **other** employees.

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## Position's Organizational Setting and Major Functions, Continued

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**Common terminology (continued)**  
(continued)

**To Have Responsibility For**

- This usually indicates responsibility for a project being properly carried out in terms of giving periodic review & check. The phrase does not imply responsibility for initiating or making original plans and does not indicate continuing supervisory authority over persons performing phases of the project.

**To Supervise**

- Usually indicates overseeing and controlling the work performance of others in a close working relationship, typically in the same room or other immediate locality.

**To Direct**

- Usually refers to direction by process of inspection and review of work performed with considerable independence exercised by the supervised employee.

**To Have Technical Supervision**

- This refers to functional supervision of the subject matter without necessarily having administrative or disciplinary or line authority.

**To Have Charge**

- Usually refers to situation in which the employee formulates plans and outlines procedures and is responsible for the work. This may or may not involve the supervision of employees. It usually refers to a particular function in a geographical location; i.e., a field office.

**WORK COMPLEXITY**

**Straightforward**

- Presents few difficulties to the reasonably experienced person; i.e., work broadly follows a methodical application of guidelines and precedents and where access to specific advice is available if complications are encountered. Relates to work which is clear-cut and directly aligned with the employee's experience and training.

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## Position's Organizational Setting and Major Functions, Continued

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**Common terminology (continued)**  
(continued)

**Routine/Limited Complexity**

- Regular course of procedure, unvarying performance of certain acts. Where the nature of the work requires a repetition of duties or actions following a standard method or format, although the details of each occurrence may vary. Relates to work that involves the application of established principles, practices and procedures. Generally, actions and responses that can be readily identified and repeated from previous experience.

**Complex**

- Involves a considerable number of variables, which complicate issues in the conventional application of established guidelines and precedents. Denotes work wherein the predominant feature is the consideration of the impact of interactive elements as they relate to the total job rather than focusing on any segment in isolation.

**Very Complex**

- The application of a comprehensive knowledge of established practices and procedures as they affect all aspects of the range of operations, or an in-depth knowledge of the operation. Generally, responses require a high level of analytical skills with the work drawing together a range of aspects and the method selected from a range of genuine alternatives.

**Complex and Innovative**

- Work that is complex of a developmental or strategic nature with particular difficulties arising from a combination of factors, such as, uncertainties and options that have a critical bearing on objectives; the scale and coverage of operations that introduces considerable additional complexities such as highly complicated inter-working configurations; critical and involved industrial issues; the application of 'state of the art' knowledge, techniques and technologies to new situations and environments.

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## Position's Organizational Setting and Major Functions, Continued

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### Common terminology (continued)

#### Advanced and/or Pioneering

Particularly complex work in the sense of advanced studies or original application of leading edge technologies, techniques and knowledge; original exploration and development of new paths for achievement of goals, e.g., seeking competitive edge through original application of new concepts or technologies.

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### General definitions

#### Accountability

- Able to be called to account for the results of work undertaken personally or by others where the person is deemed to be in charge or in control and where a sanction would apply for non-performance.

#### Administrative

- Work that involves any form of clerical work, e.g., writing, word processing, accounting, filing or skills associated with these of a manual nature and/or some management of systems or procedures in the completion of daily work activities.

#### Manage

- To control, to exercise control over, bring under influence, conduct/direct the working of, responsible for direction, quality, outcome, operation of.

#### Oversight

- To look after, guide the work of others, to allocate work without quality/quantity control.

#### Program

- A specially arranged selection of things to be done, a plan, schedule or procedure, to arrange or work out a sequence of operations to be performed.

#### Responsibility

- Where a person would be required to give a reason, explanation or answer in the case of non-performance in carrying out assigned work.

#### Review

- To study the process and work undertaken to assess quality, completeness and appropriateness. Can also mean to rework in order to correct or improve, to make a new improved or up to date version of.
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## Position's Organizational Setting and Major Functions, Continued

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### General definitions (continued)

#### Secretarial

- Administrative tasks and support that incorporate secretarial duties, e.g., a greater emphasis of word processing, call screening, client liaison, diarizing and prioritization, etc.

#### Specialist

- A person with recognized expertise within a field of work or discipline that takes account of a thorough and intensified knowledge.

#### Strategic

- Plans and/or decisions of a policy nature of key importance to the Department that typically would have impact over at least a two-year period.

#### Support

- To uphold, to contribute to the success of, to form a secondary part, subordinate.
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### Tips

- The requirements listed on the duty statement must support the essential functions and serve as the primary criteria for selecting/rejecting candidates;
  - Don't lock yourself into strict requirements that may prevent you from considering qualified candidates. Consider substitutions (example, 4 years of professional experience or a bachelor's degree)
  - Keep in mind that, under the ADA, you cannot refuse to hire a qualified candidate who meets the requirements and whose disability can be reasonably accommodated.
  - Make sure that duty statements are consistent with the duty statement format and the classification specification.
  - Write the duty statement for the position, and not specifically for a person.
  - Include the duty statement with the recruiting vacancy notice or other job advertisement process, and keep the duty statement with your recruiting records.
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## Position's Organizational Setting and Major Functions, Continued

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### Tips (continued)

- Provide two original duty statements with the job offer, following the interactive process, and require the employee to sign both copies. Return one signed original to your HR Office to keep in the employee's official personnel folder (another signed copy should be kept in the supervisor's working file. This is very helpful for performance reports, disciplinary action and/or training).
- If the duty statement changes while an incumbent holds the position, notify your HR Personnel Analyst and make sure the employee is a part of the updating process and that they sign off on the newly revised duty statement. Again, give the employee a copy of their signed, revised duty statement, put a signed copy in their official personnel file and a copy should replace the old duty statement in the supervisor's employee file.
- Use the duty statement as your basis for evaluating performance in the position.
- Make sure the supervisor of the area reviews and updates (if necessary) the duty statement any time an incumbent vacates the position.
- Consider including behavioral and communication requirements in all your duty statements, including requirements to maintain effective work relationships, following and adhering to company policies, and the expectation that all communications will be conducted employing courtesy, respect, and sensitivity. (Then follow up this written expectation with significant discussion and training in the new employee orientation, follow up training with supervisors and managers, and in many other forms of organizational communication!).
- Consider including safety requirements and expectations, EEO, budget, and other important job requirements as part of your duty statement.

## Task Statements

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### Definitions

#### **Essential function** means:

A task or tasks absolutely necessary to perform the assigned position duties.

Essential functions tend to be:

- Critical
- Integral
- Indispensable
- Necessary
- Crucial
- Primary
- Fundamental
- Imperative

#### **Marginal function** means:

A task or tasks that may be or are unnecessary to perform the assigned position duties.

Marginal functions tend to be:

- Peripheral
- Minimal
- Extra
- Accessory
- Borderline
- Incidental

#### **A task statement** means:

A description of work assigned or done as part of one's duties.

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## Task Statements, Continued

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**Percentages** In #9 of the Duty Statement form or appropriate location on the automated RPA, you **shall** insert the percentage of time spent on each task or group of similar tasks. Essential functions assigned less than 5% **shall** be combined with others and those assigned 35% or more **shall** be separated so that no one task or group of similar tasks is greater than 35%. The total percentage of all functions (essential and marginal) shall equal 100%.

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**Components** Task statements are inserted onto the Duty Statement form (GS 907T-Rev. 3/03) or automated RPA in #10 of the form.

Hiring supervisors/managers **shall** develop EF task statements that clearly define the essential functions of every job. EF task statements **shall** have clear, concise, non-technical language, and avoid unnecessary words. Task statements typically contain six components:

1. the **Subject**: always understood to be the worker
2. the **Action Verb**: begins the sentence and should be as concrete as possible. Click on “Action Verb” above for a list of action verbs, including their meaning.
3. the **Immediate Object**: to whom or to what the action is done
4. the **Expected Output** or **Product**: usually stated as “in order to”
5. using what **Tools, Work Aids, Equipment, etc.**: how the work is done
6. upon what **Instructions** or **Directions**: how is the work initiated

A “[Worksheet for Task Statements](#)” form is provided to assist you in developing complete essential functions task statements. Additionally, provided is a [Worksheet for Task Statements containing explanation of a segment of the task statement and a “bulleted” format](#). Click on the links above.

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## Task Statements, Continued

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### Questions to get you started

When developing a task statement:

- Consider the duty statement audience
- It meets essential functions guidelines
- It accurately describes the job functions
- Refer to the classification specification
- Refer to past duty statements

Action verb – performs what action:

- What do you want the incumbent to do?
- What action do you want the incumbent to perform?
- What is the person supposed to do in this position?
- What is your expectation of the person/position?

Object of the verb – to whom or what:

- To whom or what is the incumbent doing the action? Use the verb and ask:
  - Designs what?
  - Interviews whom?
  - Makes what?
  - Consults with whom?

Output or product - in order to:

- Why is the incumbent doing this action?
- What is the purpose of the action?
- What do you expect the result to be?
- What is the reason they do this?

How work is done - using what tools, equipment, and/or methods:

- How do you expect the incumbent to accomplish this action?
- What do you expect the incumbent to use to accomplish this action?
- Are there any specific tools or pieces of equipment that you would want the incumbent to use?
- Do you care how the incumbent does the action? Yes? Tell me how.

Instructions/directions – how is work initiated:

- Who is asking for this?
- Is this by someone's request?
- Is there a policy or procedure that directs this action?
- What tells them to do this?
- Who is the owner of the policy, procedure, or direction? DGS? DPA? Finance? An industry standard?

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## Task Statements, Continued

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### Questions to get you started (continued)

Example:

The manager may request a budget report. The manager is asking for it but who/what is driving the manager? Executive, Finance, or another source? Without stating the bigger picture needed, the expectation is different and so the outcome will be different.

There are a few questions to ask to clarify the elements of the task statement. If there are expectations beyond the basic elements they need to be included. For example:

- How often is this task to be done? Monthly? Daily? Weekly? Annually? You should be able to answer this question by referring to the duty statement questionnaire you completed prior to writing the duty statement.
- How is it done? Manually, verbally, physically, visually? This links to the physical requirements of the job and can be answered by referring to the completed duty statement questionnaire.
- Is there a time factor?

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### Passive vs. active voice

Task statements **shall** begin with active verbs in order to clearly communicate the incumbent's responsibility in each function. For example:

PASSIVE VOICE: "Information is compared with computer data in order to verify accuracy...."

ACTIVE VOICE: "Compares information with computer data in order to verify accuracy...."

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### Alternate task statement formats

There are two formats that may be used when developing an essential functions duty statement. You may use a combination of the two formats on the same duty statement. Combination task statements will depend on the position's tasks (multi-faceted or singular in nature).

- Stand alone task statement
- Bulleted, which includes an introductory paragraph that usually begins with "in order to..."

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*Continued on next page*

## Task Statements, Continued

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### Stand-alone tasks

- Typically involves one or two tasks performed to accomplish a single function
- Includes all five task statement components
- Usually begins with an action verb

Example:

**Creates** and **generates** various inventory reports for submittal to office manager, utilizing Clarify Logistics database application, in order to maintain sufficient inventory levels, according to the Division's inventory procedures.

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### Bulleted format

Lead-in statements can clarify the specifics of a position without the need to reiterate them with each task statement. There would not be a percentage attached to these statements. After the lead-in statement, begin bulleting your tasks. Begin the task statement with an introductory paragraph that explains the expected output and instructions of the multiple tasks required to perform the function. This paragraph will usually, but not always, begin with "in order to."

- Task statements involve the performance of multiple tasks to accomplish a single function
- Provides detail for each task without repetition of task components
- Includes all five task statement components

Example:

In order to maintain and repair all building systems following published guidelines and industry standards:

- Completes watch tours by visual inspection of all building systems and equipment requiring walking, climbing stairs, entering small spaces and noisy spaces;
  - Records findings in manual watch tour log;
  - Recommends and takes appropriate action on repairs by evaluating functionality of equipment and systems;
  - Calibrates and repairs automated building systems by physically aligning setting with design parameters;
  - Programs automated building systems through software application
  - Administers and organizes files and databases by backing up files and debugging database corrupted file errors.
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## Task Statements, Continued

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**Manager or  
supervisor  
task  
statement**

It is strongly recommended that the following task statement be included on **all** supervisory and managerial duty statements to address the critical task of completing the Project Accounting and Leave (PAL) program. It is a critical task that must be performed and s/he **shall** be accountable for.

