

Memorandum of Understanding (MOU)
between
Food and Drug Administration (FDA)
and
National Treasury Employees Union,
NTEU Chapter 282

**Concerning Alternative Officing: Desk Sharing, Office Sharing,
Hoteling, and Hot Desking**

INTRODUCTION

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as the "MOU") is entered into by and between the Food and Drug Administration (hereinafter referred to as "FDA") and the National Treasury Employees Union, Chapter 282 (hereinafter referred to as "NTEU").

This agreement documents the establishment of four (4) alternative office solutions (Desk Sharing, Office Sharing, Hoteling and Hot Desking) to be used for all FDA headquarters employees represented by NTEU Chapter 282 (Washington, DC Metropolitan area), excluding laboratories.

BACKGROUND

The FDA is committed as part of a government wide initiative to increase the efficiencies in the use of federal real estate by creating new alternative office solutions to aid in accomplishing this goal.

These new flexibilities are necessary for the effective and efficient achievement of FDA's mission of promoting and protecting the public health. In addition, greater flexibility in space management will support the FDA's increased hiring demands.

DEFINITIONS

Desk Sharing: An arrangement in which two or more employees share use of a single work station where each employee has a designated day or time for use of the workspace.

Office Sharing: Two or more employees sharing a workplace. Each employee has a workstation within the same space. One or all employees may utilize the workplace at the same time.

Hoteling: An arrangement where employees use non-dedicated, non-permanent workspaces assigned for use by reservation on an as-needed basis.

Hot Desking: (also known as free address or touchdown workstations) - An arrangement in which employees use non-dedicated, non-permanent workspaces available on an unreserved first come, first served basis (typically drop-in).

Flexiplace:

The Flexible Work Place Arrangements Program (FWAP) is a program that permits employees in compliance with *Article 26* of the CBA to work at home or at other approved locations remote to the conventional office site. For purposes of this Agreement, the terms "FWAP", flexiplace" and "telecommuting" are synonymous and include working at home or in satellite office sites or other approved flexiplace work sites.

Part-Time Employee: An employee that works less than full-time, but for a specific number of hours (usually 16-32 per administrative workweek) on a prearranged scheduled tour of duty.

Functional Unit: Functional units are established organizations included in official organizational charts that are submitted and approved as part of a reorganization package and ultimately published as part of the appropriate staff manual guide (SMG) Organizations and Functions, Volume I (1000-1300)
<http://inside.fda.gov:9003/PolicyProcedures/StaffManualGuide/VolumeI/OrganizationsandFunctions/default.htm>

APPLICABILITY

1. All employees represented by NTEU Chapter 282 located in the Washington DC Metropolitan area (excluding laboratories).
2. Management will provide NTEU with a listing of buildings and will provide an updated list every year.
3. This MOU supersedes and replaces all previous MOU's and/or agreements between individual FDA Centers and NTEU Chapter 282

that address Desk Sharing, Office Sharing, Hoteling, Hot Desking and other MOU's that are inconsistent with this MOU.

4. Management reserves the right to determine which of the above alternative office solutions to utilize based on the needs and work environment of each functional unit but will do so in consultation with the Union whenever practicable.
5. In order to implement the above-described initiative, the Parties mutually agree to the Guidance and Provisions below.

GUIDANCE

General Provisions

1. When circumstances dictate the FDA will determine which office solutions to utilize. These determinations will be based on several factors, including but not limited to:
 - a) Projected number of employees assigned to the functional unit;
 - b) The nature of work performed by the employee;
 - c) The space assigned to the functional unit by FDA; and
 - d) Budgetary restrictions.
- 2) Management will ask for employee volunteers to participate in alternative office solutions. If additional participants are needed employees will be selected based on the formula outlined in this MOU. In an effort to ensure full space utilization FDA senior management will encourage all FDA organizations to fully implement telework and other workplace flexibilities.
- 3) Hand sanitizers and disinfectant wipes will be available at work stations for employees who participate in alternative officing.
- 4) Management will provide updated technology for communicating and teleconferencing appropriate for each alternative office as funding permits.
- 5) Employees from different Centers may be allowed to share enterprise, hoteling and hot desking space.

- 6) Based on available funding, FDA plans to fully utilize enterprise and other shared space.
- 7) Management will adhere to the provisions of the MOU "HHS-NTEU Space Utilization Policy.
- 8) Employees who have an approved medical Reasonable Accommodation may be exempted from space sharing if doing so interferes with or compromises the effectiveness of the accommodation.
- 9) Any employee may be exempt based on the work being performed and the mission of the organization.

