

MEMORANDUM OF UNDERSTANDING COVERING GROUND RULES
FOR REOPENER NEGOTIATIONS OF THE PARTIES' TERM
AGREEMENT OF OCTOBER 10, 2010

THIS MEMORANDUM OF UNDERSTANDING is the full and complete agreement of the Parties on ground rules for negotiations of the Articles DHHS and NTEU ("the Parties") have elected to reopen pursuant to Article 2 of the Parties' October 10, 2010 Consolidated Collective Bargaining Agreement (CBA).

There are seven (7) Articles selected for negotiation: Article 10 "Union Representation/Official Time"; Article 25 "Alternative Work Schedules/Hours of Work"; Article 26 "Flexible Workplace Program"; Article 27 "Awards"; Article 30 "Performance Management Appraisal Program"; Article 42 "Travel"; and Article 45 "Grievance Procedure".

The negotiation procedures are as follows:

1. The Agency and the Union are each entitled to have six (6) employee members present and on the bargaining team. A designee for each party will be appointed to serve as a Chief Negotiator. At least one (1) week before the commencement of negotiations, the Union will provide to the Agency the names of all employees on its negotiating team, so the Agency will be able to notify appropriate management officials timely about the release of the designated Union negotiating team members for scheduled bargaining sessions. The Agency will provide the Union a list of its bargaining team members at least one week prior to the commencement of negotiations. Each party may rotate its Negotiating Team members at the table during the various bargaining sessions. However, in order to minimize disruptions to the process the parties will not rotate Negotiating Team members during the discussion of a particular

article. Either party may designate up to two (2) observers for each negotiating session.

2. Representatives of the parties shall meet for two week-long bargaining sessions during the weeks of October 22, 2012 and October 29, 2012. The parties may mutually agree to extend the period of bargaining if after the two week-long sessions the parties have not fully addressed all the issues, keeping in mind that the parties' shared goal is to complete negotiations, including mediator/arbitrator assistance, by Tuesday, November 20, 2012. Daily sessions will commence at 9:00 a.m. and continue to 4:00 p.m. each day of the week except the first Monday, when the session will begin at noon, and last Friday, when the session will end at 2:00 p.m. Dates and times may be changed by mutual agreement of the parties.

3. The parties will exchange written proposals on the articles on October 15, 2012. The proposals shall describe in detail any changes the proposing Party desires to make to the current Articles.

4. In accordance with 5 U.S.C. §71 and consistent with this Article and Article 10 of this Agreement, official time will be allotted to employees representing the Union at the bargaining table in the negotiating of a collective bargaining agreement. Observers will not be allowed official time during any of these proceedings. Negotiating team members will be afforded up to 40 hours of official time to prepare for negotiations, irrespective of the location at which such preparation is performed. The employee's official time request must specifically designate that the time is being requested to prepare for these negotiations. Additional official time may be requested, as necessary, to engage in negotiations, including any third party proceedings, to engage in discussions during caucuses and for reasonable travel time to and from the bargaining sessions.

5. The parties shall provide a site for mid-term bargaining on an alternate basis. The Agency will pay reasonable travel and per diem costs for up to three (3) employees on the Union negotiating team for the entire negotiations process, including all third party proceedings. All travel and per diem costs will be administered in accordance with governing regulations and HHS policy.
6. NTEU will select the first Article for negotiation and HHS will select the second Article for negotiation. The Parties will continue to alternate the selection of Articles in this fashion until all of the Articles have been negotiated.
7. No official minutes of the proceedings of the negotiating sessions shall be made. However, each party shall be allowed to prepare unofficial minutes for its own use.
8. Each party shall be represented at the negotiations at all times by one duly authorized Chief Negotiator who is prepared and authorized to discuss and negotiate on matters subject to negotiations and to sign-off on agreements for their respective party.
9. During negotiations, the Chief Negotiator for each party will signify agreement on each Article by initialing the agreed-upon Article. The Chief Negotiator for each party will retain his/her copies and initial the other party's copy. This will not preclude the parties from reconsidering or revising any agreed upon section by mutual consent.
10. It is agreed that either party requesting a caucus will be provided a suitable site. There is no limit on the number of caucuses that may be held, but each party will make every effort to restrict the number and length of caucuses.