Failure to do the task can cause financial hardships to the employees and additional workload for the Personnel Transactions Unit (PTU). The ability of an office to bill for services is impacted by incorrect and unapproved entries. This impacts the budget raising the level of importance even more.

**Note:**

The following task statement does not cover **all** supervisory and managerial administrative tasks but does cover the importance of using and approving PAL.

“In order to maintain an accurate reporting to the State Controller’s Office (SCO) for issuance of correct payroll warrants of subordinate staff’s time or accurate report to the Office of Fiscal Services (OFS) for billing of services for clients through the use of the Project Accounting and Leave (PAL) system in accordance with DGS policies and guidelines, Memoranda of Understanding (MOU) provisions and State Personnel Board (SPB) or Department of Personnel Administration (DPA) laws and rules:

- Grants or denies subordinate staff requests for time off or request to work overtime.
  - Ensures subordinate staff has sufficient leave credits available for the leave requested.
  - Enters subordinate’s time in PAL system, i.e., time charged to projects, leave usage, approved leave without pay (dock or NDI), absence without leave (AWOL), etc.
  - Approves PAL entries for subordinate staff on dock or AWOL on or before the designated SCO semi-monthly or monthly payroll cut-off date to ensure the correct issuance of an SCO warrant on pay day.
  - Approves or disapproves PAL entries for subordinate staff within three working days after the completion of the pay period. This is to ensure the correct issuance of an SCO warrant that is returned to SCO for late dock, issuance of correct overtime pay due to an employee and proper billing to clients for services rendered.
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## Knowledge, Skills, and Abilities

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### Definition

Equal Employment Opportunity/Americans With Disabilities Act (EEO/ADA) compliant language means that knowledge, skill, and ability (KSA) statements be written in a manner that conforms to the following definitions. The KSAs of a classification are obtained from the classification specification. However, classification specification KSAs are very broad in scope and may require elaboration for clarity (however, too definitive may narrow the candidate pool). New KSAs **cannot** be added to those found on the classification specification. In some cases, some of the KSAs of classification may not apply to a specific position and may be left off the EF duty statement.

### Knowledge:

- A body of information applied directly to the performance of a function.
- A body of learned information.
- Usually of a factual or procedural nature.
- Applied directly to the performance of a task or makes for the successful performance of a task.
- A necessary prerequisite for observable aspects of work behaviors of a job.

### Skill:

- A present, observable competence to perform a learned movement or muscular activity associated with mental processes.
- An individual's level of proficiency or competency in performing a specific task.
- Something learned.

### Ability:

- A present competence to perform an observable behavior or a behavior that results in an observable product
- A general, enduring trait, capability, or characteristic.
- An individual possesses when beginning the performance of a task.

Note: KSAs **must** link to the tasks performed. If you cannot make a link, the item isn't critical or your task is not fully developed.

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## Desirable Qualifications

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### Overview

This section will provide information about what to include in the Desirable Qualifications heading, such as special personal characteristics, interpersonal skills, and additional qualifications. You will also learn:

- Where to obtain this information
  - How to determine what is necessary to include
  - Under which sub-heading you would list the desirable qualification
- 

### Purpose

Desirable qualifications are meant to emphasize particularly important competencies for a specific position, whereas the KSAs from the classification specification contain only those KSAs as required for the classification in general. The “Desirable Qualifications” section is used to:

- Inform the applicant or employee of the specific qualities, experience, education, interest, etc. that relate directly to the specific position
  - Inform the applicant employee of the qualities necessary for successful performance on the job.
  - Provide a guide when developing interview questions and evaluating candidates (screening criteria).
  - Improve recruitment by providing additional information to interested candidates.
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## Desirable Qualifications, Continued

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### Sources of information

The following are possible sources for determining desirable qualifications:

- Review the classification specification for any “special personal characteristics,” “additional qualifications,” and “special physical characteristics” and determine if they apply to your specific position.
- Review the KSAs from the classification specification and determine if there are any other important KSAs or personal competencies that are necessary for successful job performance.
- Managers, supervisors, and personnel liaisons with experience involving this particular job.
- Consult Classification and Pay (C&P) Analyst.
- Review the “Competencies” section in this document.
- Refer to the Duty Statement Questionnaire completed prior to beginning the EF duty statement.
- Review prior duty statements
- Visit one or all of the following web sites. Note: the following resources are provided to “jump start” your duty statement and NOT meant to be taken verbatim (cut/copy and pasted to duty statement):
  - <http://www.wageweb.com/jobdesc.htm>
  - <http://online.onetcenter.org/>
  - <http://jobdescriptions.unm.edu/jdeweb.cfm>
  - [www.google.com](http://www.google.com) and type in “job descriptions” or something similar

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## Desirable Qualifications, Continued

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### What to include

- Determine additional experience, education, and/or specialized knowledge necessary for successful job performance and specify the kind and amount
- Determine what competencies or special traits desired when interviewing and evaluating (screening) candidates
- Determine any additional information that will indicate to candidates what is required of a prospective employee
- Include only what is really necessary; it must be essential for successful job performance and tie back to the task statements
- Include competencies that directly relate to the job duties
- Use EEO/ADA compliant language in deciding how to express these competencies. Some suggestions are included on the EF duty statement in this manual and some other suggestions for appropriate wording include:
  - Appropriate dress according to office environment vs. business dress according to current policy (hardly anyone has a dress policy)
  - Communicate in a clear, concise manner vs. read, write and speak in a clear, concise manner
  - Requires fine motor skills/dexterity to manipulate small components and controls vs. ability to use fine motor skills for computer or office machine use. (This statement would be acceptable if it relates to a task such as replacing small machinery parts, computer components, etc.)
  - Moving up to 50 lbs of items such as plans, office supplies, books, and manuals vs. lifting up to 50 lbs
  - Proficient use of personal computer software, such as Excel, Word, and PowerPoint vs. intermediate personal computer skills
  - Communicate with a diverse community, which may involve some exposure to aggressive clientele or adversarial conditions vs. ability to communicate confidently and courteously with people of different backgrounds, different ethnic origins, and different personality types with the general public, private sector professionals, and people of various levels of responsibility within state government, including members of the Legislature and their representatives

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## Desirable Qualifications, Continued

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**List under  
which  
heading**

The Desirable Qualification section is optional and there is flexibility in where to list items. You may use any, all or none of these sub-sections as you deem appropriate. The following are suggested uses:

**Special Personal Characteristics**

This sub-section is used to emphasize particularly important competencies that are peculiar to the job and are essential for successful job performance. This sub-section could include:

- Specific knowledge, skills, and abilities
- Experience
- Education
- Interests
- Willingness to travel or work overtime
- Possession of a driver's license (if this requirement is not in the classification specification, it may still be listed IF driving is required for the job. The "class" of license must also be listed).

**Interpersonal skills**

This sub-section is used to describe the interaction between the employee and others in situations applicable to the specific job, such as:

- Type of communication skills
- Public interaction
- Levels of contact
- Work independently or with a team
- Follow directions

**Additional Qualifications**

This sub-section is used where there may be further qualifications to show the applicant's interests, knowledge, progress, recognition, superior background in the field, or his/her professional growth, such as:

- Formal education – "major work in..." a certain field or a bachelor, master, or doctorate degree
- Kind and amount of experience; broad or specialized
- General or specialized knowledge in the field
- Skills and abilities above the required minimums
- Background security checks
- License, certificate or credential (i.e., typing certificate and speed-if speed is indicated in the classification specification)

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## **Desirable Qualifications, Continued**

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### **Other suggestions**

- It is advisable to avoid listing items in the Desirable Qualifications section that are listed in another section of the EF duty statement
  - List items in each section in order of importance
  - Be clear and concise in constructing these statements
  - Use bulleted format
-

## Work Environment

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### Overview

This section will explain:

- How to use EEO/ADA compliant language
  - What to consider when deciding what to list in this section
  - How to avoid language that may be misleading or misinterpreted
- 

### Questions to ask before creating statements

To create statements using EEO/ADA compliant language, begin by asking the following questions; answers can be obtained from the completed Duty Statement Questionnaire:

- What is necessary to perform the essential functions of the job?
- What is the outcome or result of doing the task, not the method of doing the task?
- If I were doing this job, would I still be able to do the essential functions if I became disabled?
- How might a disabled person interpret these statements? Are they too restrictive?
- What equipment is used?

Describe the work environment using language that will not unnecessarily deter an individual from applying because of a disability.

---

### Avoid using vague language

Using vague language can be misleading. The following are examples of statements using vague and subjective language.

- Sitting in a normal seated position for extended periods of time.
- Ability to see within normal range.
- Ability to hear within normal range.

“Normal” is a subjective term and should not be used. These statements are not necessary for most office jobs because an employee is usually able to stand, walk or stretch as needed. Also, they can use visual or auditory aids to perform their tasks satisfactorily.

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### Suggested statements

Focus on the outcome and be sure these statements are linked to tasks.

- Read, understand, and apply various documents and resources.
  - Effective communication with various clients.
- 

*Continued on next page*

## Work Environment, Continued

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### **Exception to using vague language**

Vague statements may be preferred in some cases.

- Business dress, according to current policy.

“Business dress” is a vague term and could be misinterpreted. In this case, it is better to state:

- Appropriate dress for the office environment.

This is also a vague statement and should be discussed during the job offer interview. Also, is there a dress policy in your office? If not, do not refer to one.

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## Work Environment, Continued

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### What are the environmental requirements

To describe the environmental requirements, refer to the completed Duty Statement Questionnaire and consider the following:

- What is the physical layout of the work-site?
- What equipment is used in the work setting?
- Where are the essential functions performed?
- What conditions are required for task completion? Conditions include environmental (hot/cold, inside/outside, noise level, lighting, ventilation, etc.) and social (works with the public works under deadlines, works alone, etc.).
- Is the job accessible (parking, entrances and exits, doors)?
- Does the job necessitate completing tasks in multiple, alternate, or off-site locations?

The following phrases may be applicable to your position:

- EXPOSURE TO WEATHER – Exposure to hot, cold, wet, humid, or windy conditions caused by the weather.
- EXTREME COLD – Exposure to non-weather-related cold temperatures.
- EXTREME HEAT – Exposure to non-weather-related hot temperatures.
- WET AND/OR HUMID – Contact with water or other liquids; or exposure to non-weather-related humid conditions.
- NOISE – Exposure to constant or intermittent sounds or a pitch or level sufficient to cause marked distraction or possible hearing loss.
- VIBRATION – Exposure to a shaking object or surface. This factor is rated important when vibration causes a strain on the body or extremities.
- ATMOSPHERIC CONDITIONS – Exposure to conditions such as fumes, noxious odors, dusts, mists, gases, and poor ventilation that affect the respiratory system, eyes or, the skin.
- CONFINED/RESTRICTED WORKING ENVIRONMENT – Work is performed in a closed or locked facility providing safety and security for clients, inmates, or fellow workers.

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## Work Environment, Continued

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**What are the environmental requirements**  
(continued)

**Equipment Used**, such as:

- Office equipment such as computer, typewriter, projector, cassette player/recorder.
- Hand tools (e.g., hammer, shovel, and screwdriver).
- Power tools (e.g., radial saw, reciprocating saw, drill, and air hammer).
- Vehicles (e.g., automobile, truck, tractor, lift).

**Hazards**, such as:

- Proximity to moving, mechanical parts.
  - Exposure to electrical shock.
  - Working in high, exposed places.
  - Exposure to radiant energy.
  - Working with explosives.
  - Exposure to toxic or caustic chemicals.
-

## Physical Abilities

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### Overview

To describe the physical abilities first refer to the following sub-sections under “Work Environment:”

- Questions to ask before creating statements
  - Avoid using vague language
  - Suggested statements
  - Exception to using vague language
- 

### What are physical abilities

To describe the physical abilities refer to the completed Duty Statement Questionnaire and consider the following:

- Are specific methods, procedures or techniques that must be used to complete tasks or functions and would they require special physical agility or exertion?
- If lifting is required, what is the maximum weight?
- How frequent or how long are specific requirements necessary, i.e., standing or walking for extended periods of time?
- What communication skills are necessary, i.e., ability to communicate to large and small groups, one-on-one, or to staff at all levels?

