

NATIONAL SUPPLEMENT
Between
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
And
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
NATIONAL COUNCIL OF HUD LOCALS 222

SUBJECT: Homeland Security Presidential Directive 12

Scope: The scope of this supplement relates to the impact and implementation of PIV I and issuance of the PIV card. Personal Identity Verification, Part I (PIV- I) for Federal Employees and Contractors.

- 1) **Employee Rights:** Employees retain any and all rights and privileges granted to them under the Constitution and implemented through Federal Regulations and the HUD/AFGE agreement.
- 2) **Verification of Current Employees:** Current employees without a National Agency Check with written inquiries (NACI) will continue to enjoy full rights and privileges as those employees with NACI including but not limited to performance of their functions and duties and retaining their pay status.
- 3) **Evidence of Background Check:** If a current employee or applicant indicates that he/she has already been the subject to a Federal background investigation without a subsequent break in Federal employment, or Federal contracting employment not exceeding two (2) years, or prior military service, the employee will be asked to furnish specific information that will be used to verify the background investigation.
- 4) **Waiver:** HUD pursuant to OPM regulatory guidelines and procedures agrees that waivers may be requested and granted for any process that HUD developed.
- 5) **Facilities Access:** The parties agree that it is not the intention of the Agency to prevent an employee's physical access to Departmental/Governmental facilities.
- 6) **Employee Interviews:** No personal interviews shall be conducted upon submission and review of the initial forms. The only person allowed to interview an employee is an OPM authorized investigator or Departmental Personnel Security Officer/Adjudicator.

- 7) **Suitability Determination:** All suitability determinations shall only be in accordance with 5 CFR Subpart 731.
- 8) **Background Investigation Records:** Sensitive background investigation records (for example, credit reports, arrest records, court document and other details of the adjudication of criminal case) must be secured against unauthorized access, accessed by only those whose official duties require such access and stored in a three-position combination safe or vault.
- 9) **Retention of Background Investigation Information:** The records will be maintained in accordance with National Archives and Records Administration (NARA) approved records disposition schedules.
- 10) **Employee Request for Re-examination:** If the Adjudicator assigned to an employee makes a determination that an employee is unsuitable for federal service, the employee may appeal to the Agency Head per HUD Handbook 732.3 Personnel Security/Suitability.
- 11) **Employee Appeal:** If upon re-examination, the final recommendation of the adjudicator determines an employee unsuitable for federal service or is unable to verify the employee's identity and proposes the removal of the employee from federal service, the employee has the right to dispute this action using applicable grievance, appeal, complaint procedures available under Federal regulations including but not limited to Title 5 CFR Subpart 731.401 and Subpart 731.501, Departmental directives, and the HUD/AFGE Agreement.
- 12) **Continued Access:** During any grievance, appeal or complaint procedures, the employees will be allowed to maintain their current duties, functions, and entry to HUD space and access to logical systems until all administrative appeals have been exhausted unless the employee is a valid threat to the Agency or its employees or inconsistent with National security.
- 13) **Administrative Time:** A reasonable amount of administrative time but no less than 16 hours shall be provided to an employee to prepare for appeals
- 14) **Union Notification:** The local Union Representative shall be immediately notified if the final recommendation would result in an adverse action.
- 15) **Union Representation:** In accordance with the HUD/AGFE Agreement, employees have the right for Union representation during any and all grievance, appeal or complaint procedures.

16) **Release of Information:** Upon an employee's written authorization, the employee or the employee's representative (i.e., Union Representative or Attorney) shall have access to the employee's personnel records, including all the information collected and maintained by the Agency by any and all sources. Information will be released in accordance with the Privacy Act.

17) **Source Limitation:** If any information used in determining the verification of an employee's identity and/or the determination of an employee's suitability, the source of that information must be released to the employee should a preliminary recommendation be made for adverse action.

18) **Final Adjudication Records:** The Adjudicators are the only Departmental employees with access to the adjudication record received from OPM and are the only employees allowed to request additional information from an individual employee on cases requiring adjudication.

19) **Reinvestigation:** If an employee's identity has been authenticated and deemed suitable under PIV-1, there shall be no reinvestigation unless conditions change that require higher level background investigations.

20) **New Employee Orientation:** OSEP to provide orientation information or training regarding PIV-1 process including but not limited to the identification process at their initial in-processing or prior to arrival. Employees will be provided information describing their responsibilities. OSEP shall provide annual refresher training under the individual responsibilities of HSPD 12.

