

**MEMORANDUM OF UNDERSTANDING
BETWEEN
NATIONAL TREASURY EMPLOYEES UNION (UNION)
and
FEDERAL DEPOSIT INSURANCE CORPORATION (EMPLOYER)**

Security/Suitability Program directive

The following represents the parties' agreement concerning the implementation of the FDIC's Security/Suitability Program directive insofar as it affects bargaining unit employees.

1. For purposes of this agreement, an appointee is a person who has entered on duty and is in the first year of a "subject to investigation" appointment. Consistent with 5 CFR Part 731, any applicant or appointee found unsuitable for employment may appeal such adverse suitability action decision to the MSPB. Once an employee completes one year of Federal service and is otherwise eligible, removal of the employee must be accomplished under adverse personnel action procedures.
2. The following personnel actions in and of themselves are not cause for initiation of a suitability investigation: promotion; reassignment; demotion; conversion from career-conditional to career tenure; and transfer, provided the required investigation for placement in the Corporation has been met. Should placement of an employee in a "high risk" position take place in conjunction with any of the above actions, the appropriate investigation will be requested.
3. Consultations with NTEU concerning high risk designations will be completed within three (3) weeks after notification by the Headquarters Office of the Security Services Section. The FDIC will notify each employee who occupies a position designated as "high risk" within thirty (30) days after the completion of consultation with NTEU concerning such designation. A copy will be provided to NTEU. Such notifications shall include an explanation of the reasons why the position has been designated as "high risk."
4. An employee shall be notified immediately of any change in his or her position risk designation. In addition, all job announcements or other solicitation of interest for positions will identify the position risk designation and the nature of the investigation required.
5.
 - A. The FDIC will comply with the attached USOPM matrix in making determinations about the appropriate investigations for each position. Normally, employees in positions designated as "moderate risk" shall only be subject to an MBI or and LBI. NTEU may only challenge the designation through the expedited grievance procedure described in 5.B.
 - B. NTEU shall have the right to challenge the designation of any employee's position as high risk" or the level (Minimum Background Investigation (MBI) or Limited Background Investigation (LBI)) at Step 3 of the applicable grievance procedure. Such grievance shall be filed with the Headquarters Office of the Security Services Section, Division of Administration and shall be limited to a determination of whether the Corporation properly applied the USOPM matrix in assigning the proper risk designation. The decision to assign an employee a specific risk designation and associated investigation is not in and of itself grievable. Any referrals to binding arbitration shall be processed under Article 50, Expedited Arbitration of the applicable collective bargaining agreement. Upon request, the EMPLOYER agrees to stay a proposed change in risk designation to "high risk" for up to seventy-five (75) days. In the event an arbitration hearing is imminent, at the conclusion of the seventy-five (75) day period, the parties may mutually agree to extend the period of the stay for a maximum of an additional fifteen (15) days.**
6. Normally, only those employees in positions designated as "High Risk" will be subject to periodic reinvestigation, which shall occur not more than once every five (5) years. Should the EMPLOYER deviate from this practice, it will provide the UNION with advance notice and an opportunity to bargain to the extent permitted by law.

7. Employees shall be provided with reasonable official time to complete any forms required in a background investigation or periodic reinvestigation. This shall include time needed to obtain or assemble documents or other information necessary for proper completion of these forms, and travel time to and from any location where fingerprints are taken. Employees shall be provided access to their Official Personnel Files (OPF) in order to assist them in the completion of these forms. Upon request, employees shall also be provided with copies of the last set of previously completed forms similar to those required in the periodic reinvestigation, and to the extent available.
8. **FDIC does not require the Medical Release form SF 85P at the time of initial completion of the forms. Employees will be advised by FDIC of this as well as their rights with respect to providing medical information. To the extent the Medical Release is deemed necessary, the investigator will contact the subject of the investigation to seek the release. The employee's decision on whether or not to sign the form is voluntary. The SF 85P-S is currently not used by FDIC.**
9. Employees shall have thirty (30) days from the date of receipt to complete the forms required in any background investigation or periodic reinvestigation. Employees shall have fourteen (14) days to complete the forms required in an NACI.
10. An employee may request representation by the UNION during any interview during the course of a background investigation or periodic reinvestigation. However, the subject of the investigation must respond to or answer questions posed by the Investigator.
11. In identifying the purpose of the interview to third parties, the Investigator will indicate that it is a normal or standard background investigation.
12. A copy of these procedures will be provided to each employee contacted in connection with a background investigation or periodic reinvestigation. A copy will also be posted with the directive on the FDICnet, and a global e-mail will be sent to all employees announcing this posting.

FOR THE NTEU

FOR THE FDIC

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