



# Metro

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August 26, 2015

To: Tom Hughes, Council President  
Shirley Craddick, Councilor, District 1  
Carlotta Collette, Councilor, District 2  
Craig Dirksen, Councilor, District 3  
Kathryn Harrington, Councilor, District 4  
Sam Chase, Councilor, District 5  
Bob Stacey, Councilor, District 6

From: Brian Evans, Metro Auditor *BE*

**RE: Accountability Hotline Case #183**

In July 2015 the Auditor's Accountability Hotline received a report about the process for employees to request disability accommodations. The person reported they had been asked to provide medical information about job duties unrelated to their job. They were told the process could not move forward without signing a medical release form. In response, the Human Resources department worked with the employee to resolve their request and I initiated an audit to compare Metro's process to other governments.

As a result of the audit, I determined that the accommodation process could be improved. Other governments use forms and guidelines to help structure their processes. I recommend Metro develop similar documents and update its policy to provide flexibility for obtaining medical information. The following report summarizes by review, conclusions and recommendations.

I have discussed the findings and recommendations with Martha Bennett, COO; Scott Robinson, Deputy COO; and Mary Rowe, Director, Human Resources. I would like to acknowledge and thank the management and staff in the departments who assisted me in completing this audit. A response by management is attached at the end of the report.

CC: Martha Bennett, COO  
Scott Robinson, Deputy COO  
Teri Dresler, Interim Zoo Director and General Manager, Visitor Venues  
Alison Kean, Metro Attorney  
Mary Rowe, Director, Human Resources

## **Accountability Hotline Case #183**

*Brian Evans, Metro Auditor*

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In July 2015 the Auditor's Accountability Hotline received a report about the process for employees to request disability accommodations. The person reported they had been asked to provide medical information about job duties unrelated to their job. They were told the process could not move forward without signing a medical release form.

I later spoke with the complainant, Human Resources Director, Human Resources Benefits Manager and Deputy Metro Attorney. The Human Resources department worked with the employee to resolve the accommodation request. I conducted this audit to compare Metro's process to other governments. This memo summarizes my review, conclusions and recommendations.

### **Background**

The Americans with Disabilities Act (ADA) and corresponding state law protects people with disabilities from discrimination. One of the provisions of the law requires employers to provide reasonable accommodation to employees with disabilities as long as the accommodation would not pose an "undue hardship" to the employer. Accommodations are changes to an employee's work duties or work environment to allow them to overcome an impairment that could limit their ability to perform the essential duties of their job.

To comply with the law, Metro's policy is to conduct an "interactive process" with an employee who is seeking an accommodation. The interactive process is supposed to be an informal way for the employee, the employee's supervisor and the process administrator to determine if:

- The employee has a qualifying disability, and
- A reasonable accommodation can be made.

### **Interactive process was inflexible**

Some of the information reported to the Accountability Hotline was confirmed. The process did not provide an opportunity for an informal discussion of their disability and requested accommodation. The employee was told they could only proceed with the process if they authorized access to medical records. In addition, there was little engagement with the employee after they questioned the accuracy of the job duties listed in the letter to their health care provider.

Having information about the employee's requested accommodation from the beginning is key to structuring the process appropriately. For example, some requests may be minor or the disability may be easy to confirm which could reduce the need for medical documentation. Making that determination early in the process could save time and resources. Conversely, some requests may be more complicated if they are made in combination with other personnel issues such as workers compensation, family medical leave or disciplinary actions. In those cases, a more thorough process may be appropriate.

If medical documentation is required as part of the interactive process, it should be limited to the job duties and specific accommodation being requested. Metro's current procedures use classification descriptions to determine job duties. This can lead to overly broad requests for information because classification descriptions include duties that may not be part of an employee's job.

Another way to provide flexibility while maintaining consistency is to provide a general description of the required documentation without mandating a specific solution. Metro's policy requires an employee to sign a medical release form, but there are alternatives to documenting a qualifying disability that don't require direct access to employee medical records. According to the Equal Employment Opportunity Commission, documentation is sufficient if:

- It describes the nature, severity, and duration of the employee's impairment, the activity or activities that the impairment limits, and the extent to which the impairment limits the employee's ability to perform the activity or activities; and,
- Substantiates why the requested reasonable accommodation is needed.

Other local governments in the region use checklists, process guides, and forms to ensure consistent handling of accommodation requests. The checklists and guides can help process administrators and employees understand key decision points and documentation requirements. Standard request and resolution forms can ensure consistent treatment of requests while still providing flexibility to structure the process appropriately.

## **Recommendations**

To improve the ADA accommodation request process Metro should:

1. Create guidance documents and forms including:
  - a. A step-by-step guide to the interactive process;
  - b. A checklist for the process and options for documentation;
  - c. An accommodation request form for employees; and
  - d. An accommodation request resolution form to document the decision.
2. Make guidance documents easily accessible.
3. Update the ADA policy to provide flexibility for documenting a disability and include by reference the guidance documents used to administer the policy.

This audit was not included in the FY 2015-2016 audit schedule. It was added to the schedule based upon a report received on the Auditor's Accountability Hotline. This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the audit was planned and performed to obtain sufficient, appropriate evidence to provide reasonable basis for the findings and conclusions in the audit objectives. I believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

## **Management Response**

Attached on following page.

 Metro | Memo

Date: August 25, 2015  
To: Brian Evans, Metro Auditor  
From: Mary Rowe, Human Resources Director *[Signature]*  
Cc: Martha Bennett, Chief Operating Officer  
Scott Robinson, Deputy Chief Operating Officer  
Alison Kean, Metro Attorney  
Subject: Management Response to case # 183 audit

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The following represents management's response to the audit report which will be issued by your office. As a public agency, we recognize the importance of ensuring that our processes follow best practices and are transparent.

Background

Following receipt of accountability line case # 183, an audit was conducted of the Americans with Disability Act (ADA) process. The ADA interactive process is designed to ensure that those qualified individuals with a covered disability are provided an opportunity to engage in a process to determine if there is reasonable accommodation available to allow the employee to continue to perform the essential functions of the position. The Human Resources department oversees this process, working in conjunction with the Office of Metro Attorney and with the management of the respective department of the requesting employee.

Recommendation

You recommended the following action items be taken.

To improve the ADA accommodation request process Metro should:

1. Create guidance documents and forms including:
  - a. A step-by-step guide to the interactive process;
  - b. A checklist for the process and options for documentation;
  - c. An accommodation request form for employees; and
  - d. An accommodation request resolution form to document the decision.
2. Make guidance documents easily accessible.
3. Update the ADA policy to provide flexibility for documenting a disability and include by reference the guidance documents used to administer the policy.

Action Steps

I concur with your recommendations and the HR department has begun working on the above recommended documents. We will look to other public sector agencies for best practices and will also work with OMA to ensure best practices and legal compliance.

We want to thank the Auditor for providing additional insight to assist in our continuing process improvement efforts.