

## **Agreement Under Which Chapter Leaders and Bargaining Unit Employees May Participate in the FDA Change Network**

FDA and the National Treasury Employees Union enter into this Memorandum of Understanding concerning FDA bargaining unit employee and Chapter leaders' participation in the Change Network relating to the planned Human Foods reorganization. FDA has established a Change Network to promote meaningful engagement with both bargaining unit employees and Chapter leaders to provide more staff opportunities to contribute ideas, boost awareness and understanding of the proposed changes across the agency and create a channel for bi-directional communication and feedback to understand work force needs. It is also FDA's goal to use the Change Network to support clear messaging on the reorganization.

Such action is not intended to, and will not, replace or supplant the input of Chapter Leaders, or impact the exclusive representation rights of NTEU, including in subsequent negotiations over the implementation of the reorganization. Meetings hosted by the Change Network, including only Change Network members, will not require Article 7 notice. Center/Office meetings not hosted by the Change Network where a Change Network representative is invited to participate would still require Article 7 notice if the meeting is a formal meeting. Related communications will continue to reference this information.

- **Change Sponsors:** FDA agrees that four Chapter Presidents, selected by NTEU, will be invited to attend and participate in all meetings conducted by the FDA Change Sponsors. They will be afforded the same participation rights as the agency appointed Change Sponsors as it relates to their role in the Change Network.
- **Change Leaders:** FDA agrees that Chapter Leaders selected by NTEU will be a part of the group of Change Leaders. NTEU will be invited to select an unlimited number of representatives to be a part of this group. Chapter Leaders would be included in all related Change Leader meetings and Change Network meetings that include Change Leaders; and they will be afforded the same right to participate as agency appointed Change Leaders as it relates to their role in the Change Network.
- **Change Ambassadors:** FDA announced solicitation of volunteers to serve as Change Ambassadors to all employees, including bargaining unit employees, in December 2023. FDA employees had until February 9, 2024, to indicate an interest in volunteering to serve as Change Ambassadors. FDA expects to appoint all eligible volunteers, especially those from organizations most directly impacted by the reorganization, who meet the basic criteria of having supervisory concurrence and not having current performance or disciplinary actions. Change ambassadors will meet regularly with respective teams to share key messages, hear needs and concerns, serve as day-to-day POC for staff and peers, and update Change Sponsors and Leaders on feedback from engagement with staff and peers.

- The names of NTEU bargaining unit employees appointed as Change Ambassadors will be shared with NTEU, including those names of NTEU bargaining unit employees who were not selected to participate and the reason why within 10 days of the selection.
- NTEU may recommend appointing additional, eligible NTEU bargaining unit employees, including stewards, to participate as Change Ambassadors.

The Employer has determined that the work performed by Chapter Presidents and Chapter Leaders serving as NTEU representatives in Change Sponsor, or Change Leader meetings or functions will be considered and treated as official time.

The Employer has determined that the volunteer work performed by bargaining unit employees serving in these roles will not be evaluated as part of the employee's mid-year or annual appraisal.

To the extent FDA gathers or obtains any communications from Chapter Leaders or BUEs concerning the reorganization, such will provide to NTEU National upon request.

By entering this agreement, neither party waives any rights they have under the Statute, the law and the parties' 2023 National Agreement to fully engage in bargaining over the rollout of the Human Foods reorganization once FDA provides formal notice of such change to NTEU.

The parties will promptly discuss and address unanticipated problems that arise with union representatives and bargaining unit employee participation in the Change Network at weekly meetings.

This Agreement will become effective upon Agency Head Review/Approval or the 31<sup>st</sup> day after execution, whichever is first. This Agreement will terminate one (1) year after the implementation of the Human Foods Reorganization, unless the parties mutually agree in writing to extend the Agreement.