Desk Sharing:

- 1) The desk sharing arrangement would allow employees to have access to their assigned workstations on given days.
- 2) Based on need, FDA management may choose to have portions of their organizational units participate or not participate in desk sharing. Participation in the program will depend on the specific nature and content of the mission.
- 3) Each employee who is assigned to a desk sharing arrangement will have a locked cabinet to use for storing work and personal items.
- 4) A majority of the time, desk sharing arrangements will allow employees to have sole access to their assigned workstation on given days while the other employee is not present in the office.
- 5) Should the need arise to have both employees in the office on the same day at the same time, employees may utilize temporary workspace to accommodate the overflow. FDA management will make every effort to ensure temporary workspaces to accommodate the overflow such as hoteling, hot desking, and other shared space options are available.
- 6) Management will make the final determination based on the employee's score using the formula contained in this MOU.
- 7) Employees participating in the Desk Sharing Program while at their official duty station are expected to share all

permanent/stationary office equipment (e.g., desk, keyboard, telephone, chair, bookshelves and file cabinets etc.).

Office Sharing:

- 1) Employees may be required to office share based on the formula contained in this MOU.
- 2) Office Sharing may include traditional two-person offices, the conversion of central spaces into shared office spaces, and the conversion of single offices into multi-person offices.
- 3) Each employee who is assigned to an office sharing arrangements will have a locked cabinet to use for storing work and personal items.
- 4) New on-boarding employees to FDA may be required to office share regardless of grade or SCD.
- 5) Employees transferring to the FDA or within a Center may be required to office share unless approved to participate in the desk sharing program or hoteling regardless of grade or SCD. For example, an employee that transfers from another HHS OPDIV, Agency, or FDA Center.
- 6) Employees may volunteer to share an office, as needed. If additional employees are needed to participate in office sharing and no volunteers are available the employees will be selected according to a predetermined formula described in this MOU.

Hoteling and Hot Desking:

- 1) Both are the practice that provides office space to employees on an as-needed basis.
- 2) Hoteling requires a reservation.
- 3) Hot Desking does not require a reservation.
- 4) Hoteling is most suitable for employees who work on flexi-place at least three (3) days per week.
- 5) Hoteling and/or hot desking space may be utilized in situations where desk sharing participants are both required to report to their official duty station.

- 6) When a hoteling arrangement is discontinued for an employee, management will provide to the affected employee an office sharing or a desk sharing space or private office if available.

Formula:

Office moves of FDA employees (excluding labs) will use the following formulas to place employees in offices:

Ranking = (Grade + SCD)*percent of time reporting to the traditional office per pay period.

Examples of the implementation of the formula are attached (Attachment 3).

If offices are still available after all moves have occurred and there are employees available to choose offices, these employees will select offices in accordance with the MOU for Office Space Allocation and Office Selection at White Oak (Attachment 1).

OFFICE SHARING PROCESS

- 1) With implementation of this agreement the following actions can occur if warranted by circumstances or business reasons:
 - a) Part-time employees may be moved to an office sharing arrangement.
 - b) Employees transferring to the FDA or within a Center may be required to office share unless approved to participate in the desk sharing program or hoteling. For example, an employee that transfers from another HHS OPDIV, Agency or FDA Center.
- 2) The following actions will occur upon implementation of this agreement and then as needed:
 - a) Each office (Center) will periodically review its space allocations.
 - b) Management may initiate office sharing for employees to maximize space utilization according to the provision of this MOU.

- c) Supervisors may first solicit volunteers to participate in either the desk sharing or hoteling program prior to initiating office sharing procedures.

RESPONSIBILITIES and PROCEDURES

Management will:

1. Identify positions exempt from participating in alternative office solutions and provide this list to the union.
2. Develop an enterprise tool which will allow management to maintain a list of all employees who have been identified to participate in alternative office solutions and a list of all exempt staff and provide these lists to the union when it becomes available.
3. FDA will implement alternative office solutions as needed to meet the mission of the Agency.
4. Management will provide notice in accordance with Article 3 of the CBA to NTEU when an organization decides to implement alternative officing.

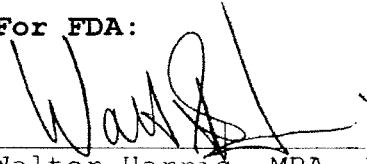
DURATION and EXECUTION of this MOU:

1. The Agreement will remain in effect until March 31, 2016, after which date either party may reopen this MOU by serving notice to the other according to Article 3, of the CBA. However, if neither party provides notice to the other within 30 calendar days after the expiration date of this MOU, the MOU shall remain in effect for an additional one (1) year period and for succeeding one (1) year periods if no notice to reopen is given by the either party.
2. The parties may revisit and discuss any significant issues regarding the implementation of this agreement on a yearly basis.
3. This MOU will become effective upon completion of Agency Head Review or after execution, whichever comes first.

