

**MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. CUSTOMS AND BORDER PROTECTION (CBP)
AND
NATIONAL TREASURY EMPLOYEES UNION (NTEU)**

BACKGROUND: In an effort to show its commitment to protecting its employees and the public, the U.S. Customs and Border Protection (CBP) has developed the Operations Plan for Pandemic Response. Public health officials and organizations around the world are on high alert due to increasing concerns over the possibility of a pandemic event. This operations plan is intended to provide comprehensive guidance for CBP in the implementation of specific measures to protect the nation as they correlate to the five threat phases for Pandemic Influenza. In utilizing this plan, CBP will protect the nation by sustaining the ability to perform the CBP mission and to support partner agencies and industries in the awareness, prevention, protection, response to, and recovery from a national influenza pandemic.

The following provisions of this Memorandum of Understanding (MOU) are between CBP and NTEU regarding the Operations Plan for Pandemic Response.

AGREEMENT TERMS:

1. Local Presidents or their designee will be provided a copy of their local Port level unclassified Pandemic Plan, COOP(s) pandemic changes, SOP(s) and related documents/revisions and given four (4) weeks in calendar days to read, review, and submit any proposed revisions/ comments they may have to their local Port Director. The Port Director and/or Labor Relations Specialist will provide a substantive response in writing within four (4) weeks in calendar days. While no bargaining obligations are created by this process, all comments will be given reasonable consideration by CBP. Union representatives will be given a reasonable amount of official time during the initial four week process and then to read responses received from management not to exceed five (5) hours.
2. During a Pandemic Response the Agency will implement telecommuting for some employees when and where deemed operationally feasible.
3. CBP will continue to participate in and host pandemic response tabletops and dry-runs across the country. They will continue to keep NTEU aware of these events and where available and appropriate provide the opportunity for bargaining unit members' participation.

4. During a Pandemic Response NTEU's National President will be provided ongoing high level briefings by a CBP designee to ensure clear information and situational awareness dialogue between the Agency and the Union.
5. The Parties agree that any references to the use of respirators in the CBP Operations Plan for Pandemic Response will be modified in accordance with those agreements reached by the Parties as a result of those negotiations that are presently taking place at the national level. However, CBP employees will be allowed to don agency provided masks or N95 respirators, at their discretion, without supervisory approval and without the necessity of being within 6 feet of a traveler who may be infected, where they believe it is needed to safely carry out their duties during a public health concern such as H1N1 flu outbreak and where a mandatory use provision is not in place.
6. CBP will fulfill its labor obligations with NTEU to the extent required by law prior to the implementation of any changes in employee conditions of employment outside the scope of a national emergency aside from those addressed in the Agency notice letter dated November 20, 2008.
7. This MOU serves as the full and final discussions between the parties regarding CBP's Pandemic Program.
8. This Agreement is effective upon signature of both parties, subject to the requirements of 5 U. S.C. S. § 7114 (c). It will expire upon the effective date of a new term agreement between the Agency and NTEU addressing this issue, upon mutual agreement, or otherwise terminated or superseded in accordance with law.

Sharon C. Swelling Date 7/29/09
For CBP

Jonathan St. Clair Date 7/29/09
For NTEU

David A. DeBevoise Date 7/29/09
For CBP