For FDA:

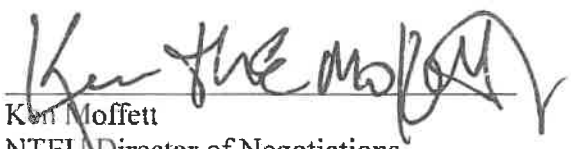
For NTEU:



Jim M. Sigg  
FDA Deputy Commissioner of Operations

2/24/26

Date:



Ken Moffett  
NTEU Director of Negotiations

2/23/24

## **Collaboration Agreement for the FDA Reorganization**

This agreement is entered into by the National Treasury Employees Union (NTEU) (“Union”) and the U.S. Department of Health and Human Services; (HHS) (“Agency”) (herein, collectively referred to as “the parties”) and constitutes the parties’ agreement on future engagement regarding the Food and Drug Administration’s (FDA) decision to reorganize existing organizations doing human foods related work into a newly created organization known as the Human Foods Program, create a new model for the Office of Regulatory Affairs, and make other structural changes to further support agency efficiency.

### **Background**

In January 2023, FDA Commissioner Dr. Robert Califf announced a new proposal for the way the FDA oversees the U.S. human food supply after carefully reviewing the findings and recommendations of the Reagan-Udall Foundation evaluation, an internal review of the agency’s infant formula supply chain response and feedback from internal and external stakeholders during events such as listening sessions with FDA employees. This includes a restructuring of the Office of Regulatory Affairs (ORA) to further enhance their operations in support of the entire agency. Additionally, FDA included the consolidation of certain agency functions to further support efficient business operations in the proposed reorganization.

Ever-changing global food supply chain and continually evolving technology, requires an adaptable agency organization with a single, accountable Human Foods Program (HFP) leader to ensure the safety and quality of the U.S. food supply. The proposed structure will have clear priorities focused on protecting and promoting public health through a safe, nutritious U.S. food supply.

To effectively implement the changes referenced above, it is imperative that the Parties engage in effective partnering and collaboration. FDA acknowledges that NTEU was not involved in designing the new organizational structure, or determining where business functions were proposed to be realigned that were included in the reorganization package submitted to HHS in December 2023. This agreement is intended to document a path forward for FDA and NTEU to engaged in collaborative change management efforts and planning for implementation.

This Agreement sets forth the objectives and principles governing NTEU’s involvement in advance of formal notice and negotiations on the FDA reorganization. Both HHS and FDA reserve their rights per 5 U.S.C. Section 7106 and nothing in this agreement is intended to waive those rights.

### **Shared Goals and Interests**

The parties agree to the following shared goals for the FDA Human Foods Program Reorganization:

- To maximize partnering, collaboration and cooperation between the Parties in furtherance of the new structure for FDA;

- To include bargaining unit employees and Chapter Leaders, selected by NTEU, to engage in change management efforts to support agency wide bi-directional communication on the reorganization, and provide pre-decisional involvement on the development of new processes outlining how FDA will work collaboratively in the new structure;
- To encourage continuous employee feedback as the reorganization proposal progresses through various stages;
- To leverage employee involvement and expertise in initiatives that impact bargaining unit employees; and
- To maximize the sharing of information with employees so that they may be informed about the proposed changes, the reasons supporting the changes and expected benefits and their role in the initiative.

## **I. Information Sharing between FDA and NTEU**

Information sharing between the parties will provide transparency on change management and implementation planning effort for this FDA reorganization. To achieve this goal:

- NTEU will appoint four (4) designated representatives as well as have NTEU National representatives who will serve on an FDA/NTEU Human Foods Reorganization Cooperation Council (HFRCC).
- FDA Deputy Commissioner for Operations/Chief Operating Officer and their designated representatives not to exceed the number of NTEU representatives will serve on an FDA/NTEU Human Foods Reorganization Cooperation Council (HFRCC).
- The HFRCC will meet bi-weekly, or more frequently, if necessary, to discuss union and bargaining unit employee engagement in collaborative change management efforts supporting the reorganization, and plan for negotiations and implementation.
- A standing agenda for the HFRCC meetings will be jointly developed by FDA and NTEU representatives, and agenda items may be added in advance of each meeting by either FDA or NTEU.
- Meetings will be held virtually, and in-person meetings may be planned by joint agreement. Meetings will be cancelled by joint agreement when necessary.

Due to the potential sensitivity of the information, data and information discussed and/or documentation shared exclusively during HFRCC meetings will be considered confidential, unless a determination is made by HFRCC that it may be released.