ATTACHMENTS:


1. MOU for Office Space Allocation and Office Selection at White Oak Campus dated July 2, 2010
2. HHS-NTEU Space Utilization Policy MOU, December 12, 2012
3. Formula samples

For FDA:

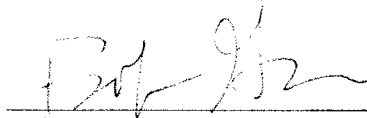


Walter Harris, MBA, PMP Date
Chief Operating Officer 3/15/13


For NTEU Chapter 282:



Marsha Hayden Date
President 3/15/2013
NTEU Chapter 282



Bob Gates Date
Labor Relations Officer 3/15/13



Michael Theodorakis Date
Executive Vice-President 3/15/2013
NTEU Chapter 282

**MEMORANDUM of UNDERSTANDING (MOU), between
FOOD and DRUG ADMINISTRATION (FDA) and
NATIONAL TREASURY EMPLOYEES UNION (NTEU) CHAPTER 282 for
OFFICE SPACE ALLOCATION and OFFICE SELECTION
at WHITE OAK CAMPUS**

PURPOSE:

This MOU between FDA and NTEU Chapter 282 provides guidance for allocating office space and for selecting offices at the FDA buildings and facilities on the FDA White Oak Campus.

OFFICE SPACE ALLOCATION:

The window office space in all FDA White Oak buildings will be allocated in proportion to the ratio of bargaining to non-bargaining employees (i.e. bargaining unit employees receive the percentage of window offices equal to their makeup in the functional unit). The Immediate Offices for the Commissioner and Offices of Center Directors are exempted.

The ratio of the bargaining to non-bargaining employees and the definition of a “windowed office” will be determined by a joint labor management committee at the time of the office selection for the particular functional unit. Functional units are designated by an officially approved FDA organizational chart.

OFFICE SELECTION:

FDA will initially assign office space to organizations by functional unit as defined under Office Space Allocation above.

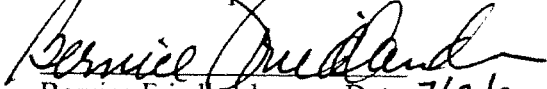
Within each functional group bargaining unit employees will select offices in order based on the process described below:


- a. The FDA will place bargaining unit employees in rank order based on a score assigned to each employee comprising of the sum of a number of points equal to his/her GS-grade (e.g., GS-13 equals 13 points), plus a number of points equal to his/her number of years of Federal service (as determined by his/her Federal service computation date (SCD) augmented by any military commissioned corps service not already included in the Federal service computation date) and rounded to the nearest year (e.g., 12 years 7 months of service equals 13 points). In the example used above, the result is 26 points.
- b. For all moves, FDA will rank all bargaining unit employees according to the formula above and a spreadsheet with the names, rankings, current room location (including specifying window or non-window office) within each affected functional unit

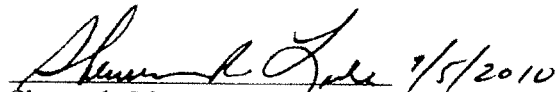
- should be provided to NTEU (both electronic and hard copies) with the move request notification.
- c. For all moves, in case of a tie, the bargaining unit employee with the earliest Federal service computation date will choose first. If there is still a tie, the bargaining unit employee with the greatest amount of Department of Health and Human Services (DHHS) service will choose first. If there is still a tie after that, the bargaining unit employee with the greatest amount of FDA service will choose first.
 - d. For all moves, the FDA will give each bargaining unit employee an opportunity to select his/her office from among those allocated to his/her functional group in an order determined through the application of the formula described above (i.e., the bargaining unit employee within each functional group with the most points first, and so on).
 - e. For all moves, if a bargaining unit employee is absent when the office selection for his/her functional group is to be made, the employee has the right to assign the selection of his /her office to a proxy. A proxy is another bargaining unit employee who has been given written authorization by the absent employee to select on his/her behalf. The following rules shall apply to the use of proxies:
 1. An employee may select by proxy if he/she is unable to be physically present at the announced time of the office selection.
 2. Any bargaining unit employee may serve as a proxy for any other bargaining unit employee.
 3. All proxies must be designated in writing and the designation must be signed and dated by both the bargaining unit employee and the proxy. An NTEU steward shall witness the proxy designation.
 4. In lieu of a proxy, a bargaining unit employee who is unable to be physically present may participate in office selection by teleconference or video teleconference (if applicable).
 - f. For all moves, management will not select offices for bargaining unit employees except for employees assigned to an Immediate Office suite and support employees assigned to work stations not located in individual employee offices.