21) **Request for Updated Information:** If an employee has an approved NACI, he/she shall not be subject to additional PIV background investigation process unless their position or the position responsibilities change. A change in duty station, or a temporary duty assignment (TDY) is not considered a change in position.

22) **Changes in Process:** Changes in the Department's identification process of employees, changes in issuance of the cards and any additional uses of the information are subject to further bargaining in accordance with Article 5 of the HUD/Agreement and must be negotiated.

23) **Merit Staffing:** All future HUD Merit Staffing notices shall advise potential candidates of the requirements for security background check with sufficient detail of the actual requirements.

24) **Position Sensitivity Code:** All positions within the Department shall be assigned a position sensitivity code discernable by the individual. The position sensitivity code shall be attached to all employees' position descriptions.


- 25) **Roles and Responsibilities:** There must be a separation of duties in the PIV-I process.
- 26) **Incomplete implementation:** No HUD employee shall be held accountable or responsible for any security requirements that cannot be met due to any agency inability to fully complete or implement all the regulatory requirements under HSPD 12.
- 27) **Short-term Employees:** The Department may perform FBI National Criminal History Check (fingerprint check) on all employee's with less than a six (6) month appointment based on a security risk determination. If the employee's appointment is extended, the Department must perform a NACI. The FBI National Criminal History Check must be completed before the employee has unrestricted access to HUD space.
- 28) **Reasonable Accommodation:** Reasonable Accommodations will not be used to determine the level of background investigation required for employees.
- 29) **Medical Conditions:** An increased risk level shall not be assigned to any employee based upon any known medical condition. Any medical condition that could increase the necessary background investigation shall be based upon verifiable relevant information.
- 30) **Requirement for Additional Negotiations:** The Parties agree that these negotiations do not cover the implementation of the use of the "Smartcards" or any Rules of Behavior associated with any process required by HSPD 12. These negotiations must be conducted prior to implementation.
- 31) **Quarterly Meetings:** OSEP will participate in quarterly meetings with the negotiating team to discuss HSPD 12, PIV-II, progress on training and implementation, including any internal or Homeland Security mandated changes. The Union is responsible for coordinating these meetings. These discussions are not to be considered Article 5 notification.
- 32) **Effective Date:** This Supplement will become effective within thirty days of this negotiating team signing the supplement.
- 33) **Local Bargaining:** In accordance with Article 5, bargaining will be conducted at the local level concerning local issues.
- 34) **Supplements 17 and 72:** Nothing in the Supplement supersedes the provisions of Supplement 17 and Supplement 72.
- 35) **Electronically Distinguishable:** An identity credential issued to individuals without a completed NACI or equivalent must be electronically distinguishable from identity credential issued to individuals who have a completed investigation.

- 36) **Privacy Act Violations:** Department officials shall define consequences for violating privacy policies of the PIV system.
- 37) **Privacy Impact Assessment:** OSEP will perform an annual assessment of the HSPD-12 program that will include compliance with Privacy Act. A copy of this compliance assessment shall be provided to the Council President no later than 60 days from completion.
- 38) **Card Holder Representatives:** HUD agrees to update the Personnel Security Handbook to include HSPD-12 requirements.
- 39) **PIV Implementation Committee:** The Agency shall form a PIV Implementation Committee. The Union shall have no less than two seats on this committee.

For Management:



James L. Keys
Chief Negotiator

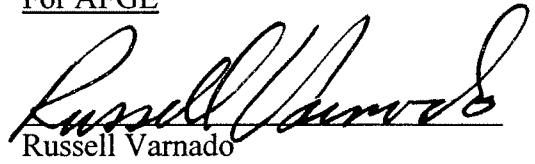


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For AFGE



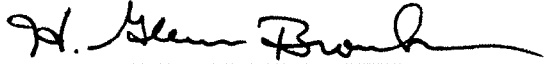
Russell Varnado
Chief Negotiator



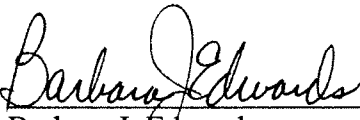
Lisa Lowery
Team Member



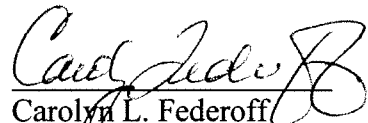
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National Council
Of HUD Locals 222

Date: March 20, 2007

Date: March 13, 2007