11. The parties will discuss and attempt to reach resolution on all open Articles during the time period specified above for face-to-face negotiations, and they hereby bind themselves to make good-faith efforts to accomplish such resolution and initial off on all Articles during the face-to-face negotiations process. At the end of the second week of face-to-face negotiations, all Article(s) on which the parties have not reached agreement, and/or any sections/provisions within Article(s) on which the parties have not agreed (where they have reached agreement on other sections/provisions thereof), will be considered at true impasse.

12. The parties agree to secure a mediator/arbitrator to assist in resolving any issues on which the parties have reached a true impasse at the close of the face-to-face negotiations. Any such outstanding issues and a short explanation of the parties' positions thereon will be submitted to the mediator/arbitrator in writing by November 8, 2012. The parties will meet with the mediator/arbitrator for up to two full-day sessions during the week of November 13, 2012. If agreement on all outstanding issues is not reached after meeting that week, the parties may mutually agree to additional time and dates for mediation/arbitration. The Arbitrator will be empowered to make a binding decision on each unresolved issue and will do so within one week of the last meeting.

13. The parties will attempt to reach agreement on the choice of a neutral by October 19, 2012. If they cannot reach agreement by that date, they will exchange lists of proposed neutrals on October 22 2012. Each list may contain up to seven names. Five of each party's seven must be members of the National Academy of Arbitrators, all must be from the DC metro area so as to minimize the need to pay travel and per diem costs, and the parties will attempt to identify neutrals with federal sector interest-arbitration or mediation experience.

Once the lists are exchanged, the parties will meet within 72 hours to begin striking names from the combined list of 14 names. A coin toss will decide which party will strike first, and the parties will then take turns striking from the list until only one name remains. That person will serve as the neutral unless unavailable for the designated week of med-arb assistance--or some other mutually agreeable week. If he or she is unavailable, the parties will turn to the second to last person struck, and then the third until one of the neutrals is available to serve.

14. In the event that the FSIP does not approve the parties' request to use a private mediator/arbitrator to issue a binding decision to resolve an impasse in negotiations, the parties will use the selected mediator/arbitrator to issue a non-binding recommendation. If either party elects to reject or not to adopt the mediator/arbitrator's recommendations, thereby forcing an appeal of the matter through the statutory impasse resolution process, that party will bear the full cost of the arbitrator's expenses. If both parties elect to reject or not to adopt at least one of the mediator/arbitrator's recommendations, the cost of mediation/arbitration will be shared equally.

15. Agreements must be signed by both parties. Agreements will be subject to Agency head approval pursuant to 5 USC §7114(c). In the event of disapproval, the Union will have the option of renegotiating the entire midterm matter, provided the parties have not agreed otherwise, for example, by the inclusion of a severability provision. The option to renegotiate the entire midterm matter must be exercised by the Union by notice to the Employer within twenty-one (21) days of notice of disapproval. Any provisions disapproved by the Agency head review may be referred to the FLRA by the Union and any such provision held to be negotiable by the FLRA will be incorporated into the agreement.

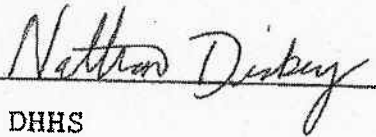
16. As soon as the Parties reach agreement on an Article, it shall be implemented.

17. Issues as to whether a proposal is negotiable or not shall be resolved in accordance with 5 U.S.C. §7117(c).

18. At all stages of the process, the Parties will communicate and bargain in a good faith effort to reach agreement in an expeditious manner.



For NTEU



For DHHS

Date: 9/19/12

Date: 9/20/12