## **II. Negotiations on the Reorganization**

Once the reorganization is approved, FDA plans to make formal notice to NTEU at the same time Congressional notice is made thereby initiating the start of formal negotiations. FDA acknowledges that negotiations must be completed before any changes can be implemented.

- Absent good cause, NTEU will appoint the four (4) NTEU representatives serving on the HFRCC who are the most familiar with the reorganization to serve on the bargaining team for the main negotiations.
- Absent good cause, FDA will include representative(s) who have served on the HFRCC to serve on the bargaining team for the main negotiations on the reorganization, and reserves the right to include additional agency subject matter experts to provide relevant information about the reorganization and appropriate consideration of NTEU proposals depending on the nature of those proposals.
- FDA commits to thoughtfully considering NTEU proposals made regarding the reorganization and commits to seeking NTEU feedback regarding the intent of a specific proposed item before disagreeing.

### **III. Union Leader and Bargaining Unit Employee Participation in FDA Work Groups**

FDA is in the process of identifying Work Groups needed to develop new and revised processes and procedures that will determine how agency work is completed efficiently in the new structure.

FDA is seeking participation of union representatives and bargaining unit employees who are subject matter experts in identified areas to serve on these reorganization Work Groups. It is anticipated that FDA will begin to establish such Work Groups in early 2024.

Work Groups will be charged with making recommendations to the Change Sponsors and agency leaders for consideration with final decisions to be approved by the FDA Commissioner when necessary.

- FDA will identify the Work Groups that need to be established will provide NTEU with the following information for groups where bargaining unit employee participation is requested:
  - the area of focus for each Work Group;
  - the required eligibility criteria for qualified Work Group participants based on functional area, technical knowledge, level of experience and/or subject matter expertise;
  - the non-bargaining unit employees expected to participate on each Work Group;
  - FDA will determine NBU participants and NTEU will determine BU participants;
  - NTEU will appoint the number of bargaining unit employees, who possess the expertise determined by the FDA, deemed necessary to effectively contribute to the work of the specific Work Group in question.
  - In cases where FDA recommends specific bargaining unit employees who have the expertise needed to serve on a specific Work Group, NTEU agrees to consider appointing that employee(s) to serve on that Work Group.

- NTEU may also appoint a union representative who is outside the identified eligibility criteria to serve on a Work Group representing bargaining unit interests.
- FDA will notify NTEU National at least ten (10) days prior to including any bargaining unit employee in Work Group meetings.
- If NTEU appoints a representative to serve as a member on a specific Work Group, NTEU will be aware of, invited to attend, and able to fully participate in all related Work Group meetings. With this in mind, and under these circumstances, FDA requests that Work Group meetings where NTEU has appointed a representative to serve as a member be exempt from Article 7 Notification.

**Reservation of Rights**

This agreement is not intended to waive either parties' rights under Chapter 71 of Title V of the U.S. Code or the parties' National Agreement, including NTEU's right to bargain over the Human Foods Reorganization, consistent with law and the parties' 2023 National Agreement. However, the parties anticipate that NTEU's involvement as outlined in this agreement, may facilitate effective negotiations, and reduce the concerns of bargaining unit employees that may have been addressed during pre-negotiation engagement. FDA and NTEU may agree to expedite bargaining, where appropriate.

**Continuing Conversations**

After the signing of this agreement, the HFRCC members agree to discuss the needs of either party and to evaluate whether the needs are being met or addressed or if modifications need to be made to better address the interests of both parties during weekly meetings.

**Effective Date**

This agreement will become effective upon Agency Head Review/Approval or the 31<sup>st</sup> day after execution, whichever is first. This agreement will terminate one (1) year after the implementation of the Human Foods Reorganization, unless the parties mutually agree in writing to extend.

**Authorized Signatures**

For FDA:

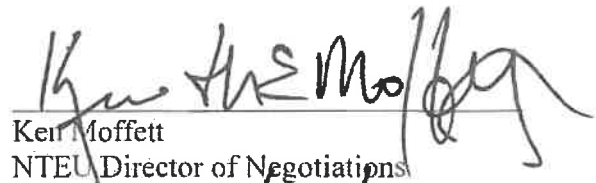


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