

NATIONAL SUPPLEMENT 20

between

U.S. Department of Housing and Urban Development

and

American Federation of Government Employees Council 222 of HUD Locals

SUBJECT: Implementation of Personnel Security and Suitability Handbook 755.1.

1. Status Quo: The status quo will remain, and the Department will not implement any of the changes associated with the new draft handbook until all bargaining is completed in accordance with the AFGE-HUD Collective Bargaining Agreement.
2. No Contradiction of Contract Requirements: Management will comply with the HUD-AFGE Collective Bargaining Agreement. Management will not issue any directions or handbooks or other guidance that contradict the terms of the Agreement, including all applicable supplements, unless the Agreement conflicts with law, government-wide regulations and government-wide policies.
3. Conformance to Supplement: Management shall ensure that Handbook 755.1 shall conform to the terms specified in this supplement to which the parties have agreed as a result of these negotiations.
4. Lost/Stolen PIV Cards: Management will remove from Handbook 755.1 any language related to charges for PIV cards that are not returned to HUD. The parties agree that HUD will comply with applicable law, government-wide regulations and government-wide policies regarding the processing of PIV cards in connection with the separation of employees from HUD.
5. Acknowledgment of Contractual Obligations: Management shall acknowledge contractual obligations where applicable in Handbook 755.1. This shall include but not be limited to:
 - a. Section 1-4(7), Employee and Labor Relations Division (ELRD), #2: insert “and collective bargaining rights for bargaining unit employees” after “due process rights.”
 - b. Section 1-4(7), “Management will make discipline/adverse action determinations on post-employment arrest issues and notify the Union, if required under the collective bargaining agreement.”
 - c. Section 2-11, Appeal to the Merit Systems Protection Board: Insert, either here or in another paragraph on appeal rights, information on bargaining unit employees’ appeal rights under applicable collective bargaining agreements. Suggest inserting

“and the applicable collective bargaining agreement,” after “Notice of Appeal Rights” and inserting “or to agency officials” after “Board.”

6. Notice to Union:
 - a. When a disciplinary or adverse action is taken against a covered employee, management will follow the requirements of the Collective Bargaining Agreement when notifying the Union.
 - b. Management will provide notice to the Union when there is a modification of Handbook 755.1 due to changes in law, government-wide regulations, or government-wide policies.
7. Changes to Handbook: Management will meet its bargaining obligations in accordance with the Collective Bargaining Agreement. The parties recognize that any agreement/supplement resulting from these negotiations applies only to the current version of Handbook 755.1 as presented to the Union in July 2018 and as agreed herein.
8. Accountability and Identification: A name and Point of Contact in Personnel Security will be provided for all correspondence.
9. Employee Rights: Correspondence sent by the Department to a bargaining unit employee related to matters that might lead to disciplinary or adverse action in relation to that individual’s personnel security and/or suitability shall include information in the proposal notice about the employee’s rights, including the right to seek help and representation from the Union.
10. Appropriate Risk Designations: Management shall ensure that all background checks, reviews, and investigations are appropriate for an employee’s designated risk level. Use of SF-85, SF-85P, SF-86 shall correspond to employees’ risk designations and shall conform to law, government-wide regulations, or government-wide policies. Position descriptions shall reflect position risk and/or sensitivity level.
11. Position Designation Requirements: When changes to duty require a change in the level of investigation, Personnel Security Division will require official documentation of the employee’s position designation found in the position description. The employee will be notified of the investigative requirement. Employees may contact the Union for assistance. The Department shall ensure that all sensitivity designations and security clearances are appropriate and necessary for the duties of the position. The Department shall notify the Union of changes in general conditions of employment as required by Article 49.02 of the 2015 CBA or its successor agreement.
12. Authorities: When a disciplinary or adverse action is taken against a covered employee, management will comply with governing law, government-wide regulations, government-wide policies and the Collective Bargaining Agreement. HUD shall identify to the affected bargaining unit employee the authorities under which it is taking any action and notify the employee of the right to contact the Union. When HUD refers a matter under OPM’s

jurisdiction to that agency, OPM will provide the rights afforded to the HUD applicant, appointee, or employee, including their right to representation.

