

Memorandum of Understanding

On

Telecommuting for Union Officials

This is an agreement between the USDA-Forest Service (Management) and National Federation of Federal Employees, Federal District One, IAMAW, Forest Service Council (Union), the Parties. This MOU is an amendment to the Parties' existing MOU pertaining to telecommuting.

Background:

In a decision handed down by the Federal Labor Relations Authority, 60 FLRA No. 68 dated October 8, 2004, FLRA ruled that the performance of representational duties does not constitute agency-assigned duties under 5 U.S.C. chapter 43, or the work of an agency under § 7106 of the Statute, and the performance of representational duties does not constitute the performance of "officially assigned duties" within the meaning of Public Law 106 – 346 (§ 359). Consequently, existing agency telecommuting policy does not apply to union representatives performing representational functions. The Parties met on September 22, 2005 to negotiate changes to current policy governing telecommuting.

As a result of those discussions, the Parties agreed to the following:

- ❖ Effective immediately, Union Officials are ineligible for Telecommute Agreements under authority of Public Law 106-346 (§ 359) when performing representational work.
- ❖ In accordance with the provisions of the Master Agreement between the Parties, Union Officials, when performing representational functions in accordance with Article 5.5.a, shall follow the release procedures established in Article 5.6.
- ❖ The Parties will jointly develop and issue an informational cover letter on the subject changes to be distributed to Management and Union Officials along with this MOU.
- ❖ The National Parties will jointly develop a computer based “power point” presentation and conduct training for the subordinate parties that clarifies the difference between Telecommuting Agreements and the release procedures for Union Officials performing representational functions. This training will be conducted within 30 calendar days of the distribution of this MOU, and the power point presentation will be posted on the Labor Relations intra-net web page.
- ❖ The Parties agreed to amend their existing Telecommuting MOU and Agency Directives to comply with current law and associated regulations.

The current FSM amendment to 6160 at 6162.03 Policy, reads as follows:

“Union officials may request telecommuting arrangements for the conduct of union work that is otherwise appropriate to conduct on official time.”

Section 6162.03 will be revised as follows:

In accordance with current FLRA ruling, the performance of Union representational duties does not constitute "officially assigned duties" by an agency. Therefore, the use of telecommuting agreements under the authority of Public Law 106-346 (§ 359) is inappropriate when a Union Official is engaged in performing representational duties on official time.

Release procedures for representational work have been established through contract negotiations. These procedures are found in Article 5 of the Master Agreement. Union Officials are not excluded from the Telecommuting Policy when they are performing agency assigned work.

The last sentence in section 6162.12 – Identifying Participants, which currently reads, “Nothing in this section shall be construed to restrict the use of approved telecommuting arrangements by union officials for representational duties.” will be deleted.

This MOU becomes effective upon signature of the Parties. It will be distributed to subordinate Parties within 7 calendar days of its execution.

For Management:

Kathleen D. Burgers 12/09/05

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Management

For the Union:

William B. Dougan 12/09/05

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