



File Code: 6160

Date: October 26, 2005

Route To: Management and Union Officials

Subject: Amendment to Telecommuting MOU, and agency policy.

The national Memorandum of Understanding between the Parties regarding telecommuting, dated March 16, 2005 has been amended. The amendment is attached to this letter. Agency telecommuting policy found at FSM amendment to 6160 is also being changed accordingly. This letter serves as interim agency direction pending issuance of the agreed changes to FSM 6162.03, and 6162.12.

In a decision handed down by the Federal Labor Relations Authority, 60 FLRA No. 68 dated October 8, 2004, the FLRA ruled that 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 5 U.S.C. chapter 71, and the performance of representational duties does not constitute the performance of "officially assigned duties" within the meaning of Public Law 106 – 346 (§ 359) which authorizes telecommuting.

Consequently, agency telecommuting policy (FSM 6162.03) no longer applies to union representatives when they are performing representational functions. Effective with the issuance of this letter such telecommuting agreements under the authority of PL 106-346 can no longer be entered into. Existing agreements must be discontinued; employees in long term arrangements involving work-at-home or working at non-government facilities need to begin working with their supervisors in transitioning back to the official duty station. The Parties have agreed to provide joint training to assist Union Officials and their supervisors with this transition.

It is understood, by both parties, that Union Officials performing representational functions as defined in Article 5.5.a of the Master Agreement, are no longer authorized to perform this work within the context of a telecommuting agreement. However, this change is not to be construed as prohibiting performance of this work away from the Union Official's duty station. Rather, representational work on official time has release procedures established through contract negotiations. These procedures are found at Article 5.

In accordance with Article 5, the Parties expect that a Union Official and their supervisor communicate with each other on the general nature of the representational matter, the approximate length of time needed, and the location where the Union Official intends to perform this work. Inherent in that communication is that while the Union Official is working off-site, their supervisor has a way to effectively communicate with them. Further, a Union Official and their supervisor may mutually agree on arrangements of a continuing nature. Supervisors and Union representatives should work closely with each other to set appropriate expectations and follow proper release procedures for representational work.



It is also important to remember that, by this change, Union Officials are not excluded from participation under the Telecommuting Policy when performing agency assigned work. Such agreements are not a Telecommuting Agreement for Union activities.

The Parties will be providing you training regarding implementation of this Agreement.

Questions should be directed to Jim Hasbrouck, Labor Relations Officer, or Eric Plimmer, Negotiations Chair - FSC.

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Attachment: MOU, **November 22, 2005**