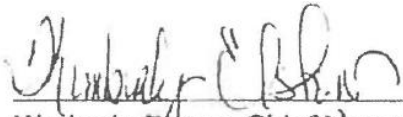
13. Application of Statutory Standards: The Department shall apply standards required by law, government-wide regulations or government-wide policies unless HUD demonstrates a real and present security need as the basis for applying additional or higher-level requirements. When management has changes in general conditions of employment, management will follow the Collective Bargaining Agreement, Section 49.02, Mid Term Changes, or the successor agreement. When additional security requirements are applied, they will be administered in a fair and equitable manner.
14. Defined Terms: The Handbook shall ensure that all terms and meanings are defined as they are in the applicable statutes. For example:
 - a. “Continuous evaluation” and “clearance holder” shall be included in the definitions.
 - b. Foreign travel shall be defined to exclude travel to Puerto Rico, Guam, and other US territories and possessions.
15. Statutory Exceptions: The Handbook will direct HUD personnel to the official directive (SEAD 3) for exceptions and other information not covered in the Handbook. The Personnel Security Division will brief and provide a copy of SEAD 3 to all national security clearance holders.
16. Differentiate Security Requirements for Different Security/Sensitivity Levels: Management agrees to distinguish the security reporting requirements based on clearance/position in the Handbook.
17. Differentiate Self-Reporting and Reporting by Others: Management agrees to distinguish between the activities that must be self-reported and those that others are obligated to report.
18. Employee Rights under Privacy Laws, Title VII, and Rehabilitation Act: Management shall not establish any policies that may infringe on employees’ rights to privacy and to freedom from discrimination, including those rights related to disabilities established by the Rehabilitation Act, unless specifically and clearly required by government-wide security directives.
19. Protection of PII: Handbook 755.1 shall state (such as in Section 1-5) that all personally identifiable information (PII) will be protected as required under law, government-wide regulations, and government-wide policies.
20. Protection of Medical/Mental Health Information: To avoid violation of employee privacy under the Americans with Disabilities Act and the Rehabilitation Act, Handbook 755.1 shall not require reporting of hospitalization for mental health or any other reason unless and only in the circumstances specifically required by SEAD 3, SF-85P, SF-86 or when provided by the applicant, appointee or employee.

21. Notice of Reporting Requirements: The Department shall notify all affected bargaining unit employees of the applicability of reporting requirements. The Department shall not hold any employee responsible for any noncompliance that occurred before the employee was so notified.
22. Appointees and Employees: The Department will comply with law, government-wide regulations, government-wide policies, and the Collective Bargaining Agreement when taking action against a bargaining unit appointee or employee, as defined in 5 CFR § 731.101(b). The Department will advise the individual of the authority for which the action is being taken based on their status as an appointee or as an employee.
23. Posting: Management will post a copy of the supplement related to the implementation of Handbook 755.1. The handbook will be posted on a new Personnel Security and Suitability page on hud@work or successor intranet communications page for employees, and on www.hud.gov (or successor site) at HUDCLIPS/handbooks.
24. Suitability Determinations: All post-employment suitability determinations are forwarded to ELR when suitability factors cannot be met. When a proposal for an adverse action is required, management will notify the union in accordance with the collective bargaining agreement.
25. Basis for Investigation: In all post-appointment written or oral communications by any means with any bargaining unit personnel and/or the Union, the Department shall clearly state at the beginning of any communication the basis for initiating the investigation, providing both the reason and the supporting evidence.
26. Accuracy of Information: The Department shall ensure that all information used in an investigation or referred to OPM or another agency or contractor is complete and accurate.
27. Treatment of Employees: The Department shall ensure that all actions taken, including investigations, referrals to OPM or other agencies, adverse or other disciplinary actions, and placement on administrative leave are appropriate and applicable to the bargaining unit employee's position and alleged actions. Until an investigation is concluded by the Department, OPM, or another agency or contractor and a finding that the employee poses a security risk or is unsuitable for federal employment is issued, the bargaining unit employee 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, its missions, employees, information, or facilities; and/or the employee's actions are inconsistent with National Security.
28. No Discrimination or Retaliation: The Department shall not in any way unlawfully discriminate against or retaliate against any bargaining unit employee who is or has undergone a security investigation or suitability determination. The Department shall not apply different performance standards to any affected employee than it does to other employees with similar position descriptions.