- g. For all moves, employees shall be provided a copy of the floor plan prior to selecting their office. In addition, the Employer shall provide a copy of the move schedule when one becomes available and all changes to said schedule to NTEU and the affected BUEs as changes occur.

For NTEU Chapter 282:


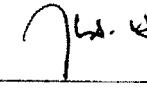

Bernice Friedlander Date 7/2/2010
President


Michael C. Theodorakis Date 7/2/2010
Ex. Vice President


Sherunda Lister Date 7/5/2010
VP at Large


Sukadev Lavu Date 7/6/10
Steward CFSAN

For FDA:

  7-2-2010
Russ Abbott Date
Deputy Commissioner for
Administration

**Memorandum of Understanding between
the National Treasury Employees Union and
the U.S. Department of Health and Human Services**

Introduction

On September 21, 2011, the U.S. Department of Health and Human Services (“HHS” or “Agency”) briefed the National Treasury Employees Union (“NTEU” or “Union”) (together “Parties”) regarding the Agency’s Space Utilization Policy. The Agency promulgated the Space Utilization Policy pursuant to the Presidential Memorandum of June 10, 2010 entitled “Disposing of Unneeded Federal Real Estate – Increasing Sales Proceeds, Cutting Operating Costs and Improving Energy Efficiency.” This MOU and the Space Utilization Policy applies to all HHS lease acquisitions, new construction and improvement projects. Where a building’s primary use is not office, the Space Utilization Policy applies only to the offices and office support space separated from the primary function.

The Space Utilization Policy establishes that the maximum average space allowable for space planning and occupancy is 170 usable square feet (USF) per person. Each tenants’ assigned USF includes all office space, office support space and a pro-rata share of any joint use space.

In order to implement the above-described initiative, the Parties agree to the following provisions:

1. The Agency will administer this Agreement consistent with the 2010 HHS-NTEU Consolidated Collective Bargaining Agreement (2010 HHS-NTEU Consolidated CBA) and any existing OPDIV, STAFFDIV or Chapter Memorandum of Understanding (MOU) and/or Letter of Understanding (LOU). To the extent there is a conflict between any prior negotiated agreement including the 2010 HHS-NTEU Consolidated CBA, MOU(s), and/or LOU(s), this Agreement will govern.
2. Consistent with Article 3 of the 2010 HHS-NTEU Consolidated CBA and Federal law, rule, and regulation, the Agency shall provide notice to, and bargain with, NTEU regarding any changes to the utilization of office or related space that has an impact on bargaining unit employees.
3. Except as addressed herein, there will be no adverse impact on any bargaining unit employees as a result of the implementation of the Space Utilization Policy. However, if adverse impact is realized at some point in the future, the Agency or NTEU will provide notice to the other, and the Parties shall bargain to the extent provided by applicable law, rule and regulation.
4. In accordance with the 2010 Telework Enhancement Act, the *HHS Telework Policy Program*, the 2010 HHS-NTEU Consolidated CBA and any applicable negotiated agreement, the Agency may not require an employee to telework on a reoccurring,

occasional, or episodic basis, or participate in the Flexible Workplace Arrangements Program, in order to comply with the Space Utilization Policy.

5. Unless otherwise permitted by law, the Agency may not consider and/or implement the HHS Facilities Program Manual Volume 2, Sections 2-4 in any way, including, but, not limited to, lease acquisitions, new construction and improvement projects without a housing plan previously approved by OFMP and ASFR, until the Parties have completed all negotiations, including any impasse proceedings.

Within thirty (30) calendar days of the effective date of this MOU, the Agency will provide NTEU National and the appropriate local NTEU Chapter President with a three-year projection concerning all known projects and expiring leases that may be impacted by the Space Utilization Policy. The Agency shall provide NTEU National and the appropriate local NTEU Chapter President with an updated three-year projection on an annual basis.