The following phrases may be applicable to your position:

**Physical Demands (strength)**, such as:

- **SEDENTARY** – Exerts up to 10 lbs. of force occasionally and/or a negligible amount of force frequently or constantly to lift, carry, push, pull, or otherwise move objects, including the human body. Involves sitting most of the time, but may involve walking or standing for brief periods of time.
  - **LIGHT** – Exert up to 20 lbs. of force occasionally, and/or up to 10 lbs. of force frequently, and/or a negligible amount of force constantly to move objects. Physical demands are in excess of those of sedentary work. Light work usually requires walking or standing to a significant degree.
- 

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## Physical Abilities, Continued

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**What are physical abilities**  
(continued)

- MEDIUM – Exert up to 50 lbs. of force occasionally, and/or up to 20 lbs. of force frequently, and/or up to 10 lbs. of force constantly to move objects.
- HEAVY – Exert up to 100 lbs. of force occasionally, and/or up to 50 lbs. of force frequently, and/or up to 20 lbs. of force constantly to move objects.
- VERY HEAVY – Exert in excess of 100 lbs. of force occasionally, and/or in excess of 50 lbs. of force frequently, and/or in excess of 20 lbs. of force constantly to move objects.

**Physical Demands (movement), such as:**

- CLIMBING – Ascending or descending using feet and legs and/or hands and arms. Body agility is emphasized.
- BALANCING – Maintaining body equilibrium to prevent falling on narrow, slippery, or erratically moving surfaces; or maintaining body equilibrium when performing feats of agility.
- STOOPING – Bending body downward and forward. This factor is important if it occurs to a considerable degree and requires full use of the lower extremities and back muscles.
- KNEELING – Bending legs and knees to come to rest on knee or knees.
- CROUCHING – Bending body downward and forward by bending legs and spine.
- CRAWLING – Moving about on hands and knees or hands and feet.
- REACHING – Extending hand(s) and arm(s) in any direction.
- HANDLING – Seizing, holding, grasping, turning, or otherwise working with hand or hands. Fingers are involved only to the extent that they are an extension of the hand.
- FINGERING – Picking, pinching, or otherwise working primarily with fingers rather than with the whole hand or arm as in handling.
- FEELING – Perceiving attributes of objects, such as size, shape, temperature, or texture, by touching with skin particularly that of fingertips.

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## Physical Abilities, Continued

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### What are physical abilities (continued)

#### Physical Demands (auditory), such as:

- TALKING – Expressing or exchanging ideas by means of the spoken word. Talking is important for those activities in which workers must impart oral information to clients or to the public, and in those activities in which they must convey detailed or important spoken instructions to other workers accurately, loudly, or quickly.
- HEARING – Perceiving the nature of sounds. Used for those activities that require ability to receive detailed information through oral communication, and to make fine discriminations in sounds, such as when making fine adjustments on running engines.

#### Physical Demands (taste/smell), such as:

- TASTING/SMELLING – Distinguishing, with a degree of accuracy, differences or similarities in intensity or quality of flavors and/or odors, or recognizing particular flavors and/or odors, using tongue and/or nose.

#### Physical Demands (vision), such as:

- NEAR ACUITY – Clarity of vision at 20 inches or less. Use this factor when special and minute accuracy is demanded.
  - FAR ACUITY – Clarity of vision at 20 feet or more. Use this factor when visual efficiency in terms of far acuity is required in day and night/dark conditions.
  - DEPTH PERCEPTION – Three-dimensional vision. Ability to judge distances and spatial relationships so as to see objects where and as they actually are.
  - ACCOMMODATION – Adjustment of lens of eye to bring an object into sharp focus. Use this factor when requiring near point work at varying distances.
  - COLOR VISION – Ability to identify and distinguish colors.
  - FIELD OF VISION – Observing an area that can be seen up and down or to right or left while eyes are fixed on a given point. Use this factor when job performance requires seeing a large area while keeping the eyes fixed.
-

## Mental Abilities

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### Overview

To describe the mental abilities first refer to the following sub-sections under “Work Environment:”

- Questions to ask before creating statements
  - Avoid using vague language
  - Suggested statements
  - Exception to using vague language
- 

### What are the mental abilities

To describe the mental abilities refer to the completed Duty Statement Questionnaire and consider the following, which are only examples, others may apply:

- What mental functions are necessary to perform the job duties?
    - **COMPARING** – Judging the readily observable functional, structural, or compositional characteristics (whether similar to or divergent from obvious standards) of data, people, or things.
    - **COPYING** – Transcribing, entering, or posting data.
    - **COMPUTING** – Performing arithmetic operations and reporting on and/or carrying out a prescribed action in relation to them.
    - **COMPILING** – Gathering, collating, or classifying information about data, people, or things. Reporting and/or carrying out a prescribed action in relation to the evaluation are frequently involved.
    - **ANALYZING** – Examining and evaluating data. Presenting alternative actions in relation to the evaluation is frequently involved.
    - **COORDINATING** – Determining time, place, and sequence of operations or action to be taken on the basis of analysis of data may include prioritizing multiple responsibilities and/or accomplishing them simultaneously.
    - **SYNTHESIZING** – To combine or integrate data to discover facts and/or develop knowledge or creative concepts and/or interpretations.
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## Competencies

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### Explanation

Competencies are described as:

- Required for success in a particular job family
- Typically involving demonstrated knowledge in a technical, professional, occupational, vocational, or process area

In other words, if one wants to be an accountant one must possess accounting knowledge, skills and behaviors.

Enabling competencies, on the other hand, are:

- Essential to the realization of business strategy or organizational values
- Typically critical behaviors and skills
- Generally relevant to all employees

For example, for the competency communication, a Division Chief as well as a custodian need communication skills, perhaps different skills, but each must be able to communicate.

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### 31 core competencies

The following is a summarized list of the 31 competencies listed by “cluster” (similar competencies related to a common skill set). Each competency includes a definition and the observable behaviors that may indicate the existence of a competency in a person.

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### Competencies dealing with people

#### Leading Others Cluster

1. Establishing Focus: The ability to develop and communicate goals in support of the DGS’ mission.
    - Acts to align own unit’s goals with the strategic direction of the DGS
    - Ensures that people in the unit understand how their work relates to the DGS’ mission
    - Ensures that everyone understands and identifies with the unit’s mission
    - Ensures that the unit develops goals and a plan to help fulfill the DGS’ mission
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## Competencies, Continued

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### Competencies dealing with people (continued)

2. Providing Motivational Support: The ability to enhance others' commitment to their work.
  - Recognizes and rewards people for their achievements
  - Acknowledges and thanks people for their contributions
  - Expresses pride in the group and encourages people to feel good about their accomplishments
  - Finds creative ways to make people's work rewarding
  - Signals own commitment to a process by being personally present and involved at key events
  - Identifies and promptly tackles morale problems
  - Gives talks or presentations that energize groups
  
3. Fostering Teamwork: As a team member, the ability and desire to work cooperatively with others on a team; as a team leader, the ability to demonstrate interest, skill, and success in getting groups to learn to work together.

#### Behaviors for Team Members

- Listens and responds constructively to other team members' ideas
- Offers support for others' ideas and proposals
- Is open with other team members about his/her concerns
- Expresses disagreement constructively (e.g., by emphasizing points of agreement, suggesting alternatives that may be acceptable to the group)
- Reinforces team members for their contributions
- Gives honest and constructive feedback to other team members
- Provides assistance to others when they need it
- Works for solutions that all team members can support
- Shares his/her expertise with others
- Seeks opportunities to work on teams as a means to develop experience, and knowledge
- Provides assistance, information, or other support to others, to build or maintain relationships with them

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## Competencies, Continued

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**Competencies  
dealing with  
people  
(continued)**

Behaviors for Team Leaders

- Provides opportunities for people to learn to work together as a team
- Enlists the active participation of everyone
- Promotes cooperation with other work units
- Ensures that all team members are treated fairly
- Recognizes and encourages the behaviors that contribute to teamwork

4. Empowering Others: The ability to convey confidence in employees' ability to be successful, especially at challenging new tasks; delegating significant responsibility and authority; allowing employees freedom to decide how they will accomplish their goals and resolve issues.

- Gives people latitude to make decisions in their own sphere of work
- Is able to let others make decisions and take charge
- Encourages individuals and groups to set their own goals, consistent with business goals
- Expresses confidence in the ability of others to be successful
- Encourages groups to resolve problems on their own; avoids prescribing a solution

5. Managing Change: The ability to demonstrate support for innovation and for organizational changes needed to improve the organization's effectiveness; initiating, sponsoring, and implementing organizational change; helping others to successfully manage organizational change.

Employee Behaviors

- Personally develops a new method or approach
- Proposes new approaches, methods, or technologies
- Develops better, faster, or less expensive ways to things

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*Continued on next page*

## Competencies, Continued

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### Competencies dealing with people (continued)

#### Manager/Leader Behaviors

- Works cooperatively with others to produce innovative solutions
  - Takes the lead in setting new business directions, partnerships, policies or procedures
  - Seizes opportunities to influence the future direction of an organizational unit or the overall business
  - Helps employees to develop a clear understanding of what they will need to do differently, as a result of changes in the organization
  - Implements or supports various change management activities (e.g., communications, education, team development, coaching)
  - Establishes structures and processes to plan and manage the orderly implementation of change
  - Helps individuals and groups manage the anxiety associated with significant change
  - Facilitates groups or teams through the problem-solving and creative-thinking processes leading to the development and implementation of new approaches, systems, structures, and methods
6. Developing Others: The ability to delegate responsibility and to work with others and coach them to develop their capabilities.
- Provides helpful, behaviorally specific feedback to others
  - Shares information, advice, and suggestions to help others to be more successful; provides effective coaching
  - Gives people assignments that will help develop their abilities
  - Regularly meets with employees to review their development progress
  - Recognizes and reinforces people's developmental efforts and improvements
  - Expresses confidence in others' ability to be successful

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## Competencies, Continued

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### Competencies dealing with people (continued)

7. Managing Performance: The ability to take responsibility for one's own or one's employees' performance, by setting clear goals and expectations, tracking progress against the goals, ensuring feedback, and addressing performance problems and issues promptly.

#### Behaviors for employees

- With his/her manager, sets specific, measurable goals that are realistic but challenging, with dates for accomplishment
- With his/her manager, clarifies expectations about what will be done and how
- Enlists his/her manager's support in obtaining the information, resources, and training needed to accomplish his/her work effectively
- Promptly notifies his/her manager about any problems that affect his/her ability to accomplish planned goals
- Seeks performance feedback from his/her manager and from others with whom s/he interacts on the job
- Prepares a personal development plan with specific goals and a timeline for their accomplishment
- Takes significant action to develop skills needed for effectiveness in current or future job

#### Behaviors for Managers

- Ensures that employees have clear goals and responsibilities
- Works with employees to set and communicate performance standards that are specific and measurable
- Supports employees in their efforts to achieve job goals (e.g., by providing resources, removing obstacles, acting as a buffer)
- Stays informed about employees' progress and performance through both formal methods (e.g., status reports) and informal methods (e.g., management by walking around)
- Provides specific performance feedback, both positive and corrective, as soon as possible after an event
- Deals firmly and promptly with performance problems; lets people know what is expected of them and when

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## Competencies, Continued

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**Competencies  
dealing with  
people  
(continued)**

**Communication and Influencing Cluster**

8. Attention to Communication: The ability to ensure that information is passed on to others who should be kept informed.
  - Ensures that others involved in a project or effort are kept informed about developments and plans
  - Ensures that important information from his/her management is shared with his/her employees and others as appropriate
  - Shares ideas and information with others who might find them useful
  - Uses multiple channels or means to communicate important messages (e.g., memos, newsletters, meetings, electronic mail)
  - Keeps his/her manager informed about progress and problems; avoids surprises
  - Ensures that regular, consistent communication takes place
  
9. Oral Communication: The ability to express oneself clearly in conversations and interactions with others
  - Speaks clearly and can be easily understood
  - Tailors the content of speech to the level and experience of the audience
  - Uses appropriate grammar and choice of words in oral speech
  - Organizes ideas clearly in oral speech
  - Expresses ideas concisely in oral speech
  - Maintains eye contact
  - Summarizes or paraphrases his/her understanding of what others have said to verify understanding and prevent miscommunication

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## Competencies, Continued

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**Competencies  
dealing with  
people**  
(continued)

