

**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