6. In accordance with Article 9, Section 6.A of the 2010 HHS-NTEU Consolidated CBA, the Agency shall permit the Union to maintain all current offices and spaces. The size of all Union offices and union spaces shall not be decreased and/or impacted by the Space Utilization Policy. In the event of an office move, the Agency will provide notice to NTEU National and to the appropriate NTEU Chapter and bargain in accordance with applicable law, rule and regulation. However, in no event shall the square footage of the Union office and office support space be decreased and/or impacted.
7. In the event that the Agency and/or any OPDIV or STAFFDIV elects to begin "hoteling," "desk sharing" or "office sharing" bargaining unit employees in order to comply with the Space Utilization Policy, the Agency will provide notice to, and bargain with, NTEU in accordance with Article 3 of the 2010 HHS-NTEU Consolidated CBA and Federal law, rule and regulation.
8. As part of the development of the Program of Requirements (POR), the Agency will invite NTEU to participate in the POR kick-off session. NTEU will be provided with the project's schedule and milestones. Consistent with the project's schedule and milestones, the Agency will provide NTEU with a draft copy of the POR for review and comment. Any NTEU comments or request for a meeting, shall be provided consistent with the project's overall schedule and milestones. Prior to finalizing the POR, the Agency will provide NTEU with an explanation of their rationale for either adopting or not adopting NTEU's recommendations, if any. In all cases, the Agency will consider options that would avoid reducing bargaining unit employee's individual office space by more than 10% on average. When it is necessary to reduce by more than 10%, the Agency will provide notice to NTEU National and to the appropriate local NTEU Chapter President and will bargain to the extent required by applicable law, rule and regulation. Moreover, in the event there exists a local Chapter MOU or LOU that provides each bargaining unit employee with an office, i.e. an enclosed office space that does not include a cubicle, the Agency will provide


such local NTEU Chapter President with notice and opportunity to bargain changes to such offices in accordance with applicable law, rule and regulation.

9. HHS may not require any bargaining unit employee to modify his or her hours of work, alternative work schedule or tour-of-duty solely in order to comply with the Space Utilization Policy.
10. In the event that an OPDIV or STAFFDIV elects to establish its own Space Utilization Policy for bargaining unit employees, the Agency will provide notice to, and bargain with, NTEU in accordance with Article 3 of the 2010 HHS-NTEU Consolidated CBA and Federal law, rule and regulation.
11. At their next All-Hands Meeting, and at least thirty (30) days prior to any office move, the Agency will conduct formal meetings with all impacted HHS bargaining unit employees in accordance with Article 7 of the 2010 HHS-NTEU Consolidated CBA. At the meeting, the Agency will discuss the Space Utilization Policy and answer any questions. The Union shall have the right to be present and ask any questions. An electronic copy of this MOU and the Space Utilization Policy will be distributed to all impacted bargaining unit employees.

Subject to the Agency's right to assign work, bargaining unit employees will be given up to thirty (30) minutes of administrative time to review the MOU and the Space Utilization Policy. Employees are not excused from meeting deadlines or completing assignments and duties in a timely manner as a result of their review.

12. If either Party becomes aware of significant unanticipated problems that arise following the implementation of this initiative, the Agency or NTEU will inform the other, and the Parties will meet to discuss and attempt to resolve such problems as soon as possible.
13. Either Party may reopen this agreement and these negotiations twelve (12) months after the effective date of this MOU.
14. This MOU will become effective upon Agency head review or the 31st day after execution, whichever comes first and will terminate three (3) years from the effective date.

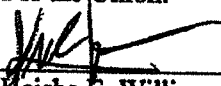
For the Agency:



Nathan Dickey
National Labor Relations Officer
Health and Human Services

12/14/12
Date

For the Union:



Reisha E. Williams
Negotiations Legal Specialist
National Treasury Employees Union

12/13/12
Date

FORMULA for Ranking Bargaining Unit Employees:

In situations where there are not enough volunteers, the functional unit will place bargaining unit employees in ranking order based on the score assigned to each employee according to the following formula:

$$\text{Ranking score} = (\text{Grade} + \text{SCD}) \times \text{percent of time reporting to the traditional office per pay period}$$

For an employee Grade 13 with SCD of 12 years and 7 months and six (6) days in flexi place per 10-day pay period the ranking score will be **(13+13) x 40% = 10.4.**

The SCD in this case is the number of years of Federal service (as determined by his/her Federal service computation date and augmented by any military, commissioned corps service not already included in the Federal service computation date) and rounded to the nearest year (e.g. 12 years 7 months of service equals 13 points). The employee reports to the traditional office 4 days out of 10 or 40% of the time.

Additionally, employees who are participants in FWAP and compressed work schedules will have their ranking score adjusted accordingly as the days they are on FWAP, they are not reporting to the traditional office.

In the example above, if the employee teleworks one (1) day a week and is off one (1) day a week due to a compressed Alternative Work Schedule (AWS), he/she is in the traditional office 3 days per week or 60% of the 10-day pay period. The ranking score will be **(13+13) x 60% = 15.6.**

Employees with the lowest score will be selected first to move into an office sharing arrangement.