29. Handbook Applicability: The parties agree that Handbook 755.1 provides the responsibilities and processes for the Department and employees to follow regarding personnel security and suitability matters. Where there is a conflict between this Agreement and the Departmental policies, this Agreement will prevail, provided that there is no conflict between this Agreement and requirements under law, government-wide regulations, or government-wide policies.
30. Retained Rights: In accordance with Supplement 84, any bargaining unit employee who is under investigation for a personnel security or suitability determination shall retain the PIV card, keys, documents, government-issued computers and supplies, and shall be permitted to perform all normally assigned tasks in the usual manner until or unless there is a final finding that the employee is unsuitable. The only exception shall be if the employee presents a clear and present danger to other personnel or to the government's property, systems, information or operations. In those cases of clear and present danger, HUD shall document the reasons for considering the employee to be a danger in the notice of proposed action pending the conclusion of a personnel security or suitability investigation, and shall provide that documentation to the affected bargaining unit employee and shall comply with the collective bargaining agreement when notifying the Union.
31. Timely Completion of Reviews: To the extent that it is within HUD's control, HUD shall complete all suitability reviews within 90 days of an investigation's completion date, barring exceptional circumstances. The Department shall make suitability determinations and take suitability actions for appointees within 90 days and shall refer to OPM cases that fall under OPM's jurisdiction (e.g., for employees, as defined in 5 CFR § 731.101(b)) within 90 days, provided that the matters are within HUD's control and barring exceptional circumstances).
32. Retired AFGE Representatives: AFGE retired bargaining unit employees who are Union officials and were previously provided PIV cards will be provided new PIV cards for Agency access to perform representational duties as prescribed in the Collective Bargaining Agreement. These employees will be subject to the same requirements in the Handbook as contractors.
33. Personnel Security Updates: The Department will provide Personnel Security and Suitability information on HUD-UP or other emails to employees and on hud@work or successor intranet system. The Department will ensure that the information sufficiently informs employees of their obligations and rights.
34. HUD External and Internal Websites: The Department shall post the Personnel Security and Suitability Policy and Procedures Handbook 755.1 and updates on a new Personnel Security and Suitability page on hud@work or successor intranet communications page for employees, and on www.hud.gov (or successor site) at HUDCLIPS/handbooks.
35. Annual Report to the Union: Upon request, the Department will provide the Union with an annual report containing information about disciplinary/adverse actions taken against bargaining unit employees as a result of unfavorable security and suitability determinations. The information will include, but not be limited to, the number and type of actions broken

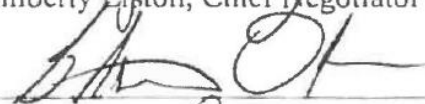
down by the individual's grade and region, the number and outcome of reconsiderations, appeals, and adjudications.

For Management:



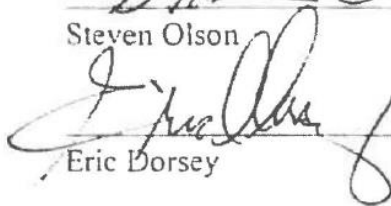
Kimberly Elston, Chief Negotiator

Date: 8/17/18



Steven Olson

Date: 8/20/2018



Eric Dorsey

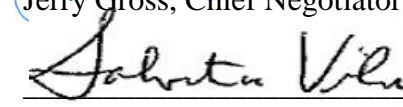
Date: 8/20/2018

For the Union:



Jerry Gross, Chief Negotiator

Date: 8/17/2018




Sal Viola

Date: 8/17/2018



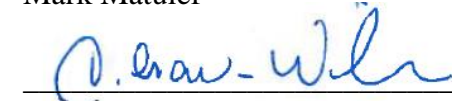
Tracy Vargas

Date: 8/17/18



Mark Matulef

Date: 8/21/2018



Dorothy Crowwillard

Date: 8/21/2018