10. Written Communication: The ability to express oneself clearly in business writing.
- Expresses ideas clearly and concisely in writing
  - Organizes written ideas clearly and signals the organization to the reader (e.g., through an introductory paragraph or through use of headings)
  - Tailors written communication to effectively reach an audience
  - Uses graphics and other aids to clarify complex or technical information
  - Spells correctly
  - Writes using concrete, specific language
  - Uses punctuation correctly
  - Writes grammatically
  - Uses an appropriate business writing style
11. Persuasive Communication: The ability to plan and deliver oral and written communications that make an impact and persuade their intended audiences
- Identifies and presents information or data that will have a strong effect on others
  - Selects language and examples tailored to the level and experience of the audience
  - Selects stories, analogies, or examples to illustrate a point
  - Creates graphics, overheads, or slides that display information clearly and with high impact
  - Presents several different arguments in support of a position
12. Interpersonal Awareness: The ability to notice, interpret, and anticipate others' concerns and feelings, and to communicate this awareness empathetically to others.
- Understands the interests and important concerns of others
  - Notices and accurately interprets what others are feeling, based on their choice of words, tone of voice, expressions, and other nonverbal behavior
  - Anticipates how others will react to a situation

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## Competencies, Continued

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### **Competencies dealing with people** (continued)

- Listens attentively to people's ideas and concerns
- Understands both the strengths and weaknesses of others
- Understands the unspoken meaning in a situation
- Says or does things to address others' concerns
- Finds non-threatening ways to approach others about sensitive issues
- Makes others feel comfortable by responding in ways that convey interest in what they have to say

### 13. Influencing Others: The ability to gain others' support for ideas, proposals, projects, and solutions.

- Presents arguments that address others' most important concerns and issues and looks for win-win solutions
- Involves others in a process or decision to ensure their support
- Offers trade-offs or exchanges to gain commitment
- Identifies and proposes solutions that benefit all parties involved in a situation
- Enlists experts or third parties to influence others
- Develops other indirect strategies to influence others
- Knows when to escalate critical issues to own or others' management, if own efforts to enlist support have not succeeded
- Structures situations (e.g., the setting, persons present, sequence of events) to create a desired impact and to maximize the chances of a favorable outcome
- Works to make a particular impression on others
- Identifies and targets influence efforts at the real decision makers and those who can influence them
- Seeks out and builds relationships with others who can provide information, intelligence, career support, potential business, and other forms of help
- Takes a personal interest in others (e.g., by asking about their concerns, interests, family, friends hobbies) to develop relationships
- Accurately anticipates the implications of events or decisions for various stakeholders in the organization and plans strategy accordingly

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## Competencies, Continued

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### Competencies dealing with people (continued)

14. Building Collaborative Relationships: The ability to develop, maintain, and strengthen partnerships with others inside or outside the organization who can provide information, assistance, and support.

- Asks about the other person's personal experiences, interests, and family
- Asks questions to identify shared interest, experiences, or other common ground
- Shows an interest in what others have to say; acknowledges their perspectives and ideas
- Recognizes the business concerns and perspectives of others
- Expresses gratitude and appreciation to others who have provided information, assistance, or support
- Takes time to get to know coworkers, to build rapport and establish a common bond
- Tries to build relationships with people whose assistance, cooperation, and support may be needed
- Provides assistance, information, and support to others to build a basis for future reciprocity

15. Customer Orientation: The ability to demonstrate concern for satisfying one's external and/or internal customers.

- Quickly and effectively solves customer problems
  - Talks to customers (internal and external) to find out what they want and how satisfied they are with what they are getting
  - Lets customers know s/he is willing to work with them to meet their needs
  - Finds ways to measure and track customer satisfaction
  - Presents a cheerful, positive manner with customers
- 

### Competencies dealing with business

#### The Preventing and Solving Cluster

16. Diagnostic Information Gathering: The ability to identify the information needed to clarify a situation, seek that information from appropriate sources, and use skillful questioning to draw out the information, when others are reluctant to disclose it.

- Identifies the specific information needed to clarify a situation or to make a decision
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## Competencies, Continued

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### Competencies dealing with business (continued)

- Gets more complete and accurate information by checking multiple sources
- Probes skillfully to get at the facts, when others are reluctant to provide full, detailed information
- Routinely walks around to see how people are doing and to hear about any problems they are encountering
- Questions others to assess whether they have thought through a plan of action
- Questions others to assess their confidence in solving a problem or tackling a situation
- Asks questions to clarify a situation
- Seeks the perspective of everyone involved in a situation
- Seeks out knowledgeable people to obtain information or clarify a problem

17. Analytical Thinking: The ability to tackle a problem by using a logical, systematic, sequential approach.

- Makes a systematic comparison of two or more alternatives
- Notices discrepancies and inconsistencies in available information
- Identifies a set of features, parameters, or considerations to take into account, in analyzing a situation or making a decision
- Approaches a complex task or problem by breaking it down into its component parts and considering each part in detail
- Weights the costs, benefits, risks, and chances for success, in making a decision
- Identifies many possible causes for a problem
- Carefully weights the priority of things to be done

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## Competencies, Continued

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**Competencies  
dealing with  
business**  
(continued)

18. Forward Thinking: The ability to anticipate the implications and consequences of situations and take appropriate action to be prepared for possible contingencies.
- Anticipates possible problems and develops contingency plans in advance
  - Notices trends in the industry or marketplace and develops plans to prepare for opportunities or problems
  - Anticipates the consequences of situations and plans accordingly
  - Anticipates how individuals and groups will react to situations and information and plans accordingly
19. Conceptual Thinking: The ability to find effective solutions by taking a holistic, abstract, or theoretical perspective.
- Notices similarities between different and apparently unrelated situations
  - Quickly identifies the central or underlying issues in a complex situation
  - Creates a graphic diagram showing a systems view of a situation
  - Develops analogies or metaphors to explain a situation
  - Applies a theoretical framework to understand a specific situation
20. Strategic Thinking: The ability to analyze the organization's competitive position by considering market and industry trends, existing and potential customers (internal and external), and strengths and weaknesses as compared to competitors.
- Understands the organization's strengths and weaknesses as compared to competitors
  - Understands industry and market trends affecting the organization's competitiveness
  - Has an in-depth understanding of competitive products and services within the marketplace
  - Develops and proposes a long-term (3-5 year) strategy for the organization based on an analysis of the industry and marketplace and the organization's current and potential capabilities as compared to competitors

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## Competencies, Continued

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### Competencies dealing with business (continued)

21. Technical Expertise: The ability to demonstrate depth of knowledge and skill in a technical area.

- Effectively applies technical knowledge to solve a range of problems
- Possesses an in-depth knowledge and skill in a technical area
- Develops technical solutions to new or highly complex problems that cannot be solved using existing methods or approaches
- Is sought out as an expert to provide advice or solutions in his/her technical area
- Keeps informed about cutting-edge technology in his/her technical area

### The Achieving Results Cluster

22. Initiative: Identify what needs to be done and doing it before being asked or before the situation requires it.

- Identifying what needs to be done and takes action before being asked or the situation requires it
- Does more than what is normally required in a situation
- Seeks out others involved in a situation to learn their perspectives
- Takes independent action to change the direction of events

23. Entrepreneurial Orientation: The ability to look for and seize profitable business opportunities; willingness to take calculated risks to achieve business goals.

- Notices and seizes profitable business opportunities
- Stays abreast of business, industry, and market information that may reveal business opportunities
- Demonstrates willingness to take calculated risks to achieve business goals
- Proposes innovative business deals to potential customers, suppliers, and business partners
- Encourages and supports entrepreneurial behavior in others

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## Competencies, Continued

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**Competencies  
dealing with  
business**  
(continued)

24. **Fostering Innovation:** The ability to develop, sponsor, or support the introduction of new and improved method, products, procedures, or technologies.
- Personally develops a new product or service
  - Personally develops a new method or approach
  - Sponsors the development of new products, services, methods, or procedures
  - Proposes new approaches, methods, or technologies
  - Develops better, faster, or less expensive ways to do things
  - Works cooperatively with others to produce innovative solutions
25. **Results Orientation:** The ability to focus on the desired result of one's own or one's unit's work, setting challenging goals, focusing effort on the goals, and meeting or exceeding them.
- Develops challenging but achievable goals
  - Develops clear goals for meetings and projects
  - Maintains commitment to goals in the face of obstacles and frustrations
  - Finds or creates ways to measure performance against goals
  - Exerts unusual effort over time to achieve goal
  - Has a strong sense of urgency about solving problems and getting work done
26. **Thoroughness:** Ensuring that one's own and others' work and information are complete and accurate; carefully preparing for meetings and presentations; following up with others to ensure that agreements and commitments have been fulfilled.
- Sets up procedures to ensure high quality of work (e.g., review meetings)
  - Monitors the quality of work
  - Verifies information
  - Checks the accuracy of owns and others' work
  - Develops and uses systems to organize and keep track of information or work progress
  - Carefully prepares for meetings and presentations
  - Organizes information or materials for others

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## Competencies, Continued

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### Competencies dealing with business (continued)

- Carefully reviews and check the accuracy of information in work reports (e.g., production, sales, financial performance) provided by management, management information systems, or other individuals and groups

27. Decisiveness: The ability to make difficult decisions in a timely manner.

- Is willing to make decisions in difficult or ambiguous situations, when time is critical
  - Takes charge of a group when it is necessary to facilitate change, overcome an impasse, face issues, or ensure that decisions are made
  - Makes tough decisions (e.g., closing a facility, reducing staff, accepting or rejecting a high-stakes deal)
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### Self management competencies

28. Self Confidence: Faith in one's own ideas and capability to be successful; willingness to take an independent position in the face of opposition.

- Is confident of own ability to accomplish goals
- Presents self crisply and impressively
- Is willing to speak up to the right person or group at the right time, when s/he disagrees with a decision or strategy
- Approaches challenging tasks with a "can-do" attitude

29. Stress Management: The ability to keep functioning effectively when under pressure and maintain self control in the face of hostility or provocation.

- Remains calm under stress
  - Can effectively handle several problems or tasks at once
  - Controls his/her response when criticized, attacked or provoked
  - Maintains a sense of humor under difficult circumstances
  - Manages own behavior to prevent or reduce feelings of stress
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## Competencies, Continued

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### Self management competencies (continued)

30. Personal Credibility: Demonstrated concern that one be perceived as responsible, reliable, and trustworthy.
- Does what s/he commits to doing
  - Respects the confidentiality of information or concerns shared by others
  - Is honest and forthright with people
  - Carries his/her fair share of the workload
  - Takes responsibility for own mistakes; does not blame others
  - Conveys a command of the relevant facts and information
31. Flexibility: Openness to different and new ways of doing things; willingness to modify one's preferred way of doing things.
- Is able to see the merits of perspectives other than his/her own
  - Demonstrates openness to new organizational structures, procedures, and technology
  - Switches to a different strategy when an initially selected one is unsuccessful
  - Demonstrates willingness to modify a strongly held position in the face of contrary evidence
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### EF duty statement template

The EF duty statement template, on the last page, lists several other competencies, which may apply to your position. Click on the following link to access the EF duty statement template [GS 907T-Rev. 3/03](#).

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### Foundational competencies

- Questioning skill: Pose appropriate questions to others and obtain meaningful and unambiguous answers to those questions
  - Cognitive skills: Think, draw conclusions, think creatively, make decisions, and solve problems
  - Individual skills: demonstrate a willingness to accept responsibility and display self-esteem
  - Listening skill: Listen effectively
  - Reading skill: Read proficiently for the workplace setting
  - Writing skill: Write proficiently for the workplace setting
  - Computation skill: Apply mathematics proficiently in the workplace setting
  - Speaking skill: Speak to individuals or present to groups proficiently in the workplace setting
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## Competencies, Continued

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### Foundational competencies (continued)

- Resource skills: Allocate such resources as time, money, people, and information appropriately in the workplace setting
  - Interpersonal skill: Work cooperatively with others, carry out formal or informal training or mentoring of others, and maintain effective interpersonal relations with customers
  - Informational and technological skill: Acquire and analyze data from various sources
- 

### Intermediate competencies

- Systems thinking: View organizations and work from a systems perspective
  - Personal mastery: show willingness to learn and take pride in learning
  - Mental modeling: Create, communicate, and critique ingrained (and otherwise taken-for-granted) assumptions, beliefs, or values
  - Shared visioning: Formulate, communicate, and build enthusiasm about shared views of the future
  - Team learning skill: Participate effectively and actively in workplace groups and use dialogue and other approaches to formulate, communicate, and test ideas generated by him/herself or others
  - Self-knowledge: Demonstrate awareness and understanding of self as learner
  - Short-term memory skill: Remember facts, people, and situations for short time spans, usually about 48 hours or less
  - Long-term memory skill: Remember facts, people, and situations for longer time spans, usually exceeding 48 hours
  - Subject matter knowledge: Possess a solid foundation of background knowledge on the issue or subject that s/he sets out to learn about in the workplace
  - Enjoyment of learning and work: Display joy in the learning process itself and in the work that s/he performs
  - Flexibility: Show a willingness to apply what s/he knows in new ways as conditions warrant their application
  - Persistence and confidence: Show determination to pursue new knowledge or skill, even when finding it or mastering it proves more difficult than expected
  - Sense of urgency: Display sensitivity to the importance of time to self and others
  - Honesty: Give information in a straightforward manner, free of deception, and elicit similar behavior from others
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## Competencies, Continued

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### Intermediate competencies (continued)

- Giving respect to others: Defer to others with more experience or knowledge
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### Other job competencies or job dimensions

Job dimensions are those intangible attributes that characterize the environment and scope of the position. Below are some examples, though they are by no means inclusive. As you review these examples, think of other job dimensions that are pertinent to the types of positions for which you might conduct interviews.

**Adaptability:** Maintains effectiveness in varying environments, responsibilities, and with various types of people.

**Decisiveness:** Ready to make decisions render judgments, takes action, and commits oneself.

**Initiative:** Actively attempts to influence events to achieve goals; self-starting rather than passive or accepting. Originates action to achieve goals beyond what is normally expected.

**Judgment:** Develops alternative courses of action and makes decisions which are based on logical assumptions and factual information.

**Organizational Awareness:** Gains and uses knowledge of changing situations within the organization to identify potential problems and opportunities. Perceives the implication of decisions on other components of the organization.

**Leadership:** Utilizes appropriate interpersonal styles and methods in guiding individuals or groups toward the accomplishment of defined tasks.

**Professionalism:** Maintains mature, adult approach to situations and people during times of stress or conflict. Maintains social, ethical, and organizational norms in job-related activities.

**Resilience:** Handles disappointment and/or rejection while maintaining effectiveness.

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## Competencies, Continued

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### Other job competencies or job dimensions (continued)

**Work Ethic:** Maintains appropriate dedication to the requirements of the job and the needs of the organization. Displays honesty and integrity in all job-related functions. Is present and punctual, and shows sincere desire to fulfill the designated duties and responsibilities of the job.

**Conscientious:** Able to organize or schedule people or tasks; to develop realistic action plans while remaining sensitive to time constraints and resource availability; having a well developed sense of ethics and integrity.

**Likable:** Able to modify one's own behavioral style to respond to the needs of others while maintaining one's own objectives and sense of dignity.

**Undogmatic:** Openness to experience from both the outer and inner worlds.

**Extroverted:** Able to work with people in such a manner as to build high morale and group commitments to goals and objectives.

**Emotionally Stable:** Able to maintain a mature problem-solving attitude while dealing with a range of stressful conditions such as interpersonal conflict, hazardous conditions, personal rejection, hostility, or time demands.

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### Key questions

The questions listed below are an excerpt from the "Hiring Process Manual." These questions have been designed using the behavior-based interview technique and are grouped according to competency. A few of the 31 core competencies are discussed below. These examples are presented as a guide in developing your "screening criteria" for your vacant position. Mix in some of the following questions with your technical questions for a well rounded view of the candidate. When writing out your questions, focus on the skills necessary to perform the job you are trying to fill. Think about the essential functions, duties, challenges, and the environment in which the job exists.

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## Competencies, Continued

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### Key questions (continued)

#### Technical Skills

1. What has been your most significant accomplishment that required extensive specialized knowledge of a specific area?
  - Walk through step-by-step what you did.
  - What did you learn during that work?
  - What was the end result of it all?
  - Since then, how have you used that knowledge?
2. What do you do to keep up-to-date in your field?
3. What regular professional reading do you do?
4. What is the most recent, outstanding idea you have learned about in your field?
5. Tell me about the last time you were surprised by some development or finding in your own area of expertise.
6. Tell me about the most difficult technical challenge you have ever faced. What happened? How did it turn out?

#### Problem Solving

1. When was the last time you made a decision or solved a problem which required a lot of hard thinking and careful analysis on your part?
  - Tell me about it, starting with when you first learned about the problem.
  - How did you go about analyzing the situation?
  - What alternative solutions did you consider?
  - What solutions did you decide to try?
  - Why did you pick that particular solution?
  - Tell me what steps you took to gather additional information to help in making your decision.
  - What additional information would you like to have had before deciding?
  - Why didn't you get it?
  - Tell me how you implemented your solution, including particular difficulties you had to overcome.
2. Describe the time you felt you were most resourceful in solving some problem or in coming up with an improvement.
  - Where did your ideas come from?
  - How and with whom did you check your ideas as you proceeded?
  - What was the result?
3. Tell me about a time when you made a quick decision that you were proud of.

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## Competencies, Continued

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### Key questions (continued)

4. Tell me about a time when you had a problem with decisiveness and how you handled that.
5. What has been your experience when dealing with poor performance of subordinates or peers?
  - Give me a specific example

### Following Through

1. Describe the biggest project which you had to see through from beginning to end.
  - How did you coordinate necessary activities?
  - How did you monitor progress?
  - What obstacles did you encounter?
  - How did you overcome them?
2. Tell me about the most serious error that has slipped by you.
  - What was it?
  - How did it happen?
  - What were the consequences?

### Organizing

1. How do you organize your work and schedule your own time?
2. What specific system or method do you use in organizing your work?
3. What specific things were you trying to accomplish yesterday?
  - When did you decide to schedule those tasks for yesterday?
  - Did you write these tasks down anywhere?
  - Did you plan the amount of time you would spend on each task or when you would do them?
  - How did you modify your plan as the day progressed?
  - If you failed to complete any items, what happened to prevent you from doing the items?
4. When do you typically decide on what you will do each day?
5. Tell me about the period of time your work has been the most hectic.
  - What did you do to keep it under control?
  - What did you do when you were “stretched out the thinnest”?
  - What work got placed “on the back burner”?
  - What made you decide to delay those specific items?
6. Think of a day when you had many things to do and tell me how you organized and scheduled your time.
7. Tell me about an important goal you set for yourself in the past and how successful you were in accomplishing it.

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## Competencies, Continued

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**Key  
questions**  
(continued)

**Handling Details**

1. Describe the last project in which you had to make sense out of a mass of complex or difficult information.
  - How much information was there?
  - What made it so complex?
  - How did you go about finding what you needed?
2. Tell me about the biggest error you have made because you overlooked an important detail.
  - What was the situation?
  - What were the consequences of the error?

**Speaking and Listening**

1. What was the last presentation you made before a group?
  - How did you prepare?
  - Who was the audience?
  - What was the response?
2. How comfortable are you in such situations?
3. How often have you made such presentations?

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## Competencies, Continued

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### Key questions (continued)

### Human Relations

1. Tell me about the worst disagreement you have had with a coworker, boss, or someone else at work.
  - What did each of you say?
  - What was the discussion like when it was the most heated?
  - How did both of you show your frustration or anger?
  - How was it resolved?
  - How was your relationship with that person after the incident?
2. On what project was it most important for you to coordinate with another unit or an outside organization?
  - What was the project?
  - What did you do to facilitate coordination and cooperation?
  - What difficulties did you encounter?
  - How did you handle them?
  - What was the outcome?
3. You have heard the phrase “Shoot from the hip” tell me about a time you had to do that.
  - Describe the situation?
  - How did it turn out?
  - Were you comfortable in that situation?
4. Tell me about a time when you were in the middle of a project and your boss or another senior manager stopped you abruptly and redirected most all your efforts to a new assignment.
  - What happened?
5. What types of things have made you angry and how did you react to them.
6. You know the expression “roll with the punches” well tell me about a time when you had to do that when dealing with a person.
7. Give me an example of a clever way of motivating some one.
8. Describe a time when you communicated some unpleasant feeling to a supervisor.
  - What happened?
9. What experience have you had with a miscommunication with a customer or fellow employee?
  - What happened?

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## Competencies, Continued

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### Key questions (continued)

#### Documenting

1. What project required you to produce the greatest amount of paperwork?
  - What types of materials did you produce?
  - How did you organize these materials?
  - How did you keep track of these materials?
2. Tell me about the most serious instance in which you failed to provide adequate documentation.
  - What was the situation?
  - How was the documentation inadequate?
  - What were the consequences?

#### Achieving Results

1. What was the most difficult task or project you have been assigned?
  - What made it so difficult?
  - How did you go about performing it?
  - How long did you wait before beginning work on it?
  - What encouragement did you get (from your boss, for example) to start working or keep working on it?
  - How long did it take you to finish the assignment?
  - How long before or after your deadline did you get it done?
2. Describe your best achievement and how you accomplished it.
  - What was the achievement?
  - How did you go about it?
  - How much effort did you put in?
  - What obstacles did you encounter?
  - How did you overcome them?
  - What was the result?
3. Tell me about an assignment where the direction of the project became unclear?
  - What did you do?
  - How did it turn out?
4. What were some of the major obstacles to be overcome on your last job and how did you deal with them?
5. Tell me about a time when an upper level decision or policy change held up your work.
  - How did you deal with it?

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*Continued on next page*

## Competencies, Continued

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### Key questions (continued)

#### Work Commitment

1. What was the most long-term, sustained, extra-hours effort you have ever put in?
  - What was the assignment or project?
  - In what ways did you put out extra effort to get the job done?
  - How successful were you on it?
2. Tell me about the last time you had to choose between producing a quality product and meeting a deadline.
  - What was the project?
  - What did you sacrifice?
  - How did you arrive at that decision?
3. Describe a time when to meet a customer's needs you felt it might be justified to break company policy or procedure.
4. Tell me about a time when you stuck to policy when it might have been easy to look the other way.
  - How did it turn out?
5. Tell me about a time when you had to do a job that was particularly uninteresting.
  - How did you deal with it?

#### Working Independently

1. Did/does your most recent supervisor give you too much direction or not enough?
  - Describe an instance which best demonstrates this.
  - What problems did this cause for you?
2. Tell me about the last time you worked independently on a project.
  - What was the project?
  - How did you obtain the necessary information?
  - What direction did you solicit?
  - What was the outcome?
  - How did you feel about working alone?
3. Tell me about the most aggressive project you ever started.
  - Pick one that wasn't an assigned project but where you perceived a need that was not being addressed.
4. What types of decisions do you make in your current position without consulting your boss?
5. Have you ever had to make a sticky decision when no policy existed to cover it?
  - Tell me what you did.

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## Competencies, Continued

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**Key  
questions**  
(continued)

6. Describe a situation in your last job where you could structure your own work schedule.
  - What did you do?

**Reliability**

1. How often were you late for work in the last month?
    - What were the reasons?
    - How typical is this?
  2. Tell me about the time when you most needed to get away from work.
    - What did you do?
  3. How many times in a year do you feel as though you need to get away from work?
    - What do you typically do?
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## Legal Authority/Issues

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### Authority

Under the Americans With Disabilities Action of 1990 (a.k.a. ADA), supervisors/managers should know how to determine essential job functions and how they affect the employees they supervise.

- ADA is a comprehensive anti-discrimination law for people with disabilities
- It protects persons who have a disability, have a record of a disability or who have a relationship or association with a person who has a disability
- It is not limited to just work situations
- Extends to all sectors of society and every aspect of daily living...travel, leisure, communications, etc.

California Government Code Section 12926:

- Is a State law that clarified ADA, which is a Federal Law
- “Fine-tuned” ADA by providing more precise definitions e.g., mental disability, major life activities, etc.

The following legal authorities govern and clarify essential functions.

- Americans With Disabilities Act of 1990  
<http://www.usdoj.gov/crt/ada/statute.html>
- Government Code Section 12926-19928  
<http://www.leginfo.ca.gov/calaw.html>
- Personnel Management Memo (PML) 2001-031  
<http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx>

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## Legal Authority/Issues, Continued

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### **ADA questions and answers**

Barriers to employment, transportation, public accommodations, public services, and telecommunications have imposed staggering economic and social costs on American society and have undermined our well-intentioned efforts to educate, rehabilitate, and employ individuals with disabilities. By breaking down these barriers, the Americans with Disabilities Act (ADA) will enable society to benefit from the skills and talents of individuals with disabilities, will allow us all to gain from their increased purchasing power and ability to use it, and will lead to fuller, more productive lives for all Americans.

The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Fair, swift, and effective enforcement of this landmark civil rights legislation is a high priority of the Federal Government. This booklet is designed to provide answers to some of the most often asked questions about the ADA.

### Employment

Q. What employers are covered by title I of the ADA, and when is the coverage effective?

A. The title I employment provisions apply to private employers, State and local governments, employment agencies, and labor unions. Employers with 25 or more employees were covered as of July 26, 1992. Employers with 15 or more employees were covered two years later, beginning July 26, 1994.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers** (continued)

Q. What practices and activities are covered by the employment nondiscrimination requirements?

A. The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities.

Q. Who is protected from employment discrimination?

A. Employment discrimination is prohibited against "qualified individuals with disabilities." This includes applicants for employment and employees. An individual is considered to have a "disability" if s/he has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Persons discriminated against because they have a known association or relationship with an individual with a disability also is protected.

The first part of the definition makes clear that the ADA applies to persons who have impairments and that these must substantially limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. An individual with epilepsy, paralysis, HIV infection, AIDS, a substantial hearing or visual impairment, mental retardation, or a specific learning disability is covered, but an individual with a minor, nonchronic condition of short duration, such as a sprain, broken limb, or the flu, generally would not be covered.

The second part of the definition protecting individuals with a record of a disability would cover, for example, a person who has recovered from cancer or mental illness.

The third part of the definition protects individuals who are regarded as having a substantially limiting impairment, even though they may not have such impairment. For example, this provision would protect a qualified individual with a severe facial disfigurement from being denied employment because an employer feared the "negative reactions" of customers or co-workers.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers (continued)**

Q. Who is a "qualified individual with a disability?"

A. A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other requirements of an employment position that s/he holds or seeks, and who can perform the essential functions of the position with or without reasonable accommodation. Requiring the ability to perform "essential" functions assures that an individual with a disability will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation. If a written job description has been prepared in advance of advertising or interviewing applicants for a job, this will be considered as evidence, although not conclusive evidence, of the essential functions of the job.

Q. Does an employer have to give preference to a qualified applicant with a disability over other applicants?

A. No. An employer is free to select the most qualified applicant available and to make decisions based on reasons unrelated to a disability. For example, suppose two persons apply for a job as a typist and an essential function of the job is to type 75 words per minute accurately. One applicant, an individual with a disability, who is provided with a reasonable accommodation for a typing test, types 50 words per minute; the other applicant who has no disability accurately types 75 words per minute. The employer can hire the applicant with the higher typing speed, if typing speed is needed for successful performance of the job.

**Q. What limitations does the ADA impose on medical examinations and inquiries about disability?**

A. An employer may not ask or require a job applicant to take a medical examination before making a job offer. It cannot make any pre-employment inquiry about a disability or the nature or severity of a disability. An employer may, however, ask questions about the ability to perform specific job functions and may, with certain limitations, ask an individual with a disability to describe or demonstrate how s/he would perform these functions.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers (continued)**

An employer may condition a job offer on the satisfactory result of a post-offer medical examination or medical inquiry if this is required of all entering employees in the same job category. A post-offer examination or inquiry does not have to be job-related and consistent with business necessity.

However, if an individual is not hired because a post-offer medical examination or inquiry reveals a disability, the reason(s) for not hiring must be job-related and consistent with business necessity. The employer also must show that no reasonable accommodation was available that would enable the individual to perform the essential job functions, or that accommodation would impose an undue hardship. A post-offer medical examination may disqualify an individual if the employer can demonstrate that the individual would pose a "direct threat" in the workplace (i.e., a significant risk of substantial harm to the health or safety of the individual or others) that cannot be eliminated or reduced below the direct threat level through reasonable accommodation. Such a disqualification is job-related and consistent with business necessity. A post-offer medical examination may not disqualify an individual with a disability who is currently able to perform essential job functions because of speculation that the disability may cause a risk of future injury.

After a person starts work, a medical examination or inquiry of an employee must be job-related and consistent with business necessity. Employers may conduct employee medical examinations where there is evidence of a job performance or safety problem, examinations required by other Federal laws, examinations to determine current fitness to perform a particular job, and voluntary examinations that are part of employee health programs.

Information from all medical examinations and inquiries must be kept apart from general personnel files as a separate, confidential medical record, available only under limited conditions.

Tests for illegal use of drugs are not medical examinations under the ADA and are not subject to the restrictions of such examinations.

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## Legal Authority/Issues, Continued

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**ADA  
questions  
and  
answers  
(continued)**

**Q. When can an employer ask an applicant to "self-identify" as having a disability?**

A. Federal contractors and subcontractors who are covered by the affirmative action requirements of section 503 of the Rehabilitation Act of 1973 may invite individuals with disabilities to identify themselves on a job application form or by other pre-employment inquiry, to satisfy the section 503 affirmative action requirements. Employers who request such information must observe section 503 requirements regarding the manner in which such information is requested and used, and the procedures for maintaining such information as a separate, confidential record, apart from regular personnel records. A pre-employment inquiry about a disability is allowed if required by another Federal law or regulation such as those applicable to disabled veterans and veterans of the Vietnam era. Pre-employment inquiries about disabilities may be necessary under such laws to identify applicants or clients with disabilities in order to provide them with required special services.

**Q. Does the ADA require employers to develop written job descriptions?**

A. No. The ADA does not require employers to develop or maintain job descriptions. However, a written job description that is prepared before advertising or interviewing applicants for a job will be considered as evidence along with other relevant factors. If an employer uses job descriptions, they should be reviewed to make sure they accurately reflect the actual functions of a job. A job description will be most helpful if it focuses on the results or outcome of a job function, not solely on the way it customarily is performed. A reasonable accommodation may enable a person with a disability to accomplish a job function in a manner that is different from the way an employee who is not disabled may accomplish the same function.

**Q. What is "reasonable accommodation?"**

A. Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

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## Legal Authority/Issues, Continued

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**ADA  
questions  
and  
answers**  
(continued)

**Q. What are some of the accommodations applicants and employees may need?**

A. Examples of reasonable accommodation include making existing facilities used by employees readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs. Reasonable accommodation also may include reassigning a current employee to a vacant position for which the individual is qualified, if the person is unable to do the original job because of a disability even with an accommodation. However, there is no obligation to find a position for an applicant who is not qualified for the position sought. Employers are not required to lower quality or quantity standards as an accommodation; nor are they obligated to provide personal use items such as glasses or hearing aids. The decision as to the appropriate accommodation must be based on the particular facts of each case. In selecting the particular type of reasonable accommodation to provide, the principal test is that of effectiveness, i.e., whether the accommodation will provide an opportunity for a person with a disability to achieve the same level of performance and to enjoy benefits equal to those of an average, similarly situated person without a disability. However, the accommodation does not have to ensure equal results or provide exactly the same benefits.

**Q. When is an employer required to make a reasonable accommodation?**

A. An employer is only required to accommodate a "known" disability of a qualified applicant or employee. The requirement generally will be triggered by a request from an individual with a disability, who frequently will be able to suggest an appropriate accommodation. Accommodations must be made on an individual basis, because the nature and extent of a disabling condition and the requirements of a job will vary in each case. If the individual does not request an accommodation, the employer is not obligated to provide one except where an individual's known disability impairs his/her ability to know of, or effectively communicate a need for, an accommodation that is obvious to the employer. If a person with a disability requests, but cannot suggest, an appropriate accommodation, the employer and the individual should work together to identify one. There are also many public and private resources that can provide assistance without cost.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. What are the limitations on the obligation to make a reasonable accommodation?**

A. The individual with a disability requiring the accommodation must be otherwise qualified, and the disability must be known to the employer. In addition, an employer is not required to make an accommodation if it would impose an "undue hardship" on the operation of the employer's business. "Undue hardship" is defined as an "action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. Undue hardship is determined on a case-by-case basis. Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the facility to the larger organization. In general, a larger employer with greater resources would be expected to make accommodations requiring greater effort or expense than would be required of a smaller employer with fewer resources. If a particular accommodation would be an undue hardship, the employer must try to identify another accommodation that will not pose such a hardship. Also, if the cost of an accommodation would impose an undue hardship on the employer, the individual with a disability should be given the option of paying that portion of the cost which would constitute an undue hardship or providing the accommodation.

#### **Q. Must an employer modify existing facilities to make them accessible?**

A. The employer's obligation under title I is to provide access for an individual applicant to participate in the job application process, and for an individual employee with a disability to perform the essential functions of his/her job, including access to a building, to the work site, to needed equipment, and to all facilities used by employees. For example, if an employee lounge is located in a place inaccessible to an employee using a wheelchair, the lounge might be modified or relocated, or comparable facilities might be provided in a location that would enable the individual to take a break with co-workers. The employer must provide such access unless it would cause an undue hardship.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers** (continued)

Under title I, an employer is not required to make its existing facilities accessible until a particular applicant or employee with a particular disability needs an accommodation, and then the modifications should meet that individual's work needs. However, employers should consider initiating changes that will provide general accessibility, particularly for job applicants, since it is likely that people with disabilities will be applying for jobs. The employer does not have to make changes to provide access in places or facilities that will not be used by that individual for employment-related activities or benefits.

#### **Q. Can an employer be required to reallocate an essential function of a job to another employee as a reasonable accommodation?**

A. No. An employer is not required to reallocate essential functions of a job as a reasonable accommodation.

#### **Q. Can an employer be required to modify, adjust, or make other reasonable accommodations in the way a test is given to a qualified applicant or employee with a disability?**

A. Yes. Accommodations may be needed to assure that tests or examinations measure the actual ability of an individual to perform job functions rather than reflect limitations caused by the disability. Tests should be given to people who have sensory, speaking, or manual impairments in a format that does not require the use of the impaired skill, unless it is a job-related skill that the test is designed to measure.

#### **Q. Can an employer maintain existing production/performance standards for an employee with a disability?**

A. An employer can hold employees with disabilities to the same standards of production/performance as other similarly situated employees without disabilities for performing essential job functions, with or without reasonable accommodation. An employer also can hold employees with disabilities to the same standards of production and/or performance as other employees regarding marginal functions unless the disability affects the person's ability to perform those marginal functions. If the ability to perform marginal functions is affected by the disability, the employer must provide some type of reasonable accommodation such as job restructuring but may not exclude an individual with a disability who is satisfactorily performing a job's essential function.

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## Legal Authority/Issues, Continued

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**ADA  
questions  
and answers**  
(continued)

**Q. Can an employer establish specific attendance and leave policies?**

A. An employer can establish attendance and leave policies that are uniformly applied to all employees, regardless of disability, but may not refuse leave needed by an employee with a disability if other employees get such leave. An employer also may be required to make adjustments in leave policy as a reasonable accommodation. The employer is not obligated to provide additional paid leave, but accommodations may include leave flexibility and unpaid leave. A uniformly applied leave policy does not violate the ADA because it has a more severe effect on an individual because of his/her disability. However, if an individual with a disability requests a modification of such a policy as a reasonable accommodation, an employer may be required to provide it, unless it would impose an undue hardship.

**Q. Can an employer consider health and safety when deciding whether to hire an applicant or retain an employee with a disability?**

A. Yes. The ADA permits employers to establish qualification standards that will exclude individuals who pose a direct threat -- i.e., a significant risk of substantial harm -- to the health or safety of the individual or of others, if that risk cannot be eliminated or reduced below the level of a direct threat by reasonable accommodation. However, an employer may not simply assume that a threat exists; the employer must establish through objective, medically supportable methods that there is significant risk that substantial harm could occur in the workplace. By requiring employers to make individualized judgments based on reliable medical or other objective evidence rather than on generalizations, ignorance, fear, patronizing attitudes, or stereotypes, the ADA recognizes the need to balance the interests of people with disabilities against the legitimate interests of employers in maintaining a safe workplace.

**Q. Are applicants or employees who are currently illegally using drugs covered by the ADA?**

A. No. Individuals who currently engage in the illegal use of drugs are specifically excluded from the definition of a "qualified individual with a disability" protected by the ADA when the employer takes action on the basis of their drug use.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. Is testing for the illegal use of drugs permissible under the ADA?**

A. Yes. A test for the illegal use of drugs is not considered a medical examination under the ADA; therefore, employers may conduct such testing of applicants or employees and make employment decisions based on the results. The ADA does not encourage, prohibit, or authorize drug tests. If the results of a drug test reveal the presence of a lawfully prescribed drug or other medical information, such information must be treated as a confidential medical record.

#### **Q. Are alcoholics covered by the ADA?**

A. Yes. While a current illegal user of drugs is not protected by the ADA if an employer acts on the basis of such use, a person who currently uses alcohol is not automatically denied protection. An alcoholic is a person with a disability and is protected by the ADA if s/he is qualified to perform the essential functions of the job. An employer may be required to provide an accommodation to an alcoholic. However, an employer can discipline, discharge or deny employment to an alcoholic whose use of alcohol adversely affects job performance or conduct. An employer also may prohibit the use of alcohol in the workplace and can require that employees not be under the influence of alcohol.

#### **Q. Does the ADA override Federal and State health and safety laws?**

A. The ADA does not override health and safety requirements established under other Federal laws even if a standard adversely affects the employment of an individual with a disability. If a standard is required by another Federal law, an employer must comply with it and does not have to show that the standard is job related and consistent with business necessity. For example, employers must conform to health and safety requirements of the U.S. Occupational Safety and Health Administration. However, an employer still has the obligation under the ADA to consider whether there is a reasonable accommodation, consistent with the standards of other Federal laws that will prevent exclusion of qualified individuals with disabilities who can perform jobs without violating the standards of those laws. If an employer can comply with both the ADA and another Federal law, then the employer must do so.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers (continued)**

The ADA does not override State or local laws designed to protect public health and safety, except where such laws conflict with the ADA requirements. If there is a State or local law that would exclude an individual with a disability from a particular job or profession because of a health or safety risk, the employer still must assess whether a particular individual would pose a "direct threat" to health or safety under the ADA standard. If such a "direct threat" exists, the employer must consider whether it could be eliminated or reduced below the level of a "direct threat" by reasonable accommodation. An employer cannot rely on a State or local law that conflicts with ADA requirements as a defense to a charge of discrimination.

#### **Q. How does the ADA affect workers' compensation programs?**

A. Only injured workers who meet the ADA's definition of an "individual with a disability" will be considered disabled under the ADA, regardless of whether they satisfy criteria for receiving benefits under workers' compensation or other disability laws. A worker also must be "qualified" (with or without reasonable accommodation) to be protected by the ADA. Work-related injuries do not always cause physical or mental impairments severe enough to "substantially limit" a major life activity. Also, many on-the-job injuries cause temporary impairments which heal within a short period of time with little or no long-term or permanent impact. Therefore, many injured workers who qualify for benefits under workers' compensation or other disability benefits laws may not be protected by the ADA. An employer must consider work-related injuries on a case-by-case basis to know if a worker is protected by the ADA. An employer may not inquire into an applicant's workers' compensation history before making a conditional offer of employment. After making a conditional job offer, an employer may inquire about a person's workers compensation history in a medical inquiry or examination that is required of all applicants in the same job category. However, even after a conditional offer has been made, an employer cannot require a potential employee to have a medical examination because a response to a medical inquiry (as opposed to results from a medical examination) shows a previous on-the-job injury unless all applicants in the same job category are required to have an examination. Also, an employer may not base an employment decision on the speculation that an applicant may cause increased workers' compensation costs in the future. However, an employer may refuse to hire, or may discharge an individual who is not currently able to perform a job without posing a significant risk of substantial harm to the health or safety of the individual or others, if the risk cannot be eliminated or reduced by reasonable accommodation.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers** (continued)

An employer may refuse to hire or may fire a person who knowingly provides a false answer to a lawful post-offer inquiry about his/her condition or worker's compensation history.

An employer also may submit medical information and records concerning employees and applicants (obtained after a conditional job offer) to state workers' compensation offices and "second injury" funds without violating ADA confidentiality requirements.

#### **Q. What is discrimination based on "relationship or association" under the ADA?**

A. The ADA prohibits discrimination based on relationship or association in order to protect individuals from actions based on unfounded assumptions that their relationship to a person with a disability would affect their job performance, and from actions caused by bias or misinformation concerning certain disabilities. For example, this provision would protect a person whose spouse has a disability from being denied employment because of an employer's unfounded assumption that the applicant would use excessive leave to care for the spouse. It also would protect an individual who does volunteer work for people with AIDS from a discriminatory employment action motivated by that relationship or association.

#### **Q. How are the employment provisions enforced?**

A. The employment provisions of the ADA are enforced under the same procedures now applicable to race; color, sex, national origin, and religious discrimination under title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991. Complaints regarding actions that occurred on or after July 26, 1992, may be filed with the Equal Employment Opportunity Commission or designated State human rights agencies. Available remedies will include hiring, reinstatement, promotion, back pay, front pay, restored benefits, reasonable accommodation, attorneys' fees, expert witness fees, and court costs. Compensatory and punitive damages also may be available in cases of intentional discrimination or where an employer fails to make a good faith effort to provide a reasonable accommodation.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. What financial assistance is available to employers to help them make reasonable accommodations and comply with the ADA?**

A. A special tax credit is available to help smaller employers make accommodations required by the ADA. An eligible small business may take a tax credit of up to \$5,000 per year for accommodations made to comply with the ADA. The credit is available for one-half the cost of "eligible access expenditures" that are more than \$250 but less than \$10,250. A full tax deduction, up to \$15,000 per year, also is available to any business for expenses of removing qualified architectural or transportation barriers. Expenses covered include costs of removing barriers created by steps, narrow doors, inaccessible parking spaces, restroom facilities, and transportation vehicles. Additional information discussing the tax credits and deductions is contained in the Department of Justice's ADA Tax Incentive Packet for Businesses available from the ADA Information Line. Information about the tax credit and tax deduction can also be obtained from a local IRS office, or by contacting the Office of Chief Counsel, Internal Revenue Service.

#### **Q. What are an employer's recordkeeping requirements under the employment provisions of the ADA?**

A. An employer must maintain records such as application forms submitted by applicants and other records related to hiring, requests for reasonable accommodation, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship for one year after making the record or taking the action described (whichever occurs later). If a charge of discrimination is filed or an action is brought by EEOC, an employer must save all personnel records related to the charge until final disposition of the charge.

#### **Q. Does the ADA require that an employer post a notice explaining its requirements?**

A. The ADA requires that employers post a notice describing the provisions of the ADA. It must be made accessible, as needed, to individuals with disabilities. A poster is available from EEOC summarizing the requirements of the ADA and other Federal legal requirements for nondiscrimination for which EEOC has enforcement responsibility. EEOC also provides guidance on making this information available in accessible formats for people with disabilities

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. What resources does the Equal Employment Opportunity Commission have available to help employers and people with disabilities understand and comply with the employment requirements of the ADA?**

A. The Equal Employment Opportunity Commission has developed several resources to help employers and people with disabilities understand and comply with the employment provisions of the ADA.

Resources include:

- A Technical Assistance Manual that provides "how-to" guidance on the employment provisions of the ADA as well as a resource directory to help individuals find specific information.
- A variety of brochures, booklets, and fact sheets.
- State and Local Governments

#### **Q. Does the ADA apply to State and local governments?**

A. Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all State and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State or local governments. It clarifies the requirements of section 504 of the Rehabilitation Act of 1973 for public transportation systems that receive Federal financial assistance, and extends coverage to all public entities that provide public transportation, whether or not they receive Federal financial assistance. It establishes detailed standards for the operation of public transit systems, including commuter and intercity rail (AMTRAK).

#### **Q. When does the requirements for State and local governments become effective?**

A. In general, they became effective on January 26, 1992.

#### **Q. How does title II affect participation in a State or local government's programs, activities, and services?**

A. A state or local government must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or

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## Legal Authority/Issues, Continued

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### **ADA questions and answers** (continued)

activity. The State or local government may, however, adopt legitimate safety requirements necessary for safe operation if they are based on real risks, not on stereotypes or generalizations about individuals with disabilities. Finally, a public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate that a particular modification would fundamentally alter the nature of its service, program, or activity, it is not required to make that modification.

#### **Q. Does title II cover a public entity's employment policies and practices?**

A. Yes. Title II prohibits all public entities, regardless of the size of their work force, from discriminating in employment against qualified individuals with disabilities. In addition to Title II's employment coverage, title I of the ADA and section 504 of the Rehabilitation Act of 1973 prohibit employment discrimination against qualified individuals with disabilities by certain public entities

#### **Q. What changes must a public entity make to its existing facilities to make them accessible?**

A. A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible. A State or local government's programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as "program accessibility," applies to facilities of a public entity that existed on January 26, 1992. Public entities do not necessarily have to make each of their existing facilities accessible. They may provide program accessibility by a number of methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate accessible sites.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. When must structural changes be made to attain program accessibility?**

A. Structural changes needed for program accessibility must be made as expeditiously as possible, but no later than January 26, 1995. This three-year time period is not a grace period; all alterations must be accomplished as expeditiously as possible. A public entity that employs 50 or more persons must have developed a transition plan by July 26, 1992, setting forth the steps necessary to complete such changes.

#### **Q. What is a self-evaluation?**

A. A self-evaluation is a public entity's assessment of its current policies and practices. The self-evaluation identifies and corrects those policies and practices that are inconsistent with Title II's requirements. All public entities must complete a self-evaluation by January 26, 1993. A public entity that employs 50 or more employees must retain its self-evaluation for three years. Other public entities are not required to retain their self-evaluations, but are encouraged to do so because these documents evidence a public entity's good faith efforts to comply with Title II's requirements.

#### **Q. What does title II require for new construction and alterations?**

A. The ADA requires that all new buildings constructed by a State or local government be accessible. In addition, when a State or local government undertakes alterations to a building, it must make the altered portions accessible.

#### **Q. How will a State or local government know that a new building is accessible?**

A. A State or local government will be in compliance with the ADA for new construction and alterations if it follows either of two accessibility standards. It can choose either the Uniform Federal Accessibility Standards or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, which is the standard that must be used for public accommodations and commercial facilities under title III of the ADA. If the State or local government chooses the ADA Accessibility Guidelines, it is not entitled to the elevator exemption (which permits certain private buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator).

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## Legal Authority/Issues, Continued

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**ADA  
questions  
and answers**  
(continued)

**Q. What requirements apply to a public entity's emergency telephone services, such as 911?**

A. State and local agencies that provide emergency telephone services must provide "direct access" to individuals who rely on a TDD or computer modem for telephone communication. Telephone access through a third party or through a relay service does not satisfy the requirement for direct access. Where a public entity provides 911 telephone service, it may not substitute a separate seven-digit telephone line as the sole means for access to 911 services by no voice users. A public entity may, however, provide a separate seven-digit line for the exclusive use of no voice callers in addition to providing direct access for such calls to its 911 line.

**Q. Does title II require that telephone emergency service systems be compatible with all formats used for no voice communications?**

A. No. At present, telephone emergency services must only be compatible with the Baudot format. Until it can be technically proven that communications in another format can operate in a reliable and compatible manner in a given telephone emergency environment, a public entity would not be required to provide direct access to computer modems using formats other than Baudot.

**Q. How will the ADA's requirements for State and local governments be enforced?**

A. Private individuals may bring lawsuits to enforce their rights under title II and may receive the same remedies as those provided under section 504 of the Rehabilitation Act of 1973, including reasonable attorney's fees. Individuals may also file complaints with eight designated Federal agencies, including the Department of Justice and the Department of Transportation.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### Public Accommodations

##### **Q. What are public accommodations?**

A. A public accommodation is a private entity that owns, operates, leases, or leases to, a place of public accommodation. Places of public accommodation include a wide range of entities, such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers. Private clubs and religious organizations are exempt from the ADA's title III requirements for public accommodations.

##### **Q. Will the ADA have any effect on the eligibility criteria used by public accommodations to determine who may receive services?**

A. Yes. If a criterion screens out or tends to screen out individuals with disabilities, it may only be used if necessary for the provision of the services. For instance, it would be a violation for a retail store to have a rule excluding all deaf persons from entering the premises, or for a movie theater to exclude all individuals with cerebral palsy. More subtle forms of discrimination are also prohibited. For example, requiring presentation of a driver's license as the sole acceptable means of identification for purposes of paying by check could constitute discrimination against individuals with vision impairments. This would be true if such individuals are ineligible to receive licenses and the use of an alternative means of identification is feasible.

##### **Q. Does the ADA allow public accommodations to take safety factors into consideration in providing services to individuals with disabilities?**

A. The ADA expressly provides that a public accommodation may exclude an individual, if that individual poses a direct threat to the health or safety of others that cannot be mitigated by appropriate modifications in the public accommodation's policies or procedures, or by the provision of auxiliary aids. A public accommodation will be permitted to establish objective safety criteria for the operation of its business; however, any safety standard must be based on objective requirements rather than stereotypes or generalizations about the ability of persons with disabilities to participate in an activity.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

**Q. Are there any limits on the kinds of modifications in policies, practices, and procedures required by the ADA?**

A. Yes. The ADA does not require modifications that would fundamentally alter the nature of the services provided by the public accommodation. For example, it would not be discriminatory for a physician specialist who treats only burn patients to refer a deaf individual to another physician for treatment of a broken limb or respiratory ailment, to require a physician to accept patients outside of his or her specialty would fundamentally alter the nature of the medical practice.

**Q. What kinds of auxiliary aids and services are required by the ADA to ensure effective communication with individuals with hearing or vision impairments?**

A. Appropriate auxiliary aids and services may include services and devices such as qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments; and qualified readers, taped texts, and Braille or large print materials for individuals with vision impairments.

**Q. Are there any limitations on the ADA's auxiliary aids requirements?**

A. Yes. The ADA does not require the provision of any auxiliary aid that would result in an undue burden or in a fundamental alteration in the nature of the goods or services provided by a public accommodation. However, the public accommodation is not relieved from the duty to furnish an alternative auxiliary aid, if available, that would not result in a fundamental alteration or undue burden. Both of these limitations are derived from existing regulations and case law under section 504 of the Rehabilitation Act and are to be determined on a case-by-case basis.

**Q. Will restaurants be required to have brailed menus?**

A. No, not if waiters or other employees are made available to read the menu to a blind customer.

**Q. Will a clothing store be required to have brailed price tags?**

A. No, not if sales personnel could provide price information orally upon request.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

**Q. Will a bookstore be required to maintain a sign language interpreter on its staff in order to communicate with deaf customers?**

A. No, not if employees communicate by pen and notepad when necessary.

**Q. Are there any limitations on the ADA's barrier removal requirements for existing facilities?**

A. Yes. Barrier removal need be accomplished only when it is "readily achievable" to do so.

**Q. What does the term "readily achievable" mean?**

A. It means "easily accomplishable and able to be carried out without much difficulty or expense."

**Q. What are examples of the types of modifications that would be readily achievable in most cases?**

A. Examples include the simple ramping of a few steps, the installation of grab bars where only routine reinforcement of the wall is required, the lowering of telephones, and similar modest adjustments.

**Q. Will businesses need to rearrange furniture and display racks?**

A. Possibly. For example, restaurants may need to rearrange tables and department stores may need to adjust their layout of racks and shelves in order to permit access to wheelchair users.

**Q. Will businesses need to install elevators?**

A. Businesses are not required to retrofit their facilities to install elevators unless such installation is readily achievable, which is unlikely in most cases.

**Q. When barrier removal is not readily achievable, what kinds of alternative steps are required by the ADA?**

A. Alternatives may include such measures as in-store assistance for removing articles from inaccessible shelves, home delivery of groceries, or coming to the door to receive or return dry cleaning.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. Must alternative steps be taken without regard to cost?**

A. No, only readily achievable alternative steps must be undertaken.

#### **Q. How is "readily achievable" determined in a multisite business?**

A. In determining whether an action to make a public accommodation accessible would be "readily achievable," the overall size of the parent corporation or entity is only one factor to be considered. The ADA also permits consideration of the financial resources of the particular facility or facilities involved and the administrative or fiscal relationship of the facility or facilities to the parent entity.

#### **Q. Who has responsibility for ADA compliance in leased places of public accommodation, the landlord or the tenant?**

A. The ADA places the legal obligation to remove barriers or provide auxiliary aids and services on both the landlord and the tenant. The landlord and the tenant may decide by lease that will actually make the changes and provide the aids and services, but both remain legally responsible.

#### **Q. What does the ADA require in new construction?**

A. The ADA requires that all new construction of places of public accommodation, as well as of "commercial facilities" such as office buildings, be accessible. Elevators are generally not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center or mall; the professional office of a health care provider; a terminal, depot, or other public transit station; or an airport passenger terminal.

#### **Q. Is it expensive to make all newly constructed places of public accommodation and commercial facilities accessible?**

A. The cost of incorporating accessibility features in new construction is less than one percent of construction costs. This is a small price in relation to the economic benefits to be derived from full accessibility in the future, such as increased employment and consumer spending and decreased welfare dependency.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. Must every feature of a new facility be accessible?**

A. No, only a specified number of elements such as parking spaces and drinking fountains must be made accessible in order for a facility to be "readily accessible." Certain nonoccupiable spaces such as elevator pits, elevator penthouses, and piping or equipment catwalks need not be accessible.

#### **Q. What are the ADA requirements for altering facilities?**

A. All alterations that could affect the usability of a facility must be made in an accessible manner to the maximum extent feasible. For example, if during renovations a doorway is being relocated, the new doorway must be wide enough to meet the new construction standard for accessibility. When alterations are made to a primary function area, such as the lobby of a bank or the dining area of a cafeteria, an accessible path of travel to the altered area must also be provided. The bathrooms, telephones, and drinking fountains serving that area must also be made accessible. These additional accessibility alterations are only required to the extent that the added accessibility costs do not exceed 20% of the cost of the original alteration. Elevators are generally not required in facilities under three stories or with fewer than 3,000 square feet per floor, unless the building is a shopping center or mall; the professional office of a health care provider; a terminal, depot, or other public transit station; or an airport passenger terminal.

#### **Q. Does the ADA permit an individual with a disability to sue a business when that individual believes that discrimination is about to occur, or must the individual wait for the discrimination to occur?**

A. The ADA public accommodations provisions permit an individual to allege discrimination based on a reasonable belief that discrimination is about to occur. This provision, for example, allows a person who uses a wheelchair to challenge the planned construction of a new place of public accommodation, such as a shopping mall, that would not be accessible to individuals who use wheelchairs. The resolution of such challenges prior to the construction of an inaccessible facility would enable any necessary remedial measures to be incorporated in the building at the planning stage, when such changes would be relatively inexpensive.

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## Legal Authority/Issues, Continued

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### **ADA questions and answers** (continued)

#### **Q. How does the ADA affect existing State and local building codes?**

A. Existing codes remain in effect. The ADA allows the Attorney General to certify that a State law, local building code, or similar ordinance that establishes accessibility requirements meets or exceeds the minimum accessibility requirements for public accommodations and commercial facilities. Any State or local government may apply for certification of its code or ordinance. The Attorney General can certify a code or ordinance only after prior notice and a public hearing at which interested people, including individuals with disabilities, are provided an opportunity to testify against the certification.

#### **Q. What is the effect of certification of a State or local code or ordinance?**

A. Certification can be advantageous if an entity has constructed or altered a facility according to a certified code or ordinance. If someone later brings an enforcement proceeding against the entity, the certification is considered "rebuttable evidence" that the State law or local ordinance meets or exceeds the minimum requirements of the ADA. In other words, the entity can argue that the construction or alteration met the requirements of the ADA because it was done in compliance with the State or local code that had been certified.

#### **Q. When are the public accommodations provisions effective?**

A. In general, they became effective on January 26, 1992.

#### **Q. How will the public accommodations provisions be enforced?**

A. Private individuals may bring lawsuits in which they can obtain court orders to stop discrimination. Individuals may also file complaints with the Attorney General, who is authorized to bring lawsuits in cases of general public importance or where a pattern of practice of discrimination is alleged. In these cases, the Attorney General may seek monetary damages and civil penalties. Civil penalties may not exceed \$55,000 for a first violation or \$110,000 for any subsequent violation.

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## Legal Authority/Issues, Continued

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**ADA  
questions  
and answers**  
(continued)

Miscellaneous

**Q. Is the Federal government covered by the ADA?**

A. The ADA does not cover the executive branch of the Federal government. The executive branch continues to be covered by title V of the Rehabilitation Act of 1973, which prohibits discrimination in services and employment on the basis of handicap and which is a model for the requirements of the ADA. The ADA, however, does cover Congress and other entities in the legislative branch of the Federal government.

**Q. Does the ADA cover private apartments and private homes?**

A. The ADA does not cover strictly residential private apartments and homes. If, however, a place of public accommodation, such as a doctor's office or day care center, is located in a private residence, those portions of the residence used for that purpose are subject to the ADA's requirements.

**Q. Does the ADA cover air transportation?**

A. Discrimination by air carriers in areas other than employment is not covered by the ADA but rather by the Air Carrier Access Act (49 U.S.C. 1374 (c)).

**Q. What are the ADA's requirements for public transit buses?**

A. The Department of Transportation has issued regulations mandating accessible public transit vehicles and facilities. The regulations include requirements that all new fixed-route, public transit buses be accessible and that supplementary Para transit services be provided for those individuals with disabilities who cannot use fixed-route bus service.

**Q. How will the ADA make telecommunications accessible?**

A. The ADA requires the establishment of telephone relay services for individuals who use telecommunications devices for deaf persons (TDD's) or similar devices. The Federal Communications Commission has issued regulations specifying standards for the operation of these services.

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## Legal Authority/Issues, Continued

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### ADA questions and answers (continued)

#### **Q. Are businesses entitled to any tax benefit to help pay for the cost of compliance?**

A. As amended in 1990, the Internal Revenue Code allows a deduction of up to \$15,000 per year for expenses associated with the removal of qualified architectural and transportation barriers. The 1990 amendment also permits eligible small businesses to receive a tax credit for certain costs of compliance with the ADA. An eligible small business is one whose gross receipts do not exceed \$1,000,000 or whose workforce does not consist of more than 30 full-time workers. Qualifying businesses may claim a credit of up to 50 percent of eligible access expenditures that exceed \$250 but do not exceed \$10,250. Examples of eligible access expenditures include the necessary and reasonable costs of removing architectural, physical, communications, and transportation barriers; providing readers, interpreters, and other auxiliary aids; and acquiring or modifying equipment or devices.

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### Telephone Numbers for ADA Information

This list contains the telephone numbers of Federal agencies that are responsible for providing information to the public about the Americans with Disabilities Act and organizations that have been funded by the Federal government to provide information through staffed information centers. The agencies and organizations listed are sources for obtaining information about the law's requirements and informal guidance in understanding and complying with the ADA.

ADA Information Line  
U.S. Department of Justice  
For ADA documents and questions  
800-514-0301 (voice)  
800-514-0383 (TTY)  
[www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm)

U.S. Equal Employment Opportunity Commission  
For publications  
800-669-3362 (voice)  
800-800-3302 (TTY)

For questions  
800-669-4000 (voice)  
800-669-6820 (TTY)  
[www.eeoc.gov](http://www.eeoc.gov)

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## Legal Authority/Issues, Continued

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**Telephone  
Numbers for  
ADA  
Information**  
(continued)

U.S. Department of Transportation  
ADA Assistance Line for regulations and complaints  
888-446-4511 (voice)  
TTY: use relay service  
[http://www.dot.gov/citizen\\_services/disability/disability.html](http://www.dot.gov/citizen_services/disability/disability.html)

Federal Communications Commission  
888-225-5322 (voice)  
888-835-5322 (TTY)  
[www.fcc.gov/cib/dro](http://www.fcc.gov/cib/dro)

U.S. Architectural and Transportation Barriers Compliance Board  
800-872-2253 (voice)  
800-993-2822 (TTY)  
[www.access-board.gov](http://www.access-board.gov)

U.S. Department of Labor  
Job Accommodation Network  
800-526-7234 (voice & TTY)  
[www.jan.wvu.edu](http://www.jan.wvu.edu)

U.S. Department of Education  
Regional Disability and Business Technical Assistance Centers  
800-949-4232 (voice & TTY)  
[www.adata.org](http://www.adata.org)

### Addresses for ADA Information

U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section  
P.O. Box 66738  
Washington, DC 20035-6738

U.S. Equal Employment Opportunity Commission  
1801 L Street, NW  
Washington, DC 20507

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## Legal Authority/Issues, Continued

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**Telephone  
Numbers for  
ADA  
Information**  
(continued)

U.S. Department of Transportation  
Federal Transit Administration  
400 Seventh Street, SW  
Washington, DC 20590

Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Architectural and Transportation Barriers Compliance Board  
1331 F Street, NW Suite 1000  
Washington, DC 20004-1111

U.S. Equal Employment Opportunity Commission

U.S. Department of Justice  
Civil